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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegations of Authority by the Secretary of Agriculture and General Officers of the Department

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture and the General Officers of the Department to delegate the authority of the Secretary of Agriculture under the Resource Conservation and Recovery Act.

EFFECTIVE DATE: July 11, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas R. Fox, Office of the General Counsel, Research and Operations Division, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250–1400; telephone (202) 447–2320.

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order No. 12088, October 13, 1978 (43 FR 47707), and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as further amended by the Hazardous and Solid Waste Amendments (RCRA), 42 U.S.C. 6901, *et seq.*, the head of each Executive agency must assure compliance with environmental laws at Federal facilities, including hazardous waste compliance. Pursuant to section 1–601 of Executive Order No. 12088, the head of each Executive Agency may enter into an inter-agency agreement, known as a Federal Facility Compliance Agreement (FFCA), with the United States Environmental Protection Agency (EPA), containing a plan to achieve and maintain compliance with RCRA requirements for a Federal facility within the control of the agency.

The delegations of authority of the Department of Agriculture are amended to delegate to the Assistant Secretary for Science and Education the authority of the Secretary of Agriculture pursuant to Executive Order No. 12088 and the RCRA to enter into an FFCA with EPA, with respect to those Federal facilities under the control of the Assistant Secretary for Science and Education. Further, the delegations of authority of the Department are amended to delegate to the Administrator, Agricultural Research Service (ARS), the authority of the Secretary of Agriculture pursuant to Executive Order No. 12088 and the RCRA to enter into an FFCA with EPA, with respect to Federal facilities within the control of ARS.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order No. 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, Pub. L. No. 96–354, and, thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, part 2, title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. A new § 2.30(h) is added to read as follows:

§ 2.30 Delegations of authority to the Assistant Secretary for Science and Education.

* * * * *

(h) *Related to the Resource Conservation and Recovery Act.* With respect to facilities under his authority, to exercise the authority of the Secretary of Agriculture pursuant to Executive Order No. 12088, October 13, 1978 (43 FR 47707), and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as further amended by the Hazardous and Solid Waste Amendments (RCRA), 42 U.S.C. 6901, *et seq.*, to enter into an inter-agency agreement, known as a Federal Facility Compliance Agreement (FFCA), with the United States Environmental Protection Agency (EPA), containing a plan to achieve and maintain compliance with RCRA requirements.

Subpart N—Delegations of Authority by the Assistant Secretary for Science and Education

3. The introductory text of § 2.106(a) is revised and a new paragraph (a)(49) is added to read as follows:

§ 2.106 Delegations to the Administrator, Agricultural Research Service.

(a) *Delegations.* Pursuant to § 2.30(a), (c), (g), and (h), subject to reservations in § 2.30a, the following delegations of authority are made by the Assistant Secretary for Science and Education to the Administrator, Agricultural Research Service:

* * * * *

(49) With respect to facilities under his authority, to exercise the authority of the Secretary of Agriculture pursuant to Executive Order No. 12088, October 13, 1978 (43 FR 47707), and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as further amended by the Hazardous and Solid Waste Amendments (RCRA), 42 U.S.C. 6901, *et seq.*, to enter into an inter-agency agreement, known as a Federal Facility Compliance Agreement (FFCA), with the United States Environmental Protection Agency (EPA), containing a plan to achieve and maintain compliance with RCRA requirements.

For Subpart C:

Dated: July 3, 1990.

Clayton Yeutter,

Secretary of Agriculture.

For Subpart N:

Dated: July 5, 1990.

Charles E. Hess,

Assistant Secretary for Science and Education.

[FR Doc. 90-16144 Filed 7-10-90; 8:45 am]

BILLING CODE 3410-14-M

Farmers Home Administration

7 CFR Part 1962

Servicing and Liquidation of Chattel Security

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its servicing and liquidation of chattel security regulations to change the reference to the Agricultural Stabilization and Conservation Service (ASCS) form titled "Assignment of Payment" from Form ASCS-36 to Form CCC-36. On December 22, 1989, ASCS published changes to its assignment regulations in 7 CFR part 1404. These regulations require use of the new Form CCC-36, "Assignment of Payment," and obsolete Form ASCS-36. ASCS will not accept new assignments on any form other than CCC-36. The intended effect is to comply with ASCS regulations.

EFFECTIVE DATE: July 11, 1990.

FOR FURTHER INFORMATION CONTACT: Jeanne Hudec, Financial Analyst, Financial and Management Analysis Staff, Farmers Home Administration, U.S. Department of Agriculture, Room 5503 South Building, 14th Street and Independence Avenue, SW., Washington, DC 20250, telephone (202) 382-8356.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal agency management.

It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rule making since it involves only internal agency management, making publication for comment unnecessary.

The document has been reviewed in accordance with 7 CFR part 1940, Subpart G—Environmental Program. It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not needed.

List of Subjects in 7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture and rural areas.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1962—PERSONAL PROPERTY

1. The authority citation for part 1962 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Servicing and Liquidation of Chattel Security

§ 1962.6 [Amended]

2. Section 1962.6, paragraph (c)(2)(ii) is amended by removing the words, "Form ASCS-36," and inserting in their place the words, "Form CCC-36."

Dated: May 29, 1990.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 90-16089 Filed 7-10-90; 8:45 am]

BILLING CODE 3410-07-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1263

Demands for Information or Testimony Served on Agency Employees; Procedures

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This rule establishes procedures regarding demands for the disclosure of official information or records, and/or the testimony of present or former employees, of the National Aeronautics and Space Administration (NASA), in response to subpoenas duces tecum and subpoenas ad testificandum or other demands of a court or other authority in federal or state proceedings. The rule is intended to provide guidance for the internal operation of NASA.

EFFECTIVE DATES: July 11, 1990.

ADDRESSES: General Counsel, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Edward A. Frankle, 202/453-2450.

SUPPLEMENTARY INFORMATION: Since this action is administrative in nature and involves agency policy management procedures, no public comment period is required.

This regulation does not constitute a major rule for the purpose of Executive Order 12291, and is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601, et seq.

List of Subjects in 14 CFR Part 1263

Court action, Demand, Employees, Legal proceedings, NASA information or records, Subpoenas, Testimony served on NASA employees, Procedures.

A new part 1263 is added to 14 CFR Ch. V to read as follows:

PART 1263—DEMAND FOR INFORMATION OR TESTIMONY SERVED ON AGENCY EMPLOYEES; PROCEDURES

Sec.

1263.100 Purpose and scope.
1263.101 Definitions.
1263.102 Procedure when a demand is issued in a legal proceeding involving the United States.
1263.103 Procedure when a demand is issued in a legal proceeding not involving the United States.
1263.104 Production, disclosure, or testimony prohibited unless approved.
1263.105 Considerations in determining whether production or disclosure should be made.
1263.106 Final decision of the General Counsel as to production, disclosure, or appearance.
1263.107 Procedure to be followed when response to a demand is required before the General Counsel or designate has reached a final decision.
1263.108 Procedure in the event of an adverse ruling.
1263.109 Considerations in determining whether these procedures should be waived.
1263.110 Intention to provide guidance.

Authority: 5 U.S.C. 301, 42 U.S.C. 2473(c)(1).

§ 1263.100 Purpose and scope.

(a) This part sets forth procedures to be followed with respect to the production or disclosure of official information or records and/or the testimony of present or former employees of the National Aeronautics and Space Administration relating to any official information acquired by any employee of NASA as part of the performance of that employee's official duties or by virtue of that employee's official status, where a demand for such production, disclosure, or testimony is issued in a federal, state, or other legal proceeding.

(b) This part does not apply to any legal proceeding in which an employee

is to testify, while in leave status, as to facts or events that are in no way related to the official duties of that employee or to the functions of the NASA.

§ 1263.101 Definitions.

(a) *Agency*—As referred to in this regulation, Agency means the National Aeronautics and Space Administration.

(b) *Demand*—A subpoena, order, or authorized request for official information, or for the appearance and testimony of NASA personnel, issued as the result of a legal proceeding.

(c) *Employee*—Includes all present and former officers and employees of the National Aeronautics and Space Administration who are or have been appointed by, or subject to the supervision, jurisdiction, or control of the Administrator of the agency.

(d) *Legal proceeding*—Includes any proceeding before a court of law or equity, administrative board or commission, hearing officer, or other body conducting a legal or administrative proceeding.

(e) *Legal proceeding involving the United States*—Any proceeding before a court of law or equity brought on behalf of, or against the United States, NASA or NASA employees, and resulting from alleged NASA operations.

(f) *Official information*—All information of any kind, however stored, that is in the custody and control of NASA or was acquired by NASA personnel as part of official duties or because of official status while such personnel were employed by or on behalf of the NASA.

§ 1263.102 Procedure when a demand is issued in a legal proceeding involving the United States.

Whenever an employee or former employee of NASA receives a demand for production of materials or the disclosure of information, or for appearance and testimony as a witness in a legal proceeding in which NASA or the United States is a party, the employee shall immediately notify in writing the Installation Chief Counsel for Installation employees, the General Counsel for Headquarters employees, or the Attorney-Adviser to the Inspector General (IG) for IG employees. This notice must include copies of all pertinent legal documents and a summary of the employee's knowledge concerning the legal proceeding in question. When necessary, this information may be reported orally, followed by a written confirmation.

§ 1263.103 Procedure when a demand is issued in a legal proceeding not involving the United States.

Whenever an employee or former employee of the Agency receives a demand for production or disclosure of official information in a legal proceeding not involving the United States, the employee shall immediately notify the General Counsel or designate. In addition, the party causing the demand to be issued shall furnish the Office of General Counsel a written, detailed statement of the information sought and its relevance to the proceeding in connection with which it is requested. The General Counsel or designate may waive the requirement that a written summary be furnished where he/she deems it unnecessary. The election to waive the requirement of a written summary in no way constitutes a waiver of any other requirements set forth in this section.

§ 1263.104 Production, disclosure, or testimony prohibited unless approved.

If an employee or former employee receives a demand to produce or disclose official information, that employee may not disclose such materials or information or testify regarding same without the prior approval of the General Counsel or designate.

§ 1263.105 Considerations in determining whether production or disclosure should be made.

The General Counsel or designate shall direct employees to honor all valid demands. In deciding whether a particular demand is valid, the General Counsel or designate may consider:

(a) Whether such disclosure or appearance is appropriate under the rules of procedure governing the legal proceeding in which the demand arose.

(b) Whether disclosure is appropriate under the relevant substantive law concerning privilege.

(c) Whether disclosure might improperly reveal trade secrets, or commercial or financial information that is confidential or privileged.

(d) Whether disclosure might reveal classified information.

(e) Whether disclosure would violate a specific applicable constitutional provision, federal statute or regulation, or executive order.

(f) Whether appearance of the requested employee would seriously implicate an interest of the Agency such as conservation of employee time for conducting official business, avoidance of expending appropriated monies for non-federal purposes, or avoidance of involving the agency in controversial issues not related to its mission.

§ 1263.106 Final decision of the General Counsel as to production, disclosure, or appearance.

After consideration of the factors enumerated in § 1263.105 (a) through (f), the General Counsel or designate may authorize the testimony, disclosure, or production as demanded; limit the subject matter or extent of any testimony, disclosure, or production through written instruction to the employee; or deny permission for any testimony, disclosure, or production. Where appropriate, the General Counsel or designate may seek withdrawal of the demand by the authorizing party. Any decision of the General Counsel or designate shall be final and shall be communicated to the employee and the party causing the demand to be issued.

§ 1263.107 Procedure to be followed when response to a demand is required before the General Counsel or designate has reached a final decision.

If a response to a demand is required before the General Counsel or designate can render a decision, the employee subpoenaed, or an agency attorney or other government attorney designated for that purpose, shall appear on behalf of the employee and shall furnish the authority which issued the demand a copy of these regulations, and inform the authority that the demand has been referred for the prompt consideration of the General Counsel, and shall respectfully request the authority to stay the demand until the General Counsel or designate has rendered a final decision.

§ 1263.108 Procedure in the event of an adverse ruling.

If the court or other authority which caused the demand to be issued declines to stay the effect of the demand pending a final decision by the General Counsel or designate; or if the General Counsel or designate directs that the employee may not comply with the demand, and a court or other authority rules that the demand must be complied with irrespective of that decision, the employee upon whom the demand has been made, or an agency or other governmental attorney, shall respectfully decline to comply with the demand and shall cite, "United States ex rel. Touhy v. Ragen, et. al., 340 U.S. 462 (1951)."

§ 1263.109 Considerations in determining whether these procedures should be waived.

The General Counsel or designate may grant permission to deviate from

the policy or procedure established in these regulations. Permission to deviate will be granted when the deviation will not interfere with matters of operational necessity and when:

(a) It is necessary to prevent a miscarriage of justice; or

(b) The deviation is in the best interests of NASA or the United States.

§ 1263.110 Intention to provide guidance.

This part is intended to provide guidance for the internal operation of NASA and is not intended to, does not, and may not be relied upon to create any right of benefit—substantive or procedural—enforceable at law against the United States or NASA.

Dated: July 2, 1990.

Richard H. Truly,

Administrator.

[FR Doc. 90-16131 Filed 7-10-90; 8:45 am]

BILLING CODE 7510-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is authorizing option contracts on the MGMI futures contract traded on the London Futures and Options Exchange ("London FOX") to be offered or sold to persons located in the United States. This Order is issued pursuant to: (1) Commission rule 30.3(a), 17 CFR 30.3(a) (1989), 52 FR 28980, 28998 (August 5, 1987), which makes it unlawful for any person to engage in the offer or sale of a foreign option product until the Commission, by order, authorizes such foreign option to be offered or sold in the United States; and (2) the Commission's Order issued on November 30, 1989, 54 50348 (December 6, 1989), authorizing certain option contracts traded on London FOX to be offered or sold in the United States.

EFFECTIVE DATE: August 10, 1990.

FOR FURTHER INFORMATION CONTACT: Robert Rosenfeld, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

United States of America, Before the Commodity Futures Trading Commission

Order Under Commission Rule 30.3(a) Permitting Option Contracts on the MGMI Futures Contract Traded on the London Futures and Options Exchange to be Offered or Sold in the United States Thirty Days after Publication of this Notice in the Federal Register.

By Order issued on November 30, 1989 ("Initial Order"), the Commission authorized, pursuant to Commission rule 30.3(a),[1] certain option products traded on the London Futures and Options Exchange ("London FOX") to be offered or sold in the United States. 54 FR 50348 (December 6, 1989). Among other conditions, the Initial Order specified that:

except as otherwise permitted under the Commodity Exchange Act and regulations thereunder, . . . no offer or sale of any London FOX option product in the United States should be made until thirty days after publication in the **Federal Register** of notice specifying the particular option(s) to be offered or sold pursuant to the Order.

[1] Commission rule 30.3(a), 52 FR 28980, 28998 (August 5, 1987), makes it unlawful for any person to engage in the offer or sale of a foreign option product until the Commission, by order, authorizes such foreign option to be offered or sold in the United States.

By letter dated June 25, 1990, London FOX represented that it would be introducing an option on the MGMI (a consumption-weighted base metal index based upon certain non-ferrous metals traded on the London Metal Exchange) futures contract, which option will commence trading on August 1, 1990. London FOX has requested that the Commission supplement its Initial Order authorizing options on No. 7 cocoa, robusta coffee, No. 6 raw sugar and No. 5 white sugar futures contracts by also authorizing options on MGMI futures contracts to be offered or sold to persons in the United States. Upon due consideration and for the reasons previously stated in the Initial Order, the Commission believes that such authorization should be granted.

Accordingly, pursuant to Commission rule 30.3(a) and the Commission's Initial Order issued on November 30, 1989, and subject to the terms and conditions specified therein, the Commission hereby authorizes London FOX's option on the MGMI futures contract to be offered or sold to persons located in the United States thirty days after publication of this Order in the **Federal Register.**

Contract Specifications

Traded Options on the MGMI Contract

Value: US $100 per full MGMI Index Point.

Minimum Price Fluctuation: US $5.

Settlement: Cash Settlement based on the Final MGMI Futures Settlement Price.

Exercise/Strike Price Increments: 5 Index Points.

Expiry Day: As the underlying future.

Last Trading Day: As the underlying future.

Trading Hours: 8 a.m. to 8 p.m. continuously or as decided by the Market Committee.

Trading Months: See chart below.

LONDON FOX, THE MGMI FUTURES MARKET, EXPIRY MONTH MATRIX

Calendar months	Expiry months																								
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M
Jan	A	X	X	B		X			X			X			X												
Feb		A	X	X	B	X			X			X			X												
Mar			A	X	X	X			X			X			X			B									
Apr				A	X	X	B		X			X			X			X									
May					A	X	X	B	X			X			X			X									
Jun						A	X	X	X			X			X			X			B						
Jul							A	X	X	B		X			X			X			X						
Aug								A	X	X	B	X			X			X			X						
Sep									A	X	X	X			X			X			X			B			
Oct										A	X	X	B		X			X			X			X			
Nov											A	X	X	B	X			X			X			X			
Dec												A	X	X	X			X			X			X			B

Key:
X=The expiry months marked X shall be traded only during the calendar months shown.
A=The expiry months marked A shall trade until the cessation for trading on the last trading day of that expiry month.
B=The expiry months marked B shall commence trading the first market day following the last trading day of the expiry months marked A.

List of Subjects in 17 CFR Part 30

Commodity futures, Commodity options, Foreign commodity options.

Amendment of Appendix B

Accordingly, 17 CFR part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTION TRANSACTIONS

1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 2(a)(1)(A), 4, 4c, and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c, and 12a (1982).

2. Appendix B to part 30 is amended by adding the following entry alphabetically:

Appendix B—Option Contracts Permitted To Be Offered or Sold in the United States Pursuant to § 30.3(a)

Exchange	Type of contract	FR date and citation
London Futures and Options Exchange	MGMI	——— 1990; ___ FR ___
* *	* *	*

Issued in Washington, DC on July 5, 1990.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90-16079 Filed 7-10-90; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

RIN 0960-AC48

Subpart L; Resources and Exclusions; Exclusion From Resources of Funds Set Aside for Burial and Burial Spaces

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: We are amending our regulations to reflect the changes made by section 9105 of Public Law 100-203 (the Omnibus Budget Reconciliation Act of 1987) and other policy changes concerning the treatment of burial spaces and certain funds set aside for burial expenses in the supplemental security income (SSI) program.

EFFECTIVE DATE: July 11, 1990.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235 (301) 965-8470.

SUPPLEMENTARY INFORMATION: Section 9105 of Public Law 100-203 amended section 1613(d) (1) and (3), of the Social Security Act (the Act). Section 1613(d)(1), as amended, now provides that in determining the resources of an individual (and spouse, if any) for SSI purposes, up to $1,500 per person shall be excluded if separately identifiable and set aside for the burial expenses of the individual and/or the spouse, regardless of whether counting any portion of such amount would result in excess resources. Section 9105 has amended section 1613(d)(3) of the Act to provide that the penalty for use of excluded burial funds for a purpose other than to meet burial expenses will apply only if the individual would have excess resources without application of the exclusion. In situations where the penalty applies, the amount of the penalty will be equal to the amount spent for purposes other than those for which the funds were set aside and will be applied as a dollar-to-dollar offset against future SSI benefits. These changes were effective April 1, 1988.

Prior to amendment by Public Law 100-203, section 1613(d)(1) of the Act provided for the exclusion of funds set aside for the burial of an individual and/or spouse only when the inclusion of any portion of the funds in countable resources would cause the individual's resources to exceed the statutory limit. If the burial funds along with the individual's other countable resources did not exceed the limit, the funds were not excluded.

Section 1613(d)(3) provided, prior to amendment, that any excluded burial funds used for a purpose other than to meet burial expenses resulted in a dollar-for-dollar offset of future SSI benefits. Additionally, section 1613(d)(2) of the Act still provides that the $1,500 burial fund exclusion shall be reduced by the face value of any life insurance policies the cash surrender value of which has been excluded from resources and the value of any irrevocable burial arrangements. Further, section 1613(d)(4) of the Act allows the Secretary to provide by regulations for the exclusion from income and resources of appreciation in the value of excluded burial funds and interest earned on and left to accumulate as part of such funds. Regulations at § 416.1231(b)(6) provide for the exclusion from resources of such interest and appreciation if left to accumulate in the fund. Thus, the amount excluded as burial funds may exceed $1,500 due to appreciation or accumulated interest.

It should be noted that effective April 1, 1990, section 8013 of Public Law 101-239 amends sections 1612(b) and 1613(a)(2)(B) of the Act to provide a statutory exclusion from income of interest accrued on the value of a burial space purchase agreement excluded under section 1613(a)(2)(B) and left to accumulate. The section 8013 provisions also provide a statutory exclusion from resources of an agreement (including accumulated interest) representing the purchase of a burial space. These new provisions will be addressed in a separate NPRM.

Burial Funds; Policy Changes

In addition to the revisions required by the statutory changes to sections 1613 (d)(1) and (d)(3), we are making policy changes to the current regulations at § 416.1231. Current regulations at § 416.1231(b)(3) define burial funds as revocable burial contracts, burial trusts or other burial arrangements, or any other separately identifiable funds which are clearly designated as set aside for the burial expenses of an individual (or spouse, if any). Over the years, the operational definition of burial funds has gradually expanded to encompass assets other than funds, sometimes even permitting exclusion of automobiles and livestock.

We are implementing a definition of burial funds that closely tracks the original intent of the provision and is more in accordance with the commonly accepted definition of "funds." Under this change, burial funds will be defined as revocable burial contracts, burial trusts, other burial arrangements, cash, accounts, or other financial instruments (documents which have a definite cash value) clearly designated for burial expenses. Property other than listed above will not be considered "burial funds."

Regulations at § 416.1231(b)(1) state that burial funds must be kept separate from other resources in order for the exclusion to apply. Over time, operational procedures have interpreted "separate" to permit commingling of

funds as long as they are kept identifiable.

These regulations require that funds be kept "separately identifiable" to conform more closely with the language of section 1613(d)(1) of the Act and with the legislative history of section 9105 of Public Law 10–203 (H. Rep. No. 495, 100th Cong., 1st. Sess. 824–825 (1987)). That is, we require not only clear designation of the purpose of the fund, but also separation of burial-related resources from nonburial resources. (We discuss this in more detail under the heading "Public Comments.") This change will eliminate some of the time-consuming and often complex monthly computations which have been necessary when burial and nonburial-related resources are commingled so that only part of the interest earned on or appreciation in the value of such funds is excludable.

Under these changes, we will require recipients to convert resources currently excluded for burial that do not meet the new definition of "funds" into resources that do, and to separate burial-related resources from nonburial-related assets, unless there is an impediment to conversion/separation; i.e., a circumstance beyond an individual's control which makes conversion/separation impossible or impracticable. For example, if an individual has 1 acre of a 4-acre parcel of land designated as burial funds and zoning restrictions prevent him or her from subdividing the land and selling only 1 acre, the individual is unable to convert the previously excluded land to conform with the new definition of burial funds. We will exclude the property until such time as it can be converted. To lessen the effect of these changes, an individual will have until the first moment of the second month following the month of the first field office initiated redetermination on or after the effective date of these regulations to convert/separate burial funds not meeting these rules. For so long as an impediment exists, we will continue to exclude the burial fund if the individual remains otherwise continuously eligible for the exclusion. Prospectively, property which does not meet the more restrictive definition of burial funds will not be excluded, commingling of burial-related resources with any nonburial-related assets will not be permitted, and any such commingled funds will not be eligible for the exclusion.

Current regulations at § 416.1231(b)(6) provide for the exclusion of appreciation in the value of burial funds, as well as interest earned on, and left to accumulate as part of, excluded burial funds. Thus, the amount excluded as burial funds may exceed $1,500 due to appreciation or accumulated interest. If an individual's eligibility is suspended or terminated and thereafter reinstated, only his or her burial funds up to the $1,500 limit may be excluded. Any previously excluded interest and appreciation above the $1,500 limit are countable resources.

We are extending the burial funds exclusion throughout a period of suspension of up to 12 months as described at § 416.1321, so long as the individual's eligibility has not been terminated under §§ 416.1331 and 416.1335. Thus, during a period of suspension, appreciation in the value of excluded burial funds and interest earned on (and left to accumulate as part of) excluded burial funds would also be excluded from resources. The result would be continued exclusion of accumulated interest and appreciation when the individual once again becomes eligible for SSI, even if such amounts cause the total excluded to exceed $1,500. This extension of the exclusion is based on the Secretary's authority under section 1613(d)(4) of the Act to determine by regulations how accrued interest and appreciation are to be excluded. However, the exclusion of interest and appreciation accumulated on excluded burial funds while an individual is eligible based on one application will not be carried over into a new period of eligibility based on a subsequent application to the extent that it would result in burial funds in excess of the $1,500 limit. This distinction is consistent with the distinction in treatment we make in other SSI policies between individuals whose benefits are merely suspended and those whose benefits are terminated.

Burial Spaces, Policy Changes

Section 1613(a)(2)(B) of the Act excludes from resources the value of any burial space (subject to such limits as to size and value as the Secretary may prescribe) held for the burial of an eligible individual or member of his immediate family. The statute does not define a "burial space."

Regulations at § 416.1231(a)(2) defined burial spaces as "conventional gravesites, crypts, mausoleums, urns and other repositories which are customarily and traditionally used for the remains of deceased persons." Over time, operational procedures have included in the definition of burial spaces coffins, vaults or liners, headstones or other grave markers, and arrangements for the opening and closing of graves.

We now specify in regulations at § 416.1231(a)(2) the broader operational definition of burial spaces. Burial spaces now include burial plots, gravesites, crypts, mausoleums, urns, niches, or other customary and traditional repositories for the deceased's bodily remains. Additionally, the term includes improvements or additions to or upon such spaces including, but not limited to, vaults, headstones, markers, plaques, or burial containers, and arrangements for opening and closing the gravesite for burial of the deceased. Also, upon further review of our policy in this area, we have added to the definition of burial spaces to include burial spaces purchased by contract if paid in full or otherwise held for the individual's use. This addition reflects longstanding policy and is explained further under the heading "Change Not Discussed in the Notice of Proposed Rulemaking."

The changes in the regulatory definition are made based on the Secretary's general rulemaking authority since the Act does not define burial spaces. The operational definition of burial spaces has expanded over time based on interpretation of the regulatory definition of burial spaces as "other repositories that are customarily and traditionally used for the remains of deceased persons." This change clarifies the regulatory definition specifically to include other items which are in the form of improvements or additions to or upon the actual space and are reasonably necessary and incidental to the disposition of the deceased's remains.

Public Comments

These rules were published as a Notice of Proposed Rulemaking (NPRM) at 53 FR 35830 on September 15, 1988. We received eight letters commenting on the proposed rules. Four of the letters were from associations of funeral directors, three were from State agencies, and one was from a Federal agency. The commenters do not oppose clarification of the definitions of burial funds and burial spaces, the requirement to convert burial funds not meeting the proposed definition of burial funds to resources that do, or the proposal to extend the burial fund exclusion throughout a period of suspension up to 12 months. However, all but one commenter oppose the requirement to separate excluded burial funds from all other resources. Several commenters suggested alternatives to the proposed requirement. Finally, several of the comments reflect what appears to be a misunderstanding of the applicability and the conditions of the burial space

and burial fund exclusions as revised by section 9105 of Public Law 100–203. The following summarizes and responds to the comments.

Comment

Six commenters expressed concern that the proposed requirement for separation of excluded burial funds from all other resources would (1) Impose undue hardship and create confusion on the part of SSI recipients; or (2) create an unnecessary and costly accounting and recordkeeping burden on funeral directors with whom SSI recipients may have entered into preneed funeral arrangements.

Response

The proposed requirement is intended to eliminate the time-consuming monthly computations SSA must perform when an individual holds excluded burial funds commingled with other funds in an interest-bearing arrangement such as a savings account or burial contract. Since we can exclude from income only the interest earned on, and left to accumulate with, the excluded burial funds, that interest must be separated from the interest generated by other funds. However, upon consideration of these comments, we have concluded that the proposed requirement would fall short of its intent. We anticipate, based on these comments, that many cases would present instances of impediments preventing the desired separation, e.g., a bank or a funeral director could decline to separate the funds. We also note that section 8013 of Public Law 101–239 now excludes from income the interest accrued on the value of agreements representing the purchase of burial spaces. Thus, the need to separate burial funds from burial space contracts has been eliminated.

In order to achieve our goal of reducing the time-consuming monthly computations we must perform under the current policy, the current policy must be altered. We also recognize the hardship and recordkeeping burden that would be imposed by the proposal in the NPRM. In light of these considerations, we have modified the requirement of separation as set out in the NPRM.

Accordingly, we have amended the final regulations at § 416.1231(b)(1) to require only that excluded burial funds be separated from all nonburial-related assets. This modification should alleviate the concerns of the commenters that currently existing funeral contracts would have to be rewritten as separate burial space contracts and burial fund contracts. It should also relieve confusion and anxiety on the part of SSI recipients who would have had to change their existing funeral contracts. Under the modified requirement, a single contract may still contain burial space items along with excluded and nonexcluded burial funds. Also, no additional accounting and recordkeeping should be required.

These final regulations still require, however, that nonburial-related assets be separated from burial assets. For example, burial funds in a bank account must be kept separate from an individual's other savings in that account; i.e., a different account must be established for the burial funds. This requirement, although necessitating some action on the part of recipients, should not impose a hardship.

Since, under these final regulations, burial funds will only have to be separated from nonburial-related assets instead of all other assets, there should be fewer occasions under which an impediment to separation should arise. In the event that there is an impediment even to this separation requirement, these final regulations provide, for those individuals currently eligible as of the date this final rule is published in the **Federal Register**, that the exclusion will continue to apply for so long as the impediment exists and the individual remains otherwise eligible.

We recognize that these changes may fall short of what the commenters had in mind; i.e., maintenance of the current policy. However, administrative efficiency requires that we reduce time-consuming monthly computations caused by commingling of excluded and nonexcluded interest income.

Comment

One commenter remarked that extending the burial fund exclusion to all recipients, whether or not they need it to bring resources within the statutory limit, does nothing for those whose resources are already within the statutory limit even counting any burial funds they may have. This provision, as did the prior rule, provides an advantage primarily for those with relatively more in resources while there is far less incentive for the very needy to set aside funds for burial.

Response

The regulations are being revised to conform to the statutory changes made by Public Law 100–203. It is manifest that any resource exclusion will generally be of greater benefit to those with relatively more in resources than to those with less (establishing eligibility in some cases where it would not exist without the exclusion). However, effective April 1, 1988, any recipient can take advantage of the opportunity to have interest on excluded burial funds excluded from both income and resources if it is left to accumulate as part of the fund. Such interest would otherwise reduce the individual's benefit amount (unless covered by a separate income exclusion). Previously, this interest exclusion applied only to those with resources that would have exceeded the statutory limit without benefit of the burial exclusion since they were the only ones to whom the exclusion applied. In addition, the penalty for using excluded burial funds for some other purpose applies, as it did previously, only to those whose resources would have been over the limit without benefit of this exclusion. Thus, those with less resources who, nevertheless, manage to set aside some funds for burial would probably not be subject to a penalty if an emergency arises which requires a nonburial usage of the funds.

Comment

One commenter requested clarification of the meaning of the phrase "circumstances beyond an individual's control." Specifically, would a mental or physical inability to execute the change constitute a circumstance beyond the individual's control?

Response

This provision is designed to protect individuals who encounter conditions such as, but not limited to, provisions of law, regulations, or the action or inaction of other individuals or entities over whom they have no control, which render it impossible or impracticable to comply with the requirements of the burial funds exclusion.

In the specific example cited, if an individual is mentally or physically incapacitated and is, as a result, unable to authorize someone to convert or segregate the funds on his or her behalf, we would recognize such incapacity as an impediment for so long as it persisted and the individual remained otherwise continuously eligible.

Comment

One commenter proposed that the misuse of excluded burial funds for a purpose other than for burial of the individual or spouse be treated as a transfer of assets rather than budgeted as income.

Response

Section 1613(d)(3) of the Act requires us, as a penalty for misuse of excluded burial funds, to offset future benefits dollar for dollar in an amount equal to

the amount misspent. Application of the penalty results in an effect similar to that occasioned by treating the amount misspent as income.

To consider treating misspent burial funds as a transfer of assets would require authorizing legislation. In the absence of authorizing legislation, the commenters' proposal is beyond the scope of these regulations.

Comment

Several commenters suggested the exclusion from income of interest earned on excluded burial space items. Such items earn interest if held for an individual under the terms of certain contracts.

Response

As noted previously in the preamble, section 8013 of Public Law 101–239 will provide such an exclusion, effective April 1, 1990. We will address this issue in a separate NPRM.

Comment

Several commenters recommended that the effective date of the final regulations be deferred to provide time for affected parties to meet the proposed requirements for separating excluded burial funds from all other resources.

Response

Since the separation requirement has been modified under these final regulations (see response to first comment), we do not believe that any additional delay in the effective date is necessary. As indicated elsewhere in this preamble, the regulations give recipients until the second month following the first field office redetermination occurring after the effective date of these regulations to make any necessary changes.

Comment

One commenter stated that the proposed regulations discriminate against individuals who reside in States that require burial contracts to be revocable. Individuals who have irrevocable contracts can have unlimited funds in the contract disregarded from the SSI resources determination and would not be required to keep funds separate. Revocable contracts and trusts should be treated as irrevocable unless the funds are withdrawn by the purchaser.

Response

In accordance with the definition of resources in § 416.1201(a), funds or other property held in an irrevocable arrangement are not resources for SSI purposes since the individual does not have the right, power, or authority to access the funds. This is not limited to burial arrangements. Similarly, whether burial-related or not, property that meets the definition of a resource counts against the statutory limit unless a valid exclusion applies.

Change Not Discussed in the Notice of Proposed Rulemaking

We explained in the preamble to the proposed rule that the intent of the changes to § 416.1231(a)(2) was to bring into the regulations the broader operational definition of burial spaces, which over time had expanded beyond the original regulatory definition. We have again reviewed the definition and believe that it should explain that a burial space can be held for an individual under a contract. Some clarification regarding burial space contracts as discussed below is required to more completely describe our policy in this area. We believe that this further clarification, as added to § 416.1231(a)(2), more fully explains that we will not consider a burial space to be "held for" the individual if the contract is an installment sales contract or other similar device under which the individual will not own or have the right to use the space until all payments have been made.

For example: an individual purchases a burial space by contract that requires making installment payments into an account. The contract terms state that the provider is not obligated to provide the specified space or space item at the specified price until the money in the account reaches the full contract purchase price. Terms also provide that until the contract is paid in full or upon revocation, the funeral provider will return all the installment payments.

In this case we will not exclude the space under the burial space exclusion until the contract is paid in full. Once the contract is paid in full, the individual will own and have the right to use the burial space for which he or she has contracted. Prior to that time, the individual does not own nor have the right to use the space. However, the funds paid to date on the installment contract or other similar device are a resource to the individual and may qualify for the burial funds exclusion under § 416.1231(b), subject to the $1,500 statutory limit.

This policy is also based on the Secretary's general rulemaking authority. It reflects our longstanding operating policy to exclude burial spaces only if they are currently owned by, or available for use by, the individual under the terms of the contract.

Except for this change, the changes in response to comments, and minor editorial changes not affecting the meaning of these rules, we are adopting the rules as proposed.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 since the program and administrative costs of this regulation will be insignificant and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

This regulation imposes no additional reporting and recordkeeping requirement requiring Office of Management and Budget Clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because this rule affects only individuals and States. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplementary Security Income Program).

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplementary security income.

Dated: April 20, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: June 4, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

Subpart L of part 416 chapter III of title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621 and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j and 1383; sec. 211 of Public Law 93–66, 87 Stat. 154.

2. Section 416.1231 is amended by revising paragraphs (a)(2), (b)(1) and (b)(3), redesignating the existing paragraphs (b)(4) through (b)(7) as paragraphs (b)(5) through (b)(8), adding a new paragraph (b)(4), revising

redesignated paragraphs (b)(7) and (b)(8), and adding a new paragraph (b)(9) to read as follows:

§ 416.1231 Burial spaces and certain funds set aside for burial expenses.

(a) * * *

(1) * * *

(2) *Burial spaces defined.* For purposes of this section "burial spaces" include burial plots, gravesites, crypts, mausoleums, urns, niches, and other customary and traditional repositories for the deceased's bodily remains provided such spaces are owned by the individual or are held for his or her use. Additionally, the term includes necessary and reasonable improvements or additions to or upon such burial spaces including, but not limited to, vaults, headstones, markers, plaques, or burial containers and arrangements for opening and closing the gravesite for burial of the deceased. A burial space can be held for an individual under a contract. We do not consider a burial space "held for" an individual under a contract unless the individual currently owns and is currently entitled to the use of the space under that contract. For example, we will not consider a burial space "held for" an individual under an installment sales contract or other similar device under which the individual does not currently own nor currently have the right to use the space, nor is the seller currently obligated to provide the space, until the purchase amount is paid in full.

* * * * *

(b) *Funds set aside for burial expenses.* (1) *Exclusion.* In determining the resources of an individual (and spouse, if any) there shall be excluded an amount not in excess of $1,500 each of funds specifically set aside for the burial expenses of the individual or the individual's spouse. This exclusion applies only if the funds set aside for burial expenses are kept separate from all other resources not intended for burial of the individual (or spouse) and are clearly designated as set aside for the individual's (or spouse's) burial expenses. If excluded burial funds are mixed with resources not intended for burial, the exclusion will not apply to any portion of the funds. This exclusion is in addition to the burial space exclusion.

* * * * *

(3) *Burial funds defined.* For purposes of this section "burial funds" are revocable burial contracts, burial trusts, other burial arrangements (including amounts paid on installment sales contracts for burial spaces), cash, accounts, or other financial instruments with a definite cash value clearly designated for the individual's (or spouse's, if any) burial expenses and kept separate from nonburial-related assets. Property other than listed in this definition will not be considered "burial funds."

(4) *Recipients currently receiving SSI benefits.* Recipients currently eligible as of July 11, 1990 who have had burial funds excluded which do not meet all of the requirements of paragraphs (b) (1) and (3) of this section must convert or separate such funds to meet these requirements unless there is an impediment to such conversion or separation; i.e., a circumstance beyond an individual's control which makes conversion/separation impossible or impracticable. For so long as such an impediment or circumstance exists, the burial funds will be excluded if the individual remains otherwise continuously eligible for the exclusion.

* * * * *

(7) *Increase in value of burial funds.* Interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements which occur beginning November 1, 1982, or the date of first SSI eligibility, whichever is later, are excluded from resources if left to accumulate and become part of the separate burial fund.

(8) *Burial funds used for some other purpose.* (i) Excluded burial funds must be used solely for that purpose.

(ii) If any excluded funds are used for a purpose other than the burial arrangements of the individual or the individual's spouse for whom the funds were set aside, future SSI benefits of the individual (or the individual and eligible spouse) will be reduced by an amount equal to the amount of excluded burial funds used for another purpose. This penalty for use of excluded burial funds for a purpose other than the burial arrangements of the individual (or spouse) will apply only if, as of the first moment of the month of use, the individual would have had resources in excess of the limit specified in § 416.1205 without application of the exclusion.

(9) *Extension of burial fund exclusion during suspension.* The exclusion of burial funds and accumulated interest and appreciation will continue to apply throughout a period of suspension as described in § 416.1321, so long as the individual's eligibility has not been terminated as described in §§ 416.1331 through 416.1335.

[FR Doc. 90–16145 Filed 7–10–90; 8:45 am]

BILLING CODE 4190–11–M

20 CFR Part 416

RIN 0960–AC65

Exclusion of Certain Housing Assistance Payments From Income and Resources in the Supplemental Security Income Program

AGENCY: Social Security Administration, HHS

ACTION: Final rule.

SUMMARY: This rule implements section 8103 of Public Law 100–647 which amended title XVI of the Social Security Act to provide that, for purposes of determining eligibility or benefit amount under the supplemental security income (SSI) program, the countable income or resources of an individual shall not include assistance paid, with respect to a dwelling unit occupied by such individual, under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, title V of the Housing Act of 1949, or section 202(h) of the Housing Act of 1959.

EFFECTIVE DATE: These rules are effective on July 11, 1990.

FOR FURTHER INFORMATION CONTACT: Irving Darrow, Esq., Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–1755.

SUPPLEMENTARY INFORMATION: Section 2(h) of Public Law 94–375 (the Housing Authorization Act of 1976) enacted August 3, 1976, provided that the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title V of the Housing Act of 1949, may not be considered as income or a resource for the purpose of determining eligibility or benefit amount under the supplemental security income (SSI) program.

These exclusions are already listed in the appendix to 20 CFR part 416, subpart K, which lists types of income excluded from consideration under the SSI program by Federal laws other than the Social Security Act. These exclusions also are contained in current § 416.1236, which lists exclusions from resources provided by statutes other than the Social Security Act. Section 8103 of Public Law 100–647 (The Technical and Miscellaneous Revenue Act of 1988) enacted November 10, 1988, amended sections 1612(b) and 1613(a) of the Social Security Act (42 U.S.C. 1382a(b)

and 1382b(a), respectively) to include in the Act for the first time the housing assistance exclusions contained in section 2(h) of Public Law 94–375 and to add a housing assistance exclusion from income and resources contained in section 202(h) of the Housing Act of 1959. Section 8103 of Public Law 100–647 included payments under section 202(h) of the Housing Act of 1959 to correct the inadvertent elimination of the income and resource exclusion under section 8 of the 1937 Housing Act when the provision for such housing assistance was placed under section 202 of the Housing Act of 1959.

These housing assistance exclusions are being added to §§ 416.1124(c), 416.1210, and 416.1238 of the regulations as an indication that these exclusions are now provided under the Social Security Act, rather than under statutes other than the Act.

Justification for Dispensing With Rulemaking Procedures

We are publishing these amendments without prior notice and public procedure thereon. The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of regulations. The APA provides exceptions to its notice and comment requirements when an agency finds there is good cause for dispensing with such procedures. Section 553(b)(3)(B) of the APA exempts application of notice and comment rulemaking procedures "when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." We find good cause to dispense with notice of proposed rulemaking in the case of these rules because we find that such rulemaking is "unnecessary" since we are only reflecting the statutory provisions in the regulations and these provisions do not require any exercise of discretion.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291, since there are no costs associated with the regulation and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, is not required.

Paperwork Reduction Act

These regulations do not impose reporting and recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental security income (SSI).

Dated: April 18, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: May 22, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 416 of title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631, of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154; sec. 2639 of Pub. L. 98–369, 98 Stat. 1144.

2. In § 416.1124, the word "and" at the end of paragraph (c) (12) is removed and added to the end of paragraph (c)(13), and a new paragraph (c)(14) is added to read as follows:

§ 416.1124 Unearned income we do not count.

* * * * *

(c) *Other unearned income we do not count.* We do not count as unearned income—* * *

(14) The value of any assistance paid with respect to a dwelling unit under—

(i) The United States Housing Act of 1937;

(ii) The National Housing Act;

(iii) Section 101 of the Housing and Urban Development Act of 1965;

(iv) Title V of the Housing Act of 1949; or

(v) Section 202(h) of the Housing Act of 1959.

3. In § 416.1161, a new paragraph (a)(18) is added to read as follows:

§ 416.1161 Income of an ineligible spouse, ineligible parent, and essential person for deeming purposes.

* * * * *

(a) * * *

(18) Housing assistance as provided in § 416.1124(c)(14).

* * * * *

4. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

5. In § 416.1210, a new paragraph (n) is added to read as follows:

§ 416.1210 Exclusions from resources; general.

* * * * *

(n) Housing assistance as provided in § 416.1238.

§ 416.1236 [Amended]

6. In § 416.1236, paragraph (a)(12) is removed and reserved.

7. Section 416.1238 is added to read as follows:

§ 416.1238 Exclusion of certain housing assistance.

The value of any assistance paid with respect to a dwelling under the statutes listed in § 416.1124(c)(14) is excluded from resources.

[FR Doc. 90–16146 Filed 7–10–90; 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

21 CFR Part 314

[Docket No. 89N–0118]

Technical Revision in the Regulations Governing Drug Master File Submissions

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is making minor revisions to the rules governing the submission to FDA of drug master files (DMF's). DMF's are reference files submitted to FDA in support of investigational and marketing applications for human drugs. There are five types of DMF's. This rule revises the titles of the five types to reflect more accurately the purpose of each type of DMF.

EFFECTIVE DATE: August 10, 1990.

FOR FURTHER INFORMATION CONTACT: Adele S. Seifried, Center for Drug

Evaluation and Research (HFD–362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8046.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 22, 1985 (50 FR 7452 at 7493), FDA adopted new regulations governing the submission and content of DMF's. DMF's are reference files submitted to FDA that are used in the review of investigational and marketing applications for human drugs. DMF's are submitted to the agency to allow another party to reference this material without disclosing to that party the contents of the file. The regulation describes several types of information that may be submitted in a DMF. DMF's are divided into five types according to their contents. In the **Federal Register** of October 17, 1989 (54 FR 42515), FDA proposed minor changes in the titles of the five types of DMF's. In the same issue of the **Federal Register** (54 FR 42569), FDA announced the availability of the final "Guideline for Drug Master Files," which may be consulted for help in preparing and submitting DMF's. The revisions in this final rule are consistent with the guidance provided in that guideline.

This final rule amends 21 CFR 314.420 by revising paragraphs (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5). Type I DMF's, described in 21 CFR 314.420(a)(1), cover the facilities and operating procedures used to manufacture drug products and drug substances. This final rule revises 21 CFR 314.420(a)(1) to make clear that such DMF's are intended to be submitted for foreign but not for domestic manufacturing establishments.

The final rule also revises the title of Type V DMF's from "Preclinical or clinical data" to "FDA-accepted reference information." The change is intended to discourage the submission of Type V DMF's for miscellaneous information, duplicate information, or information that should be included in one of the other types of DMF's.

This final rule also makes minor changes in the regulation to describe more accurately the other three types of DMF's.

II. Summary of Comments and the Agency's Responses

Interested persons were given 60 days to submit written comments on the proposed rule. The agency received five comments. These comments are summarized below with the agency's responses.

FDA proposed to change the title of Type I DMF's from "Facilities and operating procedures used to manufacture a drug substance or drug product" to "Manufacturing site, facilities, operating procedures, and personnel." The proposal also recommended Type I DMF's only for foreign drug manufacturing establishments. Four comments objected to the proposed changes, stating that domestic manufacturers also make use of Type I DMF's to describe information about manufacturing facilities and personnel information that the manufacturers may not wish to disclose to third parties. Several comments suggested that Type I DMF's are useful in conveying information about domestic manufacturing sites when multiple sites are used for manufacture. Several comments contended that the proposed change would compel manufacturers to submit the same information about manufacturing sites in each affected investigational new drug (IND) application or new drug application (NDA). Finally, one comment stated that the proposed change would compel a manufacturer to include DMF-type information for all facilities belonging to its suppliers.

As explained in the preamble to the proposed rule, Type I DMF's are sometimes useful for planning and conducting inspections of foreign establishments but are generally not helpful for domestic establishments because of FDA's generally greater familiarity with the location and layout ofsuch establishments. An FDA on-site inspection of a foreign drug manufacturing facility presents unique problems not presented by an inspection of a domestic manufacturing facility. To help FDA plan efficient inspections of foreign manufacturing facilities, some foreign manufacturers have submitted information about their facilities in DMF's. DMF's provide a convenient means to convey such information.

It should be noted that the kind of information about manufacturing facilities and personnel in Type I DMF's is not required to be submitted in either investigational or marketing applications. Thus the change will not cause manufacturers to submit additional Type I DMF information in applications.

Two comments objected to the proposed title change of Type V DMF's. One comment asked that Type V DMF's continue to be used for clinical/preclinical data for a product that may be marketed or used by several drug companies to reduce the amount of paper submitted to FDA. The second comment concurred with the expansion of data allowable in Type V DMF's, but objected to the restriction that FDA be contacted prior to submission of a Type V DMF.

The change in the title of Type V DMF's from "preclinical or clinical data" to "FDA-accepted reference information" is not intended to preclude the use of Type V DMF's for preclinical or clinical data, when necessary. Rather, the change is intended to reflect the use of Type V DMF's for data and information that do not fall under any of the other DMF types.

While a Type V DMF may be used for preclinical or clinical data, the new procedures do reflect the view that a DMF is not usually the best means for submitting clinical or preclinical data to FDA. For example, as noted in the preamble to the proposed rule, FDA has received clinical data in Type V DMF's that should be a part of an IND or NDA. The DMF staff must be contacted before submission of clinical or preclinical data for a Type V DMF to ensure that the DMF is the appropriate file for such information.

III. Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(a)(9) that this technical revision is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Economic Impact

In accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354), the agency has carefully analyzed the economic consequences of this final rule. This final rule is merely a technical revision of an existing rule which will have minor but beneficial economic consequences, and the agency has determined that it is, therefore, not a major rule as defined in Executive Order 12291. Further, the Commissioner certifies that this clarification will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

V. Paperwork Reduction Act

The minor technical changes under this rule relate to information collection requirements already submitted to the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act of 1980 and previously approved under OMB control number 0910–0001.

List of Subjects in 21 CFR Part 314

Administrative practice and procedure, Confidential business

information, Drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 314 is amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

1. The authority citation for 21 CFR part 314 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371, 376).

2. Section 314.420 is amended by revising paragraphs (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5) to read as follows:

§ 314.420 Drug master files.

(a) * * *

(1) Manufacturing site, facilities, operating procedures, and personnel (because an FDA on-site inspection of a foreign drug manufacturing facility presents unique problems of planning and travel not presented by an inspection of a domestic manufacturing facility, this information is only recommended for foreign manufacturing establishments);

(2) Drug substance, drug substance intermediate, and materials used in their preparation, or drug product;

(3) Packaging materials;

(4) Excipient, colorant, flavor, essence, or materials used in their preparation;

(5) FDA-accepted reference information. (A person wishing to submit information and supporting data in a drug master file (DMF) that is not covered by Types I through IV DMF's must first submit a letter of intent to the Drug Master File Staff, Food and Drug Administration, 12420 Parklawn Dr., Rm. 2–14, Rockville, MD 20852. FDA will then contact the person to discuss the proposed submission.)

* * * * *

Dated: June 20, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–16118 Filed 7–10–90; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 610

[Docket No. 89N–0109]

General Biological Products Standards; Test for Residual Moisture

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations for residual moisture testing of dried (e.g., lyophilized) biological products. The amendment reflects the availablity of alternative analytical methods acceptable to FDA for such testing, and permits manufacturers to select the most appropriate analytical method on a product-by-product basis. The amendment reflects the fact that appropriate residual moisture limits may vary from product to product and that alternative, acceptable analytical methods may yield different residual moisture results for a given product, due to differences in methodological specificity and sensitivity. The amendment permits the appropriate residual moisture limit not to be exceeded for a given product to be reconciled with the specificity and sensitivity of the analytical method used for testing. Elsewhere in this issue of the Federal Register, FDA is announcing the lability of a residual moisture testing guideline consistent with the amended regulation.

EFFECTIVE DATE: This regulation becomes effective July 11, 1990. A manufacturer of a currently licensed dried biological product may continue to use the analytical method and residual moisture limit specified in the product license application for that product. A manufacturer may instead, if deemed warranted for a given product, submit a request to amend the analytical method and/or residual moisture limit currently specified in the product license application for that product. A manufacturer may begin using an alternative analytical method and/or residual moisture limit, effective immediately upon approval of an amended product license application.

ADDRESSES: Submit written requests to amend current product license applications and written requests for exemptions from residual moisture testing to the Director, Center for Biologics Evaluation and Research (HFB–240), 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Ann Reed Gaines, Center for Biologics Evaluation and Research (HFB–130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–295–8188.

SUPPLEMENTARY INFORMATION:

I. Proposed Rule

The existing regulation, § 610.13(a) (21 CFR 610.13(a)), specifies both the analytical method to be used and the residual moisture limit not to be exceeded in dried (T3e.g.,T1 lyophilized) biological products. In the **Federal Register** of June 29, 1989 (54 FR 27389), FDA proposed to revise paragraph (a) to require that each lot of product meet and not exceed the residual moisture limit that is specified in the product license application and determined by an approved method on file.

This amendment reflects, for given products, the lability of alternative analytical methods, in addition to the gravimetric loss-on-drying method described in the existing regulations, for quantitating residual moisture. FDA is amending 21 CFR 610.13(a) because specification of only one approved analytical method prevents the use of alternative analytical methods unless comparative data were submitted in accordance with § 610.9 Equivalent methods and processes (21 CFR 610.9). These alternative methods offer advantages for certain products that include, but are not restricted to, decreased turnaround time for analysis and decreased product aliquot required for analysis. Use of these alternative methods may be more appropriate for certain products, due to considerations such as the amount of product packaged per container during the manufacturing process and the types of moisture (*e.g.*, bound, surface) contained in the product.

This amendment reflects, for given products, the appropriateness of residual moisture limits other than the 1-percent limit cited in the existing regulations and the fact that different, yet still acceptable, analytical methods may yield different residual moisture results, due to differences in methodological specificity and sensitivity. This amendment accommodates such differences in residual moisture results by allowing the analytical method and the correspondingly appropriate residual moisture limit for a given product to be specified by the manufacturer in the product license application.

FDA further proposed to permit exemptions for residual moisture testing of dried biological products to be granted by the Director, Center for Biologics Evaluation and Research. This amendment serves to eliminate this testing requirement when deemed not necessary for the continued safety, purity, and potency of such products.

II. Comments

FDA provided interested persons 60 days to submit written comments on the proposed rule. FDA received three

letters of comment. All the letters generally supported the proposed amendment to the current regulations.

Two comments on proposed § 610.13(a)(1) suggested that the phrase "* * * and other volatile substances * * *" either be defined in or deleted from the regulation. The comments noted that certain of the analytical methods in the draft guideline are specific for water and do not detect other volatile substances.

FDA agrees with the comments. The intent of the regulation is to address only residual moisture defined as water. Other volatile substances are not considered to be significant constituents of currently licensed dried biological products. Therefore, FDA is deleting the phrase "* * * and other volatile substances * * *." In the future, if FDA determines that any volatile substances other than water are significant constituents of dried biological products, FDA will then consider the appropriate analytical method and appropriate residual volatile substances limit not to be exceeded.

III. Effective Date

This rule becomes effective upon date of publication in the **Federal Register**. A manufacturer of a currently licensed dried biological product may continue to use the analytical method and residual moisture limit specified in the product license application for that product. A manufacturer may instead, if deemed warranted for a given product, submit a request to amend the analytical method and/or residual moisture limit currently specified in the product license application for that product. A manufacturer may begin using an alternative analytical method and/or alternative residual moisture limit effective upon approval of an amended product license application.

Section 10.40(c)(4)(i) (21 CFR 10.40(c)(4)(i)) states that the effective date of a final regulation may not be less than 30 days after the date of publication in the **Federal Register** except for a regulation that grants an exemption or relieves a restriction. FDA has determined that this rule is effective upon publication in the **Federal Register** because § 610.13 satisfies the exceptions provided for by § 10.40(c)(4)(i). First, § 610.13 permits exemptions for residual moisture testing of dried biological products to be granted by the Director, Center for Biologics Evaluation and Research, when deemed not necessary for the continued safety, purity, and potency of the product. Second, § 610.13 relieves a restriction in the existing regulation by permitting manufacturers to specify an alternative analytical method for residual moisture testing and/or an alternative residual moisture limit in the product license application for a given product.

IV. Guideline

In that same issue of the **Federal Register** (June 29, 1989; 54 FR 27389), FDA announced the availability of, and invited public comment on, a draft guideline regarding analytical methods for residual moisture testing. This guideline summarized the technical considerations and applicability of both the approved analytical method cited in the existing regulations and those alternative analytical methods now acceptable to FDA. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the final guideline, based on the draft guideline and revised by FDA to incorporate minor changes suggested by interested parties.

V. Economic, Environmental, and Paperwork Considerations

The agency has examined the economic impact of this final rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as specified in the Regulatory Flexibility Act (Pub. L. 96–354). The final rule increases the flexibility of the testing requirement for residual moisture in biological products. The final rule also permits the Director, Center for Biologics Evaluation and Research, to exempt manufacturers from this testing requirement. Therefore, the agency has determined that the final rule is not a major rule as defined in Executive Order 12291. Further, FDA certifies that the final rule will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

The agency has determined under 21 CFR 25.24(a)(10) 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.

As stated in the June 29, 1989, proposal, § 610.13(a)(2) contains cross-references to 21 CFR 211.188 and 211.194, which contain information collection requirements that were submitted for review and approval to the Director, Office of Management and Budget (OMB), as required by section 3507 of the Paperwork Reduction Act of 1980. Those requirements were approved and assigned OMB control number 0910–0139. Therefore, a parenthetical statement is being added at the end of § 610.13.

List of Subjects in 21 CFR Part 610

Biologics, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 610 is amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

1. The authority citation for 21 CFR part 610 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371); secs. 215, 351, 352, 353, 361, of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, 264).

2. Section 610.13 is amended by revising paragraph (a) and by adding an OMB control number at the end of the section to read as follows:

§ 610.13 Purity.

* * * * *

(a)(1) *Test for residual moisture.* Each lot of dried product shall be tested for residual moisture and shall meet and not exceed established limits as specified by an approved method on file in the product license application. The test for residual moisture may be exempted by the Director, Center for Biologics Evaluation and Research, when deemed not necessary for the continued safety, purity, and potency of the product.

(2) *Records.* Appropriate records for residual moisture under paragraph (a)(1) of this section shall be prepared and maintained as required by the applicable provisions of §§ 211.188 and 211.194 of this chapter.

* * * * *

(Information collection requirements were approved by the Office of Management and Budget (OMB) and assigned OMB control number 0910–0139)

Dated: June 20, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–16116 Filed 7–10–90; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AE03

Veterans Education; Implementation of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 and the New GI Bill Continuation Act of 1987

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: These rules implement portions of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 and the New GI Bill Continuation Act of 1987. The Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 contains many provisions which affect the administration of the new educational assistance program for veterans and servicemembers. These include provision for apprenticeship and other on-job training and correspondence training in this program; minor changes to the criteria which must be met in order to establish eligibility for the program; a requirement that certain veterans be counseled before choosing a program of education; and a change concerning nonduplication of Federal programs. The New GI Bill Continuation Act of 1987 makes this program permanent, and changes its name to the Montgomery GI Bill.

Since regulations must agree with and implement these provisions of the law, the effect of these regulations will be to enable VA to achieve the maximum benefit of this legislation for the affected individuals.

EFFECTIVE DATES: The effective dates of the amended regulations coincide with the effective dates of the laws upon which they are based, except for § 21.7152 which is effective August 10, 1990. The amendments to §§ 21.7000(b), 21.7040(a), 21.7042(a)(1), 21.7042(b)(1), 21.7042(d)(1), 21.7042(e)(1), and 21.7044(c)(1) are retroactively effective on June 1, 1987, the effective date of the New GI Bill Continuation Act. The amendments to all other sections are retroactively effective on October 28, 1986, the effective date of the relevant sections of the Veterans' Benefits Improvement and Health-Care Authorization Act.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2092.

SUPPLEMENTARY INFORMATION: On pages 25733 through 25743 of the Federal Register of June 19, 1989, there was published a notice of intent to amend part 21, 38 CFR in order to implement provisions of the Veterans' Benefits Improvement and Health Care Authorization Act of 1986 and the New GI Bill Continuation Act of 1987. Interested people were given 30 days to submit comments, suggestions or objections. VA received one letter from an educational organization containing objections.

The proposed § 21.7139(i) provides that a veteran enrolled in a correspondence course would be reimbursed at the rate of 55% of the cost of the course. The letter writer stated that since under the Montgomery GI Bill—Active Duty, the veteran has had $1200 deducted from his or her military pay, it was not logical to require him or her to pay a portion of the cost of the course.

VA has considered this objection, but finds that there is good reason to set the reimbursement rate at 55% of the course. While Public Law 99–576 does not contain a reimbursement rate for correspondence courses, the law was subsequently amended to provide for a 55% rate. VA has concluded that it was the intent of the Congress to have that rate from the time that pursuit of correspondence courses was permitted in the program. Accordingly, VA has decided to retain the 55% reimbursement rate in the final regulations.

The letter writer also objected to the requirement of § 21.7131(c)(2)(i) which makes an enrollment agreement in a correspondence course invalid unless the veteran affirms the agreement. He commented that the requirement was "wasteful, condescending and provides no justifiable protection to the veteran."

This provision of the regulations is based upon a provision of chapter 36, title 38, U.S. Code. Section 1786(b) of that chapter provides for an enrollment agreement for correspondence courses; provides that a copy of the agreement shall be given to the veteran; and states, "No such agreement shall be effective unless such veteran * * * shall, after the expiration of ten days after the enrollment agreement is signed, have signed and submitted to the Administrator a written statement, with a signed copy to the institution, specifically affirming the enrollment agreement." Section 1434(a), title 38, U.S. Code, lists the sections of chapter 36 which apply to the administration of the Montgomery GI Bill—Active Duty. Section 1786(b) applies. Accordingly, the provision for affirming an enrollment agreement must appear in the implementing regulations. VA has included it in the final regulations.

Finally, the writer stated that the proposed rule governing correspondence training were not in agreement with the intent of the Congress in enacting the legislation nor with the intent of the Congress in creating the Department of Veterans Affairs. VA does not agree with this comment.

As is stated above, the regulations governing correspondence courses properly implement provisions of the law governing this type of training under the Montgomery GI Bill—Active Duty. When the law is clear on its face, the agency responsible for implementing it should implement it as written without looking behind the words of the law. Hence, VA is making the regulations final without change.

These final regulatory amendments do not meet the criteria for a major rule as that term is defined by Executive Order 12291. These regulatory amendments will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices and will not have any other significant adverse effects on the economy.

The Secretary hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 United States Code 601–612. Pursuant to 5 United States Code 605(b), these regulations are therefore exempt from the regulatory analyses requirements of 5 United States Code 603 and 604. The reason for this certification is that the regulations affect only individuals and impose no regulatory burden on small entities.

(The Catalog of Federal Domestic Assistance number is 64.124)

Paperwork Reduction Act

Certain sections of the regulations require that individuals or educational institutions submit reports or applications to VA. VA has already developed forms to collect this information. This has been done either because the information needs to be collected in order to administer other education programs or because the regulation in question already requires the information collection and the amended regulation merely amends the information to be collected.

Identified below for the affected sections of the regulation are the VA

form number, the form name, the OMB control number, and the reporting burden per response. The reporting burden is merely the time attributable to the Montgomery GI Bill—Active Duty. It does not include hours associated with the form when the form is used to collect information for the other education programs VA administers.

Section No.	Form No.	Title	OMB Control No.	Reporting burden per response
21.7151	22-1999v	Certification of Delivery of Advance Payment and Enrollment	2900-0325	5 Min.
21.7152	22-1999 22-1999-1 22-1999-2	Enrollment Certification	2900-0073	10 Min.
21.7154(a)	22-6553a	Certification of Attendance for a Course Leading to a Standard College Degree	2900-0465	5 Min.
21.7154(b)	22-6553a	Certification of Attendance (for Courses Not Leading to a Standard College Degree and Farm Cooperative Courses under Chap. 30, 32, 34 & 35, Title 38, U.S. Code, Chap. 106, Title 10, U.S. Code).	2900-0354	10 Min.
21.7154(c)	22-6553d	Monthly Certification of On-the-Job and Apprenticeship Training	2900-0178	10 Min.
21.7156	22-1999b	Notice of Change in Student Status	2900-0156	5 Min.

If you should have comments or on the burden estimates, or any other aspects of these collections of information, including suggestions for reducing the burden send them to Patti Viers, VA Clearance Officer (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3172 and to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503 (202) 395–7316. Do not send requests for benefits to this address.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 5, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR Part 21, Vocational Rehabilitation and Education, is amended as follows:

PART 21—[AMENDED]

1. In § 21.7000, paragraphs (b) (2) and (3) and the authority citation following paragraph (b) are revised and paragraphs (b) (4), (5), and (6) are added to read as follows:

§ 21.7000 Establishment of educational assistance program.

* * * * *

(b) * * *

(2) To extend the benefits of a higher education to qualifying men and women who might not otherwise be able to afford such an education;

(3) To provide for vocational readjustment and to restore lost educational opportunities to those servicemen and women who served on active duty after June 30, 1985.

(4) To promote and assist the All-Volunteer Force program and the Total Force Concept of the Armed Forces by establishing a new program of educational assistance based upon service on active duty or a combination of service on active duty and in the Selected Reserve (including the National Guard) to aid in the recruitment and retention of highly qualified personnel for both the active and reserve components of the Armed Forces;

(5) To give special emphasis to providing educational assistance benefits to aid in the retention of personnel in the Armed Forces; and

(6) To enhance the nation's competitiveness through the development of a more highly educated and productive work force.

(Authority: 38 U.S.C. 1401; Pub L. 98–525, Pub. L. 100–48)

2. In § 21.7020, paragraphs (b)(2) and (b)(23) and their authority citations are revised, paragraph (b)(25)(i) is revised, and paragraphs (b)(35) through (37) are added to read as follows:

§ 21.7020 Definitions.

* * * * *

(b) * * *

(2) *Attendance* The term "attendance" means the presence of a veteran or servicemember—

(i) In the class where the approved course is being taught in which he or she is enrolled, or

(ii) At a training establishment, or

(iii) Any other place of instruction, training or study designated by the educational institution or training establishment where the veteran or servicemember is enrolled and is pursuing a program of education.

(Authority: 38 U.S.C 1434, 1780(g))

* * * * *

(23) *Program of education.* A program of education—

(i) Is any unit course or subject or combination of courses or subjects which is pursued by a veteran or servicemember at an educational institution, and which is required by the Secretary of the Small Business Administration as a condition to obtaining financial assistance under the provisions of 15 U.S.C. 636; or

(ii) Is a combination of subjects or unit courses pursued at an educational institution. The combination generally is accepted as necessary to meet requirements for a predetermined educational, professional or vocational objective. It may consist of subjects or courses which fulfill requirements for more than one objective if all objectives pursued are generally recognized as being related to a single career field; and

(iii) Includes an approved full-time program of apprenticeship or of other on-job training.

(Authority: 38 U.S.C. 1402(3), 1652(b); Pub L 98–525, Pub. L 99–576)

* * * * *

(25) *Pursuit.* (i) The term "pursuit" means to work, while enrolled, towards the objective of a program of education. This work must be in accordance with approved institutional policy and regulations, and applicable criteria of title 38, United States Code; must be necessary to reach the program's objective; and must be accomplished through—

(A) Resident courses (including teacher training courses and similar courses which VA considers to be resident training),

(B) Independent study courses,

(C) Correspondence courses,

(D) An apprenticeship or other on-job training program,

(E) A graduate program of research in absentia, or

(F) Medical-dental internships and residencies, nursing courses and other medical-dental specialty courses.

* * * * *

(35) *Established charge.* The term "established charge" means the lesser of—

(i) The charge for the correspondence course or courses determined on the basis of the lowest extended time payment plan offered by the educational institution and approved by the appropriate State approving agency, or

(ii) The actual cost to the servicemember or veteran.

(Authority: 38 U.S.C. 1434, 1786(a)(1))

(36) *Date of affirmance.* The term "date of affirmance" means the date (after the expiration of ten days after a veteran or servicemember signs an enrollment agreement for a correspondence course), on which the veteran or servicemember signs and submits to VA a written agreement affirming the enrollment agreement.

(Authority: 38 U.S.C. 1434, 1786)

(37) *Training establishment.* The term "training establishment" means any establishment providing apprentice or other on-job training, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established in accordance with 29 U.S.C. chapter 4C, or any agency of the Federal Government authorized to supervise such training.

(Authority; 38 U.S.C 1434, 1787)

3. In § 21.7040, paragraph (a) is revsied to read as follows:

§ 21.7040 Eligibility for basic educational assistance.

* * * * *

(a) Some individuals who first become members of the Armed Forces or who first enter on active duty as a member of the Armed Forces after June 30, 1985, and

* * * * *

4. In § 21.7042, paragraphs (a)(1), (a)(5)(iii) and its authority citation, (b)(1), (c) and its authority citation, (d)(1)(i), and (e)(1) are revised to read as follows:

§ 21.7042 Basic eligibility requirements.

* * * * *

(a) * * *

(1) The individual must after June 30, 1985, either—

* * * * *

(5) * * *

(iii) For convenience of the Government—

(A) After completing at least 20 continuous months of active duty if his or her initial obligated period of active duty is less than three years, or

(B) After completing 30 continuous months of active duty if his or her initial obligated period of duty is at least three years.

(Authority: 38 U.S.C. 1411, 1412; Pub. L. 100-48)

(b) * * *

(1) The individual must, after June 30, 1985, either—

* * * * *

(c) *Dual eligibility.*

(1) An individual who has established eligibility under paragraph (a) of this section through serving at least two years of continuous active duty of an initial obligated period of active duty of less than three years, as provided in paragraph (a)(2) of this section, may attempt to establish eligibility under paragraph (b) of this section through service in the Selected Reserve. If this veteran fails to establish eligibility under paragraph (b) of this section, he or she will retain eligibility established under paragraph (a) of this section.

(2) An individual must elect whether or not he or she wishes service in the Selected Reserve to be credited towards establishing eligibility under 38 U.S.C. chapter 30 or under 10 U.S.C. chapter 106 when—

(i) The individual is—

(A) A veteran who has established eligibility for basic educational assistance through meeting the provisions of paragraph (b)(b) of this section, and

(B) Also a reservist who has established eligibility for benefits under 10 U.S.C. chapter 106 through meeting the requirements of § 21.7540 of this part, or

(ii) The individual is a member of the National Guard or Air National Guard who has established eligibility for basic educational assistance provided under 38 U.S.C. chapter 30 through activation under a provision of law other than 32 U.S.C. 316, 502, 503, 504 or 505.

(3) A veteran may revoke his or her election provided he or she has not negotiated a check for benefits under either 38 U.S.C. chapter 30 or 10 U.S.C. chapter 106. Once the veteran has negotiated a check under either chapter, the election is irrevocable.

(Authority: 38 U.S.C. 1433(c), 10 U.S.C. 2132; Pub L. 98-525, Pub L. 99-576)

(d) * * *

(1) * * *

(i) After June 30, 1985, either—

* * * * *

(e) * * *

(1) An individual who, after June 30, 1985, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces, may elect not to receive educational assistance under 38 U.S.C. chapter 30. This election must be made at the time the individual initially enters on active duty as a member of the Armed Forces. An individual who makes such an election is not eligible for educational assistance under 38 U.S.C. chapter 30.

* * * * *

5. In § 21.7044, paragraph (a)(5)(vi) is revised, paragraph (a)(6) is added, the authority citation at the end of paragraph (a) is revised, and paragraph (c)(1)(i) introductory text is revised to read as follows:

§ 21.7044 Persons with 38 U.S.C. Chapter 34 eligibility.

* * * * *

(a) * * *

(5) * * *

(vi) Be released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service;

(6) The individual must have been on active duty on October 19, 1984, and without a break in service since October 19, 1984.

(Authority: 38 U.S.C. 1411; Pub. L. 98-525, Pub. L. 99-145, Pub L. 90-576)

* * * * *

(c) * * *

(1) * * *

(i) After June 30, 1985, either—

* * * * *

6. In § 21.7050, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d) respectively, the introductory text of pargraph (a) and its authority citation are revised and new paragraph (b) and its authority citation are added to read as follows:

§ 21.7050 Ending dates of eligibility.

(a) *Ten-year time limitation.* Except as provided in paragraph (b) of this section and in § 21.7051 of this part, VA will not provide basic educational assistance or supplemental educational assistance to a veteran or servicemember after the later of the following:

* * * * *

(Authority: 38 U.S.C. 1431 (a) and (e); Pub. L. 98-525, Pub. L. 100-323)

(b) *Reduction of ten-year eligibility period.* A veteran who had eligibility for educational assistance under 38 U.S.C. chapter 34 and who is eligible for educational assistance under 38 U.S.C. chapter 30 as provided in § 21.7044 of this part shall have his or her ten-year

period of eligibility reduced by the number of days he or she was not on active duty during the period beginning on January 1, 1977, and ending on October 18, 1984.

(Authority: 38 U.S.C. 1431(e); Pub. L. 99-576)

* * * * *

7. In § 21.706, the introductory text and the authority citation for paragraph (a) are revised, paragraph (b)(1) introductory text is revised, and paragraphs (b)(3) through (b)(6) are added, and the authority citation at the end of paragraph (b) is revised to read as follows:

§ 21.7076 Entitlement charges.

(a) *Overview:* VA will make charges against entitlement as stated in this section. Charges will be made against the entitlement the veteran or servicemember has to educational assistance under 38 U.S.C. chapter 30. After December 31, 1989, there will be a charge (for record purposes only) against the entitlement, if any, which he or she may have under 38 U.S.C. chapter 34. The charges against entitlement under 38 U.S.C. chapter 34 will not count against the 48 months of total entitlement under both 38 U.S.C. chapters 30 and 34 to which the veteran or servicemember may be entitled. (See § 21.4020(a) of this part.) Except for those pursuing correspondence training or apprenticeship or other on-job training, charges are based upon the principle that a veteran or servicemember who trains full time for one day should be charged one day of entitlement. The provisions of this section apply to—

* * * * *

(Authority: 38 U.S.C. 1413; Pub. L. 98-525, Pub. L. 99-576)

(b) *Determining entitlement charge.* (1) Except for those pursuing correspondence training or apprenticeship or other on-job training, VA will make a charge against entitlement—

* * * * *

(3) For each month that a veteran is paid a monthly educational assistance allowance while undergoing apprenticeship or other on-job training, VA will make a charge against chapter 30 entitlement of—

(i) .75 of a month in the case of payments made during the first six months of the veteran's pursuit of the program of apprenticeship or other on-job training,

(ii) .55 of a month in the case of payments made during the second six months of the veteran's pursuit of the program of apprenticeship or other on-job training, and

(iii) .35 of a month in the case of payments made following the first twelve months of the veteran's pursuit of apprenticeship or other on-job training.

(4) For each month that a veteran is paid a monthly educational assistance allowance while undergoing apprenticeship or other on-job training, VA will make a record purpose charge against chapter 34 entitlement, if any, of one month for each month of benefits paid to him or her.

(5) When a veteran or servicemember is pursuing a program of education by correspondence, VA will make a charge against entitlement for each payment made to him or her. The charge—

(i) Will be made in months and decimal fractions of a month, and

(ii) Will be determined by dividing the amount of the payment by an amount equal to the rate of educational assistance otherwise applicable to him or her for full-time training (disregarding in the case of a servicemember the cost of course comparison).

(6) When a veteran or servicemember is pursuing a program of education partly in residence and partly by correspondence, VA will make a charge against entitlement—

(i) For the residence portion of the program as provided in paragraphs (b)(1) and (2) of this section, and

(ii) For the correspondence portion of the program as provided in paragraph (b)(5) of this section.

(Authority: 38 U.S.C. 1432(c), 1434(c); Pub. L. 99-576)

* * * * *

8. In § 21.7100, paragraphs (b) and (d) and their authority citations are revised to read as follows;

§ 21.7100 Counseling.

* * * * *

(b) Required counseling. (1) In any case in which VA has rated the veteran as being incompetent, the veteran must be counseled before selecting a program of education or training. The requirement that counseling be provided is met when—

(i) The veteran has had one or more personal interviews with the counselor;

(ii) The counselor has jointly developed with the veteran recommendations for selecting a program; and

(iii) These recommendations have been reviewed with the veteran.

(2) The veteran may follow the recommendations developed in the course of counseling, but is not required to do so.

(3) VA will take no further action on a veteran's application for assistance under 38 U.S.C. chapter 30 when he or she—

(i) Fails to report;

(ii) Fails to cooperate in the counseling process; or

(iii) Does not complete counseling to the extent required under paragraph (b)(1) of this section.

(4) Counseling is not required for any other individual eligible for educational assistance established under 38 U.S.C. chapter 30.

(Authority: 38 U.S.C. 1432, 1663; Pub. L. 98-525, Pub. L. 99-576)

* * * * *

(d) *Provision of counseling.* VA shall provide counseling as needed for the purposes identified in paragraphs (a) and (c) of this section upon request of the individual. In addition, VA shall provide counseling as needed for the purposes identified in paragraph (b) of this section following the veteran's request for counseling, the veteran's initial application for benefits or any communication from the veteran or guardian indicating that the veteran wishes to change his or her program. VA shall take appropriate steps (including individual notification where feasible) to acquaint all participants with the availability and advantages of counseling services.

(Authority: 38 U.S.C. 1434, 1663; Pub. L. 98-525, Pub. L. 99-576)

9. Section 21.7103 is revised and a cross-reference added to read as follows:

§ 21.7103 Travel expenses.

(a) *Travel for veterans and servicemembers.*

(1) Except as provided in paragraph (a)(2) of this section, VA shall determine and pay the necessary cost of travel to and from the place of counseling for individuals who are required to receive counseling if—

(i) VA determines that the individual is unable to defray the cost based upon his or her annual declaration and certification; or

(ii) The individual has a compensable service-connected disability.

(2) VA shall not pay for the travel expenses for a veteran who is not residing in a State.

(Authority: 38 U.S.C. 111)

(b) *Travel for attendants.*

(1) VA will authorize payment of travel expenses for an attendant while the individual is traveling when—

(i) The individual, because of a severe disability requires the services of an attendant when traveling, and

(ii) VA is paying the necessary cost of the individual's travel on the basis of the criteria stated in paragraph (a) of this section.

(2) VA will not pay the attendant a fee for travel expenses if he or she is a relative as defined in § 21.374 of this part.

(Authority: 38 U.S.C. 111)

(c) *Payment of travel expenses prohibited for most veterans.* VA shall not pay for any costs of travel to and from the place of counseling for anyone who requests counseling under 38 U.S.C. Chapter 30.

(Authority: 38 U.S.C. 111)

Cross-Reference: 21.374, Authorization for travel of attendants.

10. Section 21.7112 is amended by removing the introductory text of paragraph(s), and by revising paragraph (a)(1) and by adding an authority citation for paragraph (a)(1) to read as follows:

§ 21.7112 Programs of education combining two or more types of courses.

* * * * *

(a) *Concurrent enrollment.* (1) When a veteran or servicemember cannot successfully schedule his or her complete program at one educational institution, VA may approve a program of concurrent enrollment. When requesting such a program, the veteran or servicemember must show that his or her complete program of education is not available at the educational institution in which he or she will pursue the major portion of his or her program (the primary educational institution), or that it cannot be scheduled successfully within the period in which he or she plans to complete his or her program. When the standards for measurement of the courses pursued concurrently in the two educational institutions are different, the concurrent enrollment shall be measured by converting the measurement of courses being pursued at the second educational institution under the standard applicable to such institution to its equivalent measurement under the standard required for full-time courses applicable to the primary educational institution. For a complete discussion of measurement of concurrent enrollments see § 21.7172 of this part.

(Authority: 38 U.S.C. 1434, 1788; Pub. L. 99–576)

* * * * *

11. In § 21.7122, paragraph (e)(6) is removed and paragraph (e)(7) is redesignated as paragraph (e)(6); paragraph (e)(5) and the authority citation for paragraph (e) are revised to read as follows:

§ 21.7122 Courses precluded.

* * * * *

(e) * * *

(5) A course from which the veteran or servicemember withdrew without mitigating circumstances, or

* * * * *

(Authority: 38 U.S.C. 1402(3), 1434, 1772(a), 1780(a); Pub. L. 99–576)

12. In § 21.7131, paragraph (c) and its authority citation are revised to read as follows:

§ 21.7131 Commencing dates.

* * * * *

(c) *Certification by educational institution or training establishment—course does not lead to a standard college degree.*

(1) When a veteran or servicemember enrolls in a course which does not lead to a standard college degree and which is offered in residence, the commencing date of the award of educational assistance shall be the first date of the veteran's or servicemember's class attendance.

(2) When a veteran or servicemember enrolls in a course which is offered by correspondence, the commencing date of the award of educational assistance shall be the later of—

(i) The date the first lesson was sent, or

(ii) The date of affirmance.

(3) When a veteran enrolls in a program of apprenticeship or other on-the-job training, the commencing date of the award of educational assistance shall be the first date of employment in the training position.

(Authority: 38 U.S.C. 1414, 1423; Pub. L. 98–525, Pub. L. 99–576)

* * * * *

13. In § 21.7135, paragraph (e)(2)(ii) is revised, paragraphs (e) (3) and (4) are added, and the authority citation for paragraph (e) is revised to read as follows:

§ 21.7135 Discontinuance dates.

* * * * *

(e) * * *

(2) * * *

(ii) Independent study: official date of change in status under the practices of the educational institution.

(3) When a veteran or servicemember withdraws from a correspondence course, VA will terminate educational assistance effective the date the last lesson is serviced.

(4) When a veteran or servicemember withdraws from an apprenticeship or other on-the-job training, VA will terminate educational assistance effective the date of last training.

(Authority: 38 U.S.C. 1434, 1780(a); Pub. L. 98–525, Pub. L. 99–576)

* * * * *

14. Section 21.7136 is revised to read as follows:

§ 21.7136 Rates of payment of basic educational assistance.

(a) *Rates.* (1) Except as otherwise provided in this section and § 21.7137 of this part, the monthly rate of basic educational assistance payable to a veteran is the rate stated in this table. The rates in this table also apply to a veteran who formerly was eligible under 38 U.S.C. chapter 34, and who has received a record-purpose charge against his or her entitlement under that chapter equal to the entitlement he or she had remaining on December 31, 1989.

Training	Monthly rate
Full-time	$300.
¾ time	$225.
½ time	$150.
Less than ½ but more than ¼ time.	$150 (See § 21.7136(d).
¼ time or less	$75 (See § 21.7136(d).

(Authority: 38 U.S.C. 1415(c); Pub. L. 98–525)

(2) Except as otherwise provided in this section the monthly rate of basic educational assistance payable to a veteran who is pursuing an apprenticeship or other on-job training is the rate stated in this table. The rates in this table also apply to a veteran pursuing such training who formerly was eligible under 38 U.S.C. chapter 34, and who has received a record-purpose charge against his or her entitlement under that chapter equal to the entitlement he or she had remaining on December 31, 1989.

Training period	Monthly rate
First six months of pursuit of program	$225.00
Second six months of pursuit of program	165.00
Remaining pursuit of program	105.00

(Authority: 38 U.S.C. 1432(c); Pub. L. 99–576)

(b) *Rates for veterans whose initial obligated period of active duty is less than three years.*

(1) Except as otherwise provided in this section, the monthly rate of basic educational assistance payable to a veteran whose initial obligated period of active duty is less than three years and who has not served and is not committed to serve in the Selected

Reserve for a period of four years is the amount stated in this table.

Training period	Monthly rate
Full-time	$250.00.
¾ time	$187.50.
½ time	$125.00.
Less than ½ but more than ¼ time.	$125.00 (See § 21.7136(d)).
¼ time or less	$62.50 (See § 21.7136(d)).

(Authority: 38 U.S.C. 1415(c); Pub. L. 98–525)

(2) Except as otherwise provided in this section, the monthly rate of educational assistance payable to a veteran whose initial obligated period of active duty is less than three years and who has not served and is not committed to serve in the Selected Reserve for a period of four years, and who is pursuing an apprenticeship or other on-job training is the rate stated in this table.

Training period	Monthly rate
First six months of pursuit of program	$187.50
Second six months of pursuit of program	137.50
Remaining pursuit of program	87.50

(Authority: 38 U.S.C. 1432(c); Pub. L. 99–576)

(c) *Increase in basic educational assistance rates ("kicker").* The Secretary concerned may increase the amount of basic educational assistance payable to an individual who has a skill or specialty which the Secretary concerned designates as having a critical shortage of personnel or for which it is difficult to recruit. The amount of the increase is set by the Secretary concerned, but—

(1) For individuals other than those pursuing an apprenticeship or other on-job training program, it may not exceed—

(i) $400 per month for full-time training,

(ii) $300 per month for three-quarter-time training,

(iii) $200 per month for one-half-time training or for training which is less than one-half, but more than one-quarter-time, or

(iv) $100 per month for one-quarter-time training or less.

(2) For individuals pursuing an apprenticeship or other on-job training it may not exceed—

(i) $300 per month during the first six months of training,

(ii) $220 per month during the second six months of training, and

(iii) $140 per month during the remaining months of training.

(Authority: 38 U.S.C. 1415(c), 1432(c))

15. In § 2.7137, paragraphs (a), (b), and (d) and their authority citations are revised to read as follows:

§ 21.7137 Rates of payment of basic educational assistance for individuals with remaining entitlement under 38 U.S.C. chapter 34

(a) *Minimum rates.* Effective January 1, 1990, VA will pay basic educational assistance at an increased rate to veterans who were eligible for educational assistance allowance under 38 U.S.C. chapter 34. The veterans must establish eligibility for educational assistance under § 21.7044, of this part, and must still have remaining entitlement under 38 U.S.C. chapter 34.

(1) Except as otherwise provided in this section the monthly rate of basic educational assistance will be the rate taken from the following table.

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Full-time	$488.00	$524.00	$555.00	$16.00
¾ time	366.50	393.00	416.50	12.00
½ time	244.00	262.00	277.50	8.50
Less than ½ but more than ¼ time	[1] 244.00			
¼ time or less	[1] 122.00			

[1] See § 21.3137(b).

(Authority: 38 U.S.C. 1415(c); Pub. L. 98–525).

(2) For veterans pursuing an apprenticeship or other on-job training, the monthly rate of basic educational assistance will be the rate taken from the following table.

Training period	Monthly rate			
	No dependents	One dependent	Two dependents	Additional amount for additional dependents
1st 6 mos. of pursuit of program	$327.75	$340.13	$351.00	$5.25
2d 6 mos. of pursuit of program	221.38	230.73	238.43	3.85
3d 6 mos. of pursuit of program	128.80	134.93	139.65	2.45
Remaining pursuit of program	116.90	122.68	127.93	2.45

(Authority: 38 U.S.C. 1415(c), 1434, 1786(a)(2); Pub. L. 99–576)

(b) *Less than one-half-time training.* The monthly rate for a veteran who is pursuing a course on a less than one-half-time basis is the lesser of—

(1) The monthly rate in paragraph (a)(1) of this section, or

(2) The monthly rate of the cost of the course.

(Authority: 38 U.S.C. 1432; Pub. L. 98–525, Pub. L. 99–576)

* * * * *

(d) *Increase in basic educational assistance rates ("kicker").* The Secretary concerned may increase the

amount of basic educational assistance payable to an individual who has a skill or specialty which the Secretary concerned designates as having a critical shortage of personnel or for which it is difficult to recruit. The increase may not be applied to a servicemember whose monthly rate is determined by paragraph (c)(1) of this section, but it can serve to raise the ceiling on monthly rates stated in paragraphs (b)(1) and (c)(2) of this section. The amount of the increase is set by the Secretary concerned, but—

(1) For individuals other than those pursuing an apprenticeship or other on-job training program, it may not exceed—

(i) $400 per month for full-time training,

(ii) $300 per month for three-quarter-time training.

(iii) $200 per month for one-half-time training or for training which is less than one-half but more than one-quarter-time, or

(iv) $100 per month for one-quarter-time training or less.

(2) For individuals pursuing an apprenticeship or other on-job training it may not exceed—

(i) $300 per month for the first six months of training.

(ii) $220 per month for the second six months of training, and

(iii) $140 per month for the remaining months of training.

(Authority: 38 U.S.C. 1415, 1432)

* * * * *

16. In § 21.7138, paragraphs (a) and (b) and their authority citations and the heading for paragraph (c) are revised to read as follows:

§ 21.7138 Rates of supplemental educational assistance.

* * * * *

(a) *Rates of supplemental educational assistance for veterans.*

(1) Except for a veteran pursuing an apprenticeship or other on-job training program, the rate of supplemental educational assistance payable to a veteran is the rate stated in this table.

Training	Monthly rate
Full-time	$300.
¾ time	$225.
½ time	$150.
Less than ½ but more than ¼ time.	$150 (See § 21.7138(c)).
¼ time or less	$75 (See § 21.7138(c)).

(Authority: 38 U.S.C. 1415(c); Pub. L. 98–525)

(2) For a veteran pursuing apprenticeship or other on-job training the rate of supplemental educational assistance payable to a veteran is as provided in this table.

Training period	Monthly rate
First 6 months of pursuit of program	$225.00
Second 6 months of pursuit of program	165.00
Remaining pursuit of program	105.00

(Authority: 38 U.S.C. 1415(c), 1432(c); Pub. L. 99–576)

(b) *Increase in supplemental educational assistance rates ("kicker").* The Secretary concerned may increase the amount of supplemental educational assistance payable to an individual who has a skill or specialty which the Secretary concerned designates as having a critical shortage of personnel or for which it is difficult to recruit. The amount of the increase is set by the Secretary concerned, but—

(1) For an individual other than one pursuing an apprenticeship or other on-job training it may not exceed—

(i) $300 per month for full-time training.

(ii) $225 per month for three-quarter-time training,

(iii) $150 per month for one-half-time training and for training which is less than one-half-time, but more than one-quarter-time, or

(iv) $75 per month for one-quarter-time training or less.

(2) For an individual pursuing an apprenticeship or other on-job training it may not exceed—

(i) $225 per month for the first six months of training,

(ii) $165 per month for the second six months of training, and

(iii) $105 per month for the remaining months of training.

(Authority: 38 U.S.C. 1422(b), 1432(c); Pub. L. 99–576)

(c) *Rates of supplemental educational assistance for less than one-half-time training and for servicemembers.*

* * * * *

17. In § 21.7139, the introductory text for paragraph (a) and the authority citation for paragraph (a) are revised and paragraphs (i) and (j) are added to read as follows:

§ 21.7139 Conditions which result in reduced rates.

* * * * *

(a) *Absences.* A veteran or servicemember enrolled in a course not leading to a standard college degree (other than one to which § 21.4270(a), footnote 6 applies) will have his or her educational assistance reduced for any day of absence which exceeds the maximum allowable absences permitted in this paragraph.

(Authority: 38 U.S.C. 1434, 1780; Pub. L. 99–576)

* * * * *

(i) *Payment for correspondence courses.* The amount of payment due a veteran or servicemember who is pursuing a correspondence course or the correspondence portion of a correspondence-residence course is 55 percent of the established charge which the educational institution requires nonveterans to pay for the lessons that the veteran or servicemember has had completed and serviced and for which payment is due.

(Authority: 38 U.S.C. 1434, 1786(a)(2))

(j) *Failure to work sufficient hours of apprenticeship and other on-job training.*

(1) For any month in which an eligible veteran pursuing an apprenticeship or other on-job training program fails to complete 120 hours of training VA shall reduce the rates specified in §§ 21.7136(a)(2), 21.7136(b)(2) and 21.7137(b)(2) of this part proportionally. In this computation VA shall round the number of hours worked to the nearest multiple of eight.

(2) For the purpose of this paragraph "hours worked" include only—

(i) The training hours the veteran worked, and

(ii) All hours of the veteran's related training which occurred during the standard workweek and for which the veteran received wages. (See § 21.4270(b), footnote 5, as to the requirements for full-time training.)

(Authority: 38 U.S.C. 1434, 1787(b)(3)

18. In § 21.7140, paragraph (b) is redesignated as paragraph (d); paragraph (c) is redesignated as paragraph (e); paragraph (a) is revised; new paragraphs (b), (c), and (f) are added to read as follows:

§ 21.7140 Certifications and release of payments.

(a) Advance payments.

(1) VA shall make payments of educational assistance in advance when—

(i) The veteran or servicemember has specifically requested such a payment;

(ii) The educational institution at which the veteran or servicemember is accepted or enrolled has agreed to, and can satisfactorily carry out, the provisions of 38 U.S.C. 1780(d) (4) (B) and (C) and (5) pertaining to receipt, delivery or return of checks and certifications of delivery and enrollment;

(iii) The Director of the VA field facility of jurisdiction has not acted under paragraph (a)(4) of this section to prevent advance payments being made

to the veteran's or servicemember's educational institution;

(iv) There is no evidence in the veteran's or servicemember's claim file showing that he or she is not eligible for an advance payment;

(v) The period for which the veteran or servicemember has requested a payment either is preceded by an interval of nonpayment for 30 days or more or is the beginning of a school year; and

(vi) The educational institution or the veteran has submitted the certification required by § 21.7151 of this part.

(2) The amount of advance payment is the educational assistance for the month or fraction thereof in which the term or course will begin plus the educational assistance for the following month.

(3) Advance payments will be mailed to the educational institution for delivery to the veteran or servicemember. The educational institution shall not deliver the advance payment check more than 30 days in advance of the first date of the period for which the advance payment is made.

(4) The Director of the VA field facility of jurisdiction may direct that advance payments not be made to individuals attending an educational institution if—

(i) The educational institution demonstrates an inability to comply with the requirements of paragraph (a)(3) of this section, or

(ii) The educational institution fails to provide adequately for the safekeeping of the advance payment checks before delivery to the veteran or servicemember or return to VA, or

(iii) The Director determines, based on compelling evidence, that the educational institution has demonstrated its inability to discharge its responsibilities under the advance payment program.

(Authority: 38 U.S.C. 1434, 1780(d))

(b) *Lump-sum payments.*

(1) A certfication of enrollment from an educational institution will be sufficient to release payment of educational assistance to a veteran or servicemember for an entire quarter, semester or term no later than the last day of the month following the month in which VA received the certification when the veteran or servicemember is training on a less than half-time basis.

(2) VA will make lump-sum payments of educational assistance when the veteran's or servicemember's enrollment or attendance is first certified after he or she completes his or her enrollment period.

(Authority: 38 U.S.C. 1434, 1780(f))

(c) *Other payments.* An individual must be pursuing a program of education in order to receive payments. To ensure that this is the case the provisions of this paragraph must be met.

(1) VA will pay educational assistance to a veteran or servicemember (other than one pursuing a program of apprenticeship or other on-job training or a correspondence course, one who qualifies for an advance payment or one who qualifies for a lump-sum payment) only after—

(i) The educational institution has certified his or her enrollment as provided in § 21.7152 of this part;

(ii) VA has received from the individual a verification of the enrollment; and

(iii) In the case of a veteran or servicemember pursuing a course not leading to a standard college degree, other than one to which § 21.4270(a), footnote 6 applies, a report from the veteran or servicemember of each day of absence from scheduled attendance. The report will be endorsed by the educational institution. If the veteran is enrolled concurrently in more than one educational institution, the primary educational institution will endorse the report. For a discussion of each of these certifications, see §§ 21.7152 and 21.7154 of this part.

(2) VA will pay educational assistance to a veteran pursuing a program of apprenticeship or other on-job training only after-

(i) The training establishment has certified his or her enrollment in the training program as provided in § 21.7152 of this part; and

(ii) VA has received from the veteran and the training establishment a certification of hours worked

(3) VA will pay educational assistance to a veteran or servicemember who is pursuing a correspondence course only after-

(i) The educational institution has certified his or her enrollment;

(ii) VA has received from the veteran or servicemember a certification as to the number of lessons completed and serviced by the educational institution; and

(iii) VA has received from the educational institution a certification or an endorsement on the veteran's or servicemember's certificate, as to the number of lessons completed by the veteran or servicemember and serviced by the educational institution.

(Authority: 38 U.S.C. 1434, 1780(b))

* * * * *

(f) *Limitations on payments.* VA will not apportion educational assistance.

(Authority: 38 U.S.C. 1434, 1780)

19. In § 21.7142, paragraph (a) and its authority citation are revised to read as follows:

§ 21.7142 Nonduplication of educational assistance.

(a) *Payments of educational assistance shall not be duplicated.* An individual, entitled to educational assistance under 38 U.S.C. chapter 34, who establishes entitlement under 38 U.S.C. chapter 30, shall not be eligible to receive educational assistance under 38 U.S.C. chapter 30 before January 1, 1990. An individual who is entitled to educational assistance under 38 U.S.C. chapter 30 and any of the provisions of law listed in this paragraph must elect which benefit he or she will receive for the program of education he or she wishes to pursue. The provisions of law are:

(1) 38 U.S.C. chapter 31,

(2) 38 U.S.C. chapter 32,

(3) 38 U.S.C. chapter 35,

(4) 10 U.S.C. chapter 106,

(5) 10 U.S.C. chapter 107, and

(6) The Hostage Relief Act of 1980, (Pub. L. 96–499 and 5 U.S.C. 5561 note).

(Authority: 38 U.S.C. 1433)

* * * * *

20. Section 21.7145 is added to read as follows:

§ 21.7145 Veteran-student services.

(a) *Eligibility.* Veterans pursuing full-time programs of education or training under chapter 30 are eligible to receive a work-study allowance.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99–576)

(b) *Selection criteria.* Whenever feasible VA will give priority in selection for this allowance to veterans with service-connected disabilities rated at 30 percent or more. VA shall consider the following additional selection criteria:

(1) Need of the veteran to augment his or her educational assistance allowance;

(2) Availability to the veteran of transportation to the place where his or her services are to be performed;

(3) Motivation of the veteran; and

(4) Compatibility of the work assignment to the veteran's physical condition.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99–576)

(c) *Utilization.* Veteran-student services may be utilized in connection with—

(1) Outreach services programs as carried out under the supervision of a VA employee;

(2) Preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of VA;

(3) Hospital and domiciliary care and medical treatment at VA facilities; and

(4) Any other appropriate activity of VA.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

(d) *Rate of payment.*

(1) In return for the veteran's agreement to perform services for VA totaling 250 hours during an enrollment period, VA will pay an allowance in an amount equal to the higher of—

(i) The hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times 250, or

(ii) $625.

(2) VA will pay proportionately less to veterans who agree to perform a lesser number of hours of services.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

(e) *Payment in advance.* VA will pay in advance an amount equal to 40 percent of the total amount payable under the contract.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

(f) *Veteran reduces rate of training.* In the event the veteran ceases to be a full-time student before completing an agreement, the veteran, with the approval of the Director of the VA field facility, or designee, may be permitted to complete the portions of an agreement in the same or immediately following term, quarter or semester in which the veteran ceases to be a full-time student.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

(g) *Veteran terminates training.*

(1) If the veteran terminates all training before completing an agreement, the Director of the VA field facility or designee—

(i) May permit him or her to complete the portion of the agreement represented by the money VA has advanced the veteran for which he or she has performed no service, but

(ii) Will not permit him or her to complete that portion of an agreement for which no advance has been made.

(2) The veteran must complete the portion of an agreement in the same or immediately following term, quarter or semester in which the veteran terminates training.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

(h) *Indebtedness for unperformed service.*

(1) If the veteran has received an advance for hours of unperformed service, and VA has evidence that he or she does not intend to perform that service, the advance—

(i) Will be a debt due the United States, and

(ii) Will be subject to recovery the same as any other debt due the United States.

(2) The amount of indebtedness for each hour of unperformed service shall equal the hourly wage that formed the basis for the contract.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

(i) *Survey.* VA will conduct an annual survey of its regional offices to determine the number of veterans whose services can be utilized effectively.

(Authority: 38 U.S.C. 1434, 1685; Pub. L. 99-576)

21. Section 21.7151 is added to read as follows:

§ 21.7151 Advance payment certifications.

All certifications required by this paragraph shall be in a form and shall contain such information as specified by the Secretary.

(a) *Certification needed before an advance payment can be made.* In order for a veteran or service member to receive an advance payment of educational assistance, the application or other document must be signed by the veteran or the enrollment certification must be signed by an authorized official of the educational institution.

(Authority: 38 U.S.C. 1434, 1780(d))

(b) *Advance payments.* All verifications required by this paragraph shall be in a form and shall contain such information as specified by the Secretary.

(1) For each individual receiving an advance payment an educational institution must—

(i) Verify enrollment for the individual; and

(ii) Verify the delivery of the advance payment check to the individual.

(2) Once the educational institution has initially verified the enrollment of the individual, the individual, not the educational institution, must make subsequent verifications in order to release further payment for that enrollment as provided in § 21.7154(a) of this part.

(Authority: 38 U.S.C. 1434, 1780(d))

22. In § 21.7152, paragraph (a) and its authority citation are revised to read as follows:

§ 21.7152 Certification of enrollment.

* * * * *

(a) *Certification of enrollment is required.* Except as provided in § 21.7151 of this part, the educational institution must certify the veteran's or servicemember's enrollment before he or she may receive educational assistance. This certification shall be in a form and shall contain such information as specified by the Secretary.

(Authority: 38 U.S.C. 1432, 1434, 1682(g), 1780, 1787)

* * * * *

23. Sections 21.7154 and 21.7156 are revised to read as follows:

§ 21.7154 Pursuit and absences.

As stated in § 21.7140(a) of this part except when an individual is pursuing a correspondence course an individual must submit a verification to VA each month of his or her enrollment during the period for which the individual is to be paid. This verification shall be in a form specified by the Secretary.

(a) *Requirements for all veterans and servicemembers.*

(1) The monthly verification for all veterans and servicemembers will include a report on the following items when applicable:

(i) Actual attendance,

(ii) Continued enrollment in and pursuit of the course,

(iii) The individual's unsatisfactory conduct or progress,

(iv) Date of interruption or termination of training,

(v) Changes in the number of credit hours or in the number of clock hours of attendance,

(vi) Nonpunitive grades, and

(vii) Any other changes or modifications in the course as certified at enrollment.

(2) The verification of enrollment must—

(i) Contain the information required for release of payment,

(ii) Be signed by the veteran or servicemember on or after the final date of the reporting period, and

(iii) Clearly show the date on which it was signed.

(Authority: 38 U.S.C. 1434, 1784; Pub. L. 98-525, Pub. L. 99-576)

(b) *Additional requirements when the course does not lead to a standard college degree.*

(1) The veteran or servicemember must certify attendance monthly by reporting each day of absence from scheduled attendance as defined in § 21.7139(a) of this part when—

(i) The course in which he or she is enrolled does not lead to a standard college degree;

(ii) The course does not qualify for measurement on a credit-hour basis as provided in § 21.4270(a), footnote 6.

(2) For the purposes of this certification the educational institution must—

(i) Convert partial days of absence to full days of absence as provided in § 21.7139(a) of this part

(ii) Verify the full days of absence reported, and

(iii) Endorse the report.

(c) *Additional requirements for apprenticeships and other on-job training programs.*

(1) When a veteran is pursuing an apprenticeship or other on-job training he or she must certify training monthly by reporting the number of hours worked.

(2) The information provided by the veteran must be verified by the training establishment.

(Authority: 38 U.S.C. 1434, 1780(a))

§ 21.7156 Other required reports from educational institutions.

Each veteran or servicemember must report without delay to the Department of Veterans Affairs any change in his or her hours of credit or attendance, any change in his or her pursuit and any interruption or termination of his or her attendance. Each educational institution must report without delay such information on the entrance, reentrance, change in hours of credit or attendance, pursuit, interruption and termination of attendance of each veteran or servicemember enrolled in an approved course as the Secretary may require and using a form specified by the Secretary.

(a) *Interruptions, terminations and changes in hours of credit or attendance.* When a veteran or servicemember interrupts or terminates his or her training for any reason, including unsatisfactory conduct or progress, or when he or she changes the number of hours of credit or attendance, the educational institution must report this fact to VA.

(1) If the change in status or change in number of hours of credit or attendance occurs on a day other than one indicated by paragraph (a) (2) or (3) of this section, the educational institution will initiate a report of the change in time for VA to receive it within 30 days of the date on which the change occurs. If the veteran or servicemember is enrolled in a course which does not lead to a standard college degree and for which a monthly certification of attendance is required, the educational institution instead may report the change on the monthly certification of attendance for the month in which the change occurred.

(2) If the educational institution has certified the veteran's or servicemember's enrollment for more than one term, quarter or semester and the veteran or servicemember interrupts his or her training at the end of a term, quarter or semester within the certified enrollment period, the educational institution shall report the change in status to VA in time for VA to receive the report within 30 days of the last officially scheduled registration date for the next term, quarter or semester. If the veteran or servicemember is enrolled in a course which does not lead to a standard college degree and for which a monthly certification of attendance is required, the educational institution instead may report the change on the monthly certification of attendance for the month in which the change occurred.

(3) If the change in status or change in the number of hours of credit or attendance occurs during the 30 days of a drop-add period, the educational institution must report the change in status or change in the number of hours of credit or attendance to VA in time for VA to receive the report within 30 days from the last date of the drop-add period or 60 days from the first day of the enrollment period, whichever occurs first.

(Authority: 38 U.S.C. 1434, 1784)

(b) *Nonpunitive grades.*

(1) An educational institution may assign a nonpunitive grade for a course or subject in which the veteran or servicemember is enrolled even though the veteran or eligible person does not withdraw from the course or subject. When this occurs, the educational institution must report the assignment of the nonpunitive grade in a form prescribed by the Secretary in time for VA to receive it before the earlier of the following dates is reached:

(i) Thirty days from the date on which the educational institution assigns the grade, or

(ii) Sixty days from the last day of the enrollment period for which the nonpunitive grade is assigned.

(2) If the veteran or servicemember is enrolled in a course which does not lead to a standard college degree and for which a monthly certification of attendance is required, the educational institution may use the monthly certification of attendance to report nonpunitive grades provided VA will receive the report within the time period stated in paragraph (b)(1) of this section.

(Authority: 38 U.S.C. 1434, 1784)

(c) *Attendance records.* Nothing in this section or in any section in 38 CFR part 21 shall be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

(Authority: 38 U.S.C. 1434, 1785)

24. In § 21.7158, paragraph (b) and its authority citation are revised to read as follows:

§ 21.7158 False, late, or missing reports.

* * * * *

(b) *Educational institution or training establishment.*

(1) VA may hold an educational institution or training establishment liable for overpayments which result from the educational institution's or training establishment's willful or negligent failure to report excessive absences from a course or discontinuance or interruption of a course by a veteran or servicemember or from willful or negligent false certification by the educational institution or training establishment. See § 21.744(b).

(2) When an educational institution or training establishment willfully and knowingly submits a false report or certification, VA may disapprove a course for further enrollments and may discontinue educational assistance to veterans and servicemembers already enrolled. VA will apply the provisions of §§ 21.4202(b), 21.4207 and 21.4208 of this part in the same manner as they are applied in making similar determinations regarding enrollments under 38 U.S.C. chapter 34.

(Authority: 38 U.S.C. 1434, 1790; Pub. L. 98–525, Pub. L. 99–576)

25. Section 21.7159 and its authority citation are revised to read as follows:

§ 21.7159 Reporting fee.

In determining the amount of the reporting fee payable to educational institutions or joint apprenticeship training committees acting as training establishments for furnishing required reports, VA will apply the provisions of § 21.4206 of this part in the same manner as they are in the administration of 38 U.S.C. chapters 34 and 36.

(Authority: 38 U.S.C. 1434, 1784; Pub. L. 98–525, Pub. L. 99–576)

26. In § 21.7170, paragraph (a) is revised and an authority citation is added to read as follows:

§ 21.7170 Course measurement.

* * * * *

(a) § 21.4270 (except those portions of paragraph (a) and footnotes dealing with high school, cooperative and farm cooperative training)—Measurement of courses.

(Authority: 38 U.S.C. 1434, 1788)

27. Section 21.7172 is added to read as follows:

§ 21.7172 Measurement of concurrent enrollments.

(a) *Conversion of units of measurement required.* Where a veteran enrolls concurrently in courses offered by two schools and the standards for the measurement of the courses pursued concurrently in the two schools are different, VA will measure the veteran's enrollment by converting the units of measurement for courses in the second school to their equivalent in units of measurement required for the courses in the program of education which the veteran is pursuing at the primary institution. This conversion will be accomplished as follows:

(1) If VA measures the course at the primary institution on a credit-hour basis (including a course which does not lead to a standard college degree, which is being measured on a credit-hour basis as provided in footnote 6 to § 21.4270(a)) of this part, and

(i) VA measures the course in the second school on a mixed basis as provided in § 21.4270(b) of this part, VA will add to the credit hours the veteran is pursuing at the primary institution the credit hours attributable to any course the veteran is pursuing at the second school which VA could measure on a credit-hour basis. The clock hours attributable to the other courses pursued at the second school will be converted to credit hours; or

(ii) VA measures the courses at the second school on a clock-hour basis, the clock hours will be converted to credit hours.

(2) If VA measures the course at the primary institution on a mixed basis as provided in § 21.4270(b) of this part, and

(i) VA measures the course at the second school on a credit-hour basis, the credit hours pursued at the second school will be added to the credit hours the veteran is pursuing at the primary institution and the resulting credit hours will be used in making the calculations required by § 21.4270(b) of this part; or

(ii) VA measures the courses at the second school on a clock-hour basis, the clock hours being pursued at the second school will be added to those pursued at the primary institution before making the calculations required by § 21.4270(b) of this part.

(3) If VA measures the courses pursued at the primary institution on a clock-hour basis, and

(i) VA measures the courses pursued at the second school on a mixed basis, the courses pursued at the second school which VA can measure on credit-hour basis for at least one program at the second school will be converted to clock hours and the resulting clock hours added to determine the veteran's training time; or

(ii) VA measures the courses pursued at the second school on a credit-hour basis, including courses which qualify for credit-hour measurement on the basis of footnote 6 to § 21.4270(a) of this part, VA will convert the credit hours to clock hours to determine the veteran's training time.

(Authority: 38 U.S.C. 1434, 1788)

(b) *Conversion of clock hours to credit hours.* If the provisions of paragraph (a) of this section require VA to convert clock hours to credit hours, it will do so by—

(1) Dividing the number of credit hours which VA considers to be full-time at the educational institution whose courses are measured on a credit-hour basis by the number of clock hours which are full-time at the educational institution whose courses are measured on a clock-hour basis; and

(2) Multiplying each clock hour of attendance by the decimal determined in paragraph (b)(1) of this section. VA will drop all fractional hours.

(Authority: 38 U.S.C. 1434, 1788)

(c) *Conversion of credit hours to clock hours.* If the provisions of paragraph (a) of this section require VA to convert credit hours to clock hours, it will do so by—

(1) Dividing the number of clock hours which VA considers to be full-time at the educational institution whose courses are measured on a clock-hour basis by the number of credit hours which are full-time at the educational institution whose courses are measured on a credit-hour basis; and

(2) Multiplying each credit hour by the number determined in paragraph (c)(1) of this section. VA will drop all fractional hours.

(Authority: 38 U.S.C. 1434, 1788)

(d) *Standards for measurement the same.* Where the standards for measurement of the courses pursued concurrently in the two schools are the same, VA will measure the veteran's enrollment by adding together the units of measurement for the courses in the second school and the units of measurement for the courses in the primary institution. The standard for full time will be the full-time standard for the courses at the primary institution. If courses at both schools are measured on a mixed basis so that the provisions of § 21.4270(b) of this part must be applied to the enrollment, VA will separately add the credit hours and the clock hours first, and then apply the provisions of § 21.4270(b) of this part. In applying these provisions VA will use the standard for full time at the primary institution.

(Authority: 38 U.S.C. 1434, 1788)

28. In § 21.7220, paragraphs (b)(1), (b)(6), and (b)(9) are revised to read as follows:

§ 21.7220 Course approval.

* * * * *

(b) * * *

(1) Section 21.4250 (except paragraphs (a) and (c)(1))—Approval of courses,

* * * * *

(6) Section 21.4258—Notice of approval,

* * * * *

(9) Section 21.4265 (except paragraph (f)(1))—Practical training approved as institutional training,

* * * * *

29. In § 21.7222, paragraphs (h) and (i) are removed and paragraphs (d), (e), (f), and (g) and the authority citation for the section are revised to read as follows:

§ 21.7222 Courses and enrollments which may not be approved.

* * * * *

(d) A course, or combination of courses, consisting of instruction offered by an educational institution alternating with instruction in a business or industrial establishment, commonly called a cooperative course;

(e) A course, or a combination of courses consisting of institutional agricultural courses and concurrent agricultural employment, commonly called a farm cooperative course;

(f) An independent study course which does not lead to standard college degree; or

(g) A refresher, remedial or deficiency course.

(Authority: 38 U.S.C. 1434, 1673; Pub. L. 98-525, Pub. L. 99-576)

30. In § 21.7310, paragraph (b)(3) is revised to read as follows:

§ 21.7310 Civil rights

* * * * *

(b) * * *

(3) Section 21.4302—Proprietary vocational schools and training establishments,

* * * * *

[FR Doc. 90-15461 Filed 7-6-90; 8:45 am]

BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[FRL 3806-6]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); San Diego County Air Pollution Control District in the State of California, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Authority delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board (CARB) on behalf of the San Diego County, Madera County, Siskiyou County, San Luis Obispo County, and Santa Barbara County Air Pollution Control Districts (APCDs). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: September 26, 1989, except for San Diego County APCD which was effective July 18, 1989.

ADDRESSES:

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92009.

Madera County Air Pollution Control District, 135 W. Yosemite Avenue, Madera, CA 93637.

Siskiyou County Air Pollution Control District, 525 S. Foothill Drive, Yreka, CA 96097.

San Luis Obispo County Air Pollution Control District, 2156 Sierra Way, Suite B, San Luis Obispo, CA 93401.

Santa Barbara County Air Pollution Control District, 26 Castiliar Drive, B-23, Goleta, CA 93117.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, State Implementation Plan Section, (A-2-3), Air Programs Branch, Air and Toxics Division, EPA, Region 9, 1235 Mission Street, San Francisco, CA 94103, Tel: (415) 556-5262 or FTS: 556-5262.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the San Diego County, Madera County, Siskiyou County, San Luis Obispo County, and Santa Barbara County APCD's. Delegations were granted by letter and are reproduced in their entirety as follows:

San Diego County APCD

July 18, 1989.

Mr. James D. Boyd

Executive Officer, California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request on June 7, 1989, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the San Diego County Air Pollution Control District (SDCAPCD). We have reviewed your request for delegation and have found the SDCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Industrial-Commercial-Institutional Steam Generating Units.	Db
Storage Vessels for Petroleum Liquids	K
Storage Vessels for Petroleum Liquids	Ka
Volatile Organic Liquid Storage	Kb
Rubber Tire Manufacturing	BBB
Petroleum Dry Cleaners	JJJ

NESHAPS	40 CFR part 61 subpart
Asbestos	M

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR parts 60 and 61 including use of EPA's test methods and procedures. As of the effective date of this delegation, SDCAPCD will have primary authority to enforce the above standards. EPA will retain independent enforcement authority, and will exercise such authority in a manner consistent with EPA's timely and appropriate guidance, and our enforcement agreement. As such, all notifications and reports required of sources by the above standards should be sent to you, with a copy to our office. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the Federal Register in the near future.

Sincerely,

Daniel W. McGovern,

Regional Administrator.

cc: Richard Sommerville, APCO, San Diego County APCD; Dick Smith, San Diego County APCD.

Madera County APCD

Mr. James D. Boyd, Executive Officer, California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812

September 26, 1989.

Dear Mr. Boyd:

In response to your request of August 15, 1989, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the Madera County Air Pollution Control District (MCAPCD). We have reviewed your request for delegation and have found the MCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR part 60 subpart
Industrial-Commercial-Institutional Steam Generating Units.	Db
Petroleum Storage Vessels (Constructed after July 23, 1984).	Kb
Rubber Tire Manufacturing Industry	BBB
Onshore Natural Gas Processing; SO_2 Emissions.	LLL
Non-metallic Mineral Processing	OOO

NESHAPS	40 CFR part 61 subpart
Inorganic Arsenic Emissions from Glass Manufacturing Plant.	N
Inorganic Arsenic Emissions from Primary Copper Smelters.	O
Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic; Arsenic Production Facilities.	P

In addition, we are redelegating the following NSPS and NESHAPS categories since the MCAPCD's revised programs and procedures are acceptable:

NSPS	40 CFR part 60 subpart
General Provisions	A
Fossil-Fuel Fired Steam Generators	D
Electric Utility Steam Generating Units	Da
Incinerators	E
Portland Cement Plants	F
Nitric Acid Plants	G

NSPS	40 CFR part 60 subpart
Sulfuric Acid Plants	H
Hot Mix Asphalt Facilities	I
Petroleum Refineries	J
Petroleum Storage Vessels (Constructed June 11, 1973 to May 19, 1978).	K
Petroleum Storage Vessels (Constructed after May 18, 1978).	Ka
Secondary Lead Smelters	L
Secondary Brass and Bronze Ingot Production.	M
Iron and Steel Plants	N
Sewage Treatment Plants	O
Primary Copper Smelters	P
Primary Zinc Smelters	Q
Primary Lead Smelters	R
Primary Aluminum Reduction Plants	S
Wet Process Phosphoric Acid Plants	T
Superphosphoric Acid Plants	U
Diammonium Phosphate Plants	V
Triple Superphosphate Plants	W
Granular Triple Superphosphate Storage	X
Coal Preparation Plants	Y
Ferroalloy Production	Z
Steel Plants: Electric Arc Furnace Constructed after October 21, 1974 and on or before August 17, 1983.	AA
Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983.	AAa
Kraft Pulp Mills	BB
Glass Manufacturing	CC
Grain Elevators	DD
Surface Coating of Metal Furniture	EE
Stationary Gas Turbines	GG
Lime Manufacturing	HH
Lead-Acid Battery Manufacturing	KK
Metallic Mineral Processing	LL
Auto and Light-Duty Truck Surface Coating.	MM
Phosphate Rock Plants	NN
Ammonium Sulfate Manufacturing	PP
Graphic Arts: Publication Rotogravure Printing.	QQ
Pressure Sensitive Tape and Label Surface Coating.	RR
Industrial Surface Coating—Large Appliance.	SS
Metal Coil Surface Coating	TT
Asphalt Processing and Asphalt Roofing Manufacture.	UU
Synthetic Organic Chemical Manufacturing.	VV
Beverage Can Surface Coating	WW
Flexible Vinyl and Urethane Coating and Printing.	FFF
Equipment Leaks of VOC in Petroleum Refineries.	GGG
Synthetic Fiber Production Facilities	HHH
Petroleum Dry Cleaners	JJJ
Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.	KKK
Wool Fiberglass Insulation Manufacturing Plants.	PPP

NESHAPS	40 CFR part 61 subpart
General Provisions	A
Beryllium	C
Beryllium Rocket Motor Firing	D
Mercury	E
Vinyl Chloride	F
Equipment Leaks of Benzene	J
Asbestos Standards	M
Equipment Leaks (Volatile Hazardous Air Pollutants).	V

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR parts 60 and 61 including use of EPA's test methods and procedures. As of the effective date of this delegation, MCAPCD will have primary authority to enforce the above standards. EPA will retain independent enforcement authority, and will exercise such authority in a manner consistent with EPA's timely and appropriate guidance, and our enforcement agreement. As such, all notifications and reports required of sources by the above standards should be sent to you, with a copy to our office. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Daniel W. McGovern,

Regional Administrator.

cc: James Hanton, Madera County APCD

Siskiyou County APCD

Mr. James D. Boyd, Executive Officer, California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812

September 26, 1989

Dear Mr. Boyd: In response to your request of August 15, 1989, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the Siskiyou County Air Pollution Control District (SCAPCD). We have reviewed your request for delegation and have found the SCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
General Provision	A
Emission Guidelines and Compliance Times.	C
Fossil-Fuel Fired Steam Generators	D
Electric Utility Steam Generating Units	Da
Industrial-Commercial-Institutional Steam Generating Units.	Db
Incinerators	E
Portland Cement Plants	F
Nitric Acid Plants	G
Sulfuric Acid Plants	H
Hot Mix Asphalt Facilities	I
Petroleum Refineries	J
Storage Vessels for Petroleum Liquid (Constructed June 11, 1973 Prior to May 19, 1978).	K
Storage Vessels for Petroleum Constructed after May 18, 1978.	Ka
Organic Liquid Storage Vessels for which Construction, Reconstruction or Modification Commenced after July 23, 1984.	Kb
Secondary Lead Smelters	L
Secondary Brass and Bronze Ingot Production.	M
Primary Emissions from Basic Oxygen Process Furnaces for which Construction is Commenced After June 11, 1973.	N
Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which Construction is Commenced After January 20, 1983.	Na
Sewage Treatment Plants	O
Primary Copper Smelters	P
Primary Zinc Smelters	Q
Primary Lead Smelters	R
Primary Aluminum Reduction Plants	S
Wet Process Phosphoric Acid Plants	T
Superphosphoric Acid Plants	U
Diammonium Phosphate Plants	V
Triple Superphosphate Plants	W
Granular Triple Superphosphate Storage Facilities.	X
Coal Preparation Plants	Y
Ferroalloy Production Facilities	Z
Steel Plants: Electric Arc Furnace Constructed after October 21, 1974 and on or before August 17, 1983.	AA
Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983.	AAa
Kraft Pulp Mills	BB
Glass Manufacturing Plants	CC
Grain Elevators	DD
Surface Coating of Metal Furniture	EE
Stationary Gas Turbines	GG
Lime Manufacturing Plants	HH
Lead-Acid Battery Manufacturing	KK
Metallic Mineral Processing Plants	LL
Auto and Light-Duty Truck Surface Coating Operations.	MM
Phosphate Rock Plants	NN
Ammonium Sulfate Manufacturing	PP
Graphic Arts: Publication Rotogravure Printing.	QQ
Pressure Sensitive Tape and Label Surface Coating Operations.	RR
Industrial Surface Coating—Large Appliances.	SS
Metal Coil Surface Coating	TT
Asphalt Processing and Asphalt Roofing Manufacture.	UU
Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry.	VV
Beverage Can Surface Coating	WW
Flexible Vinyl and Urethane Coating and Printing.	FFF
Equipment Leaks of VOC in Petroleum Refineries.	GGG
Synthetic Fiber Production Facilities	HHH
Petroleum Dry Cleaners	JJJ
Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.	KKK
Onshore Natural Gas Processing and SO_2 Emissions.	LLL
Non-metallic Mineral Processing Plants	OOO
Wool Fiberglass Insulation Manufacturing Plants.	PPP

NESHAPS	40 CFR Part 61 Subpart
General Provisions	A
Beryllium	C
Beryllium Rocket Motor Firing	D
Mercury	E
Vinyl Chloride	F
Equipment Leaks of Benzene	J
Asbestos Standards	M
Inorganic Arsenic Emissions from Primary Copper Smelters.	O
Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.	P
Equipment Leaks (Volatile Hazardous Air Pollutants).	V

EPA is not delegating Radionuclides under the Clean Air Act (NESHAPS), Subparts B, H, I, K, and W) until delegation procedures and requirements are developed.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR parts 60 and 61 including use of EPA's test methods and procedures. As of the effective date of this delegation, SCAPCD will have primary authority to enforce the above standards. EPA will retain independent enforcement authority, and will exercise such authority in a manner consistent with EPA's timely and appropriate guidance, and our enforcement agreement. As such, all notifications and reports required of sources by the above standards should be sent to you, with a copy to our office. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the Federal Register in the near future.

Sincerely,

Daniel W. McGovern,

Regional Administrator.

cc: Edmond Hale, Siskiyou County APCD

San Luis Obispo County APCD

Mr. James D. Boyd, Executive Officer, California Air Resources Board, 102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812.

September 26, 1989.

Dear Mr. Boyd: In response to your request of August 15, 1989, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the San Luis Obispo County Air Pollution Control District (SLOCAPCD). We have reviewed your request for delegation and have found the SLOCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR part 60 subpart
Emission guidelines and compliance times.	C
Industrial-commercial-institutional steam generating units.	Db
Secondary emissions from basic oxygen process steelmaking facilities for which construction is commenced after January 20, 1983.	Na
Steel Plants: Electric arc furnaces and argon-oxygen decarburization vessels, constructed after August 17, 1983.	AAa
Surface coating of metal furniture	EE
Lead-acid battery manufacturing plants	KK
Metallic mineral process plants	LL
Phosphate rock plants	NN
Graphic arts industry: Publication rotogravure printing.	QQ
Pressure sensitive tape and label surface coating operations.	RR
Industrial surface coating—large appliances.	SS
Metal coil surface coating	TT
Asphalt processing and asphalt roofing manufacturing.	UU
Equipment leaks of VOC in the synthetic organic chemical manufacturing industry.	VV
Beverage can surface coating	WW
Flexible vinyl and urethane coating and printing.	FFF
Equipment leaks of VOC in petrolsum refineries.	GGG
Synthetic fiber production facilities	HHH
Petroleum dry cleaners	JJJ
Equipment leaks of VOC from onshore natural gas processing plants.	KKK
Onshore natural gas processing and SO2 emissions.	LLL
Non-metallic mineral processing plants	OOO
Wool fiberglass insulation manufacturing plants.	PPP

Appendix A—Reference Methods
Appendix B—Performance Specifications

NESHAPS	40 CFR part 61 subpart
Equipment leaks of benzene	J
Asbesto standards	M
Inorganic arsenic emissions from glass manufacturing plant.	N
Inorganic arsenic emissions from primary copper smelters.	O
Inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities.	P
Equipment leaks (volatile hazardous air pollutants).	V

Appendix A—Compliance Status Information
Appendix B—Test Methods
Appendix C—Quality Assurance Procedures

In addition, we are redelegating the following NSPS and NESHAPS categories since the MCAPCD's revised programs and procedures are acceptable:

NSPS	40 CFR part 60 subpart
General provisions	A
Fossil-fuel fired steam generators	D
Electric utility steam generating units	Da

NSPS	40 CFR part 60 subpart
Incinerators	E
Portland cement plants	F
Nitric acid plants	G
Sulfuric acid plants	H
Hot mix asphalt facilities	I
Petroleum refineries	J
Storage vessels for petroleum liquid constructed June 11, 1973 to May 19, 1978.	K
Petroleum storage vessels constructed after May 18, 1978.	Ka
Secondary lead smelters	L
Secondary brass and bronze production plants.	M
Iron and steel plants	N
Sewage treatment plants	O
Primary copper smelters	P
Primary zinc smelters	Q
Primary lead smelters	R
Primary aluminum reduction plants	S
Wet process phosphoric acid plants	T
Superphosphoric acid plants	U
Diammonium phosphate plants	V
Triple superphosphate plants	W
Granular triple superphosphate storage facilities.	X
Coal preparation plants	Y
Ferralloy production facilities	Z
Steel plants: Electric arc furnace constructed after October 21, 1974, and on or before August 17, 1983.	AA
Kraft pulp mills	BB
Glass manufacturing plants	CC
Grain elevators	DD
Stationary gas turbines	GG
Lime manufacturing plants	HH
Auto and light-duty truck surface coating	MM
Ammonium sulfate manufacturing	PP
Rubber tire manufacturing industry	BBB

NESHAPS	40 CFR part 61 subpart
General provisions	A
Beryllium	C
Beryllium rocket motor firing	D
Mercury	E
Vinyl chloride	F

EPA is not delegating Radionuclides under the Clean Air Act (NESHAPS, subparts B, H, I, K, and W) until delegation procedures and requirements are developed.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR parts 60 and 61 including use of EPA's test methods and procedures. As of the effective date of this delegation, SLOCAPCD will have primary authority to enforce the above standards. EPA will retain independent enforcement authority, and will exercise such authority in a manner consistent with EPA's timely and appropriate guidance, and our enforcement agreement. As such, all notifications and reports required of sources by the above standards should be sent to you, with a copy to our office. The delegation is

effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the Federal Register in the near future.

Sincerely,

Daniel W. McGovern,

Regional Administrator.

Santa Barbara County APCD

September 26, 1989.

Mr. James D. Boyd, Executive Officer, California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812.

Dear Mr. Boyd: In response to your request of August 15, 1989, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the Santa Barbara County Air Pollution Control District (SBCAPCD). We have reviewed your request for delegation and have found the SBCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Adoption and submittal of state plans for designated facilities.	B
Volatile organic storage vessels for which construction, reconstruction or modification commenced after July 23, 1984.	Kb
Secondary emissions from basic oxygen process steeling facilities for which construction is commenced after January 20, 1983.	Na
New residential wood heaters	AAA
Rubber tire manufacturing industry	BBB
Industrial surface coating of plastic parts for business machines.	TTT

Appendix A—Reference Methods
Appendix B—Performance Specifications
Appendix C—Determination of Emission Rate Change
Appendix D—Required Emission Inventory Information
Appendix F—Quality Assurance Procedures

NESHAPS	40 CFR Part 61 Subpart
Appendix A—Compliance Status Information	
Appendix B—Test Methods	
Appendix C—Quality Assurance Procedures	

In addition, we are redelegating the following NSPS and NESHAPS categories since the SBCAPCD's revised programs and procedures are acceptable:

NSPS	40 CFR Part 60 Subpart
General provisions	A
Emission guidelines and compliance times.	C
Fossil-fuel fired steam generators	D
Electric utility steam generating units	Da
Industrial-commercial-institutional steam generator units.	Db
Incinerators	E
Portland cement plants	F
Nitric acid plants	G
Sulfuric acid plants	H
Asphalt concrete plants	I
Petroleum refineries	J
Petroleum storage vessels (Constructed June 11, 1973 to May 19, 1978).	K
Petroleum storage vessels constructed after May 18, 1978.	Ka
Secondary lead smelters	L
Secondary brass and bronze production plants.	M
Sewage treatment plants	O
Primary copper smelters	P
Primary zinc smelters	Q
Primary lead smelters	R
Primary aluminum reduction plants	S
Wet process phosphoric acid plants	T
Superphosphoric acid plants	U
Diammonium phosphate plants	V
Triple superphosphate plants	W
Granular triple superphosphate storage facilities.	X
Coal preparation plants	Y
Ferroalloy production	Z
Steel Plants: Electric arc furnace constructed after October 21, 1974 and on or before August 17, 1983.	AA
Steel Plants: Electric arc furnaces and argon-oxygen decarburization vessels constructed after August 17, 1983.	AAa
Kraft pulp mills	BB
Glass manufacturing plants	CC
Grain elevators	DD
Surface coating of metal furniture	EE
Stationary gas turbines	GG
Lime manufacturing plants	HH
Lead-acid battery manufacturing plants	KK
Metallic mineral processing plants	LL
Auto and light-duty truck surface coating operation.	MM
Phosphate rock plants	NN
Ammonium sulfate manufacturing	PP
Graphic arts industry: Publication rotogravure printing.	QQ
Pressure sensitive tape and label surface coating operations.	RR
Industrial surface coating—large appliances.	SS
Metal coil surface coating	TT
Asphalt processing and asphalt roofing manufacture.	UU
Synthetic organic chemical manufacturing.	VV
Beverage can surface coating industry	WW
Rubber tire manufacturing industry	BBB
Flexible vinyl and urethane coating and printing.	FFF
Equipment leaks of VOC in petroleum refineries.	GGG
Synthetic fiber production facilities	HHH
Petroleum dry cleaners	JJJ
Equipment leaks of VOC from onshore natural gas processing plants.	KKK
Onshore natural gas processing; SO_2 emissions.	LLL
Non-metallic mineral processing plants	OOO
Wool fiberglass insulation manufacturing plants.	PPP

NESHAPS	49 CFR part 61 Subpart
General provisions	A
Beryllium	C
Beryllium rocket motor firing	D
Mercury	E
Vinyl chloride	F
Equipment leaks of benzene	J
Asbestos standards	M
Inorganic arsenic emissions from glass manufacturing plants.	N
Inorganic arsenic emissions from primary copper smelters.	O
Inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities.	P
Equipment leaks (fugitive emission sources).	V

EPA is not delegating Radionuclides under the Clean Air Act (NESHAPS, Subparts B, H, I, K, and W) until delegation procedures and requirements are developed.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR parts 60 and 61 including use of EPA's test methods and procedures. As of the effective date of this delegation, SBCAPCD will have primary authority to enforce the above standards. EPA will retain independent enforcement authority, and will exercise such authority in a manner consistent with EPA's timely and appropriate guidance, and our enforcement agreement. As such, all notifications and reports required of sources by the above standards should be sent to you, with a copy to our office. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the Federal Register in the near future.

Sincerely,

Daniel W. McGovern,

Regional Administrator.

cc: James Ryerson, Santa Barbara County APCD
Scott Johnson, Santa Barbara County APCD

With respect to the areas under the jurisdiction of the appropriate Air Pollution Control District (APCD), all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the appropriate APCD shown in the **ADDRESSES** section of this notice.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of Sections 111 and 112 of the

Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: June 14, 1990.

Daniel McGovern,

Regional Administrator.

[FR Doc. 90–15802 Filed 7–10–90; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 271

[FRL—3808–6]

State of New Mexico: Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule on New Mexico program revision application.

SUMMARY: The State of New Mexico has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Environmental Protection Agency (EPA) has reviewed New Mexico's application and has reached a decision that New Mexico's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to New Mexico to operate its expanded program, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984.

EFFECTIVE DATE: Final authorization for New Mexico shall be effective at 1 p.m. on July 25, 1990.

FOR FURTHER INFORMATION CONTACT: RCRA Regional Authorization Coordinator, Attention: Ms. Lynn Prince, RCRA Programs Branch (6H–HS), U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655–6760.

SUPPLEMENTARY INFORMATION:

A. Background

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260 266 and 124 and 270.

B. New Mexico

The State of New Mexico initially received final authorization effective January 25, 1985 (50 FR 1515), published on January 11, 1985. The State program was later revised with those revisions approved by EPA on April 10, 1990 (55 FR 4604). On July 25, 1989, New Mexico submitted a program revision application for additional program approvals. On March 19, 1990, EPA published a proposal to approve New Mexico's application for program revision in accordance with 40 CFR 271.21(b)(4).

EPA has reviewed New Mexico's application, and has made a final decision that New Mexico's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization for the additional program modifications to New Mexico.

The public was given the opportunity to provide comments on the proposal to approve the State application. To date, no comments have been received concerning the proposal to approve the New Mexico revision application.

The following chart lists the State rules that have been changed and that are being recognized as equivalent to the analogous Federal rules, as they have been changed.

Federal citation	State analog
1. Radioactive mixed waste requirements, as published in the **Federal Register** on July 3, 1986..	1. New Mexico Hazardous Waste Act, §§ 74–4–1 to 74–4–13 NMSA 1978.
2. Hazardous waste miscellaneous units, as published in the **Federal Register** on December 10, 1987.	2. New Mexico Hazardous Waste Act and Hazardous Waste Management Regulations (HWMR)—5, Parts I, V, and IX.
3. Research, Development and Demonstration Permits, as published in the **Federal Register** on July 15, 1985.	3. HWMR–5, Part IX.
4. Closure, post-closure and financial responsibility requirements, as published in the **Federal Register** on May 2, 1986.	4. HWMR–5, Parts I, V, VI, and IX.
5. Standards for hazardous waste storage and treatment tank systems, as published in the **Federal Register** on July 14, 1986.	5. HWMR–5, Parts I, II, III, V, VI, and IX.
6. Amendments to Part B information requirements, as published in the **Federal Register** on June 22, 1987.	6. HWMR–5, Part IX.
7. Permit rules—Settlement Agreement, as published in the **Federal Register** on April 24, 1984.	7. HWMR–5, Part IX.

The State also submitted revisions to the Program Description, Attorney General's Statement, and the Memorandum of Agreement between the State of New Mexico and EPA Region 6.

One State hazardous waste permit will need to be modified to reflect the mixed waste component as a result of the State receiving this additional authority.

The State of New Mexico is not seeking authority over activities on Indian lands.

C. Decision

I conclude that New Mexico's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, the State of New Mexico is granted final authorization to operate its hazardous waste program as revised. New Mexico now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitation of its program revision application and previously approved authorities. New Mexico also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

EPA uses part 272 for codification of the decision to authorize State programs and for incorporation by reference of those provisions of a State's statutes and regulations that EPA will enforce under sections 3008, 3013, and 7003 of RCRA. Therefore, EPA will be amending part 272, subpart G under a separate **Federal Register** notice, that will be published at a later date.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of New Mexico's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This

rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: June 14, 1990.

Bill Hathaway,

Acting Regional Administrator.

[FR Doc. 90-16150 Filed 7-10-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 502 and 587

[Docket No. 89-24]

Miscellaneous Amendments to Rules of Practice and Procedure

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is amending its Rules of Practice and Procedure governing matters before the Commission. The amendments clarify certain filing and service requirements, address facsimile filings, and add a provision governing the filing of confidential materials, and thereby correct current rule deficiencies.

DATE: Effective August 10, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Commission's Rules of Practice and Procedure, 46 CFR part 502, govern proceedings and other matters before the Commission. Experience under the rules suggests certain provisions are either unclear, conflicting or inadequate to achieve their desired purpose. In addition, the current rules do not have provisions governing facsimile ("fax") filings or filings containing confidential material. To remedy these deficiencies, to address fax filings, and to provide for the handling of confidential materials, the Commission issued a Notice of Proposed Rulemaking, 54 FR 48649, November 24, 1989, to solicit comments on several proposed revisions to its rules.

Discussion

Limited comments were received from Matson Navigation Company, Inc. ("Matson") and jointly from the Asia North America Eastbound Rate Agreement and the South Europe/U.S.A. Freight Conference ("the Conferences"). For the most part, the proposed amendments are unopposed and are adopted herein as published except as discussed below.

Matson comments that, in addition to the proposed changes, the Commission's rules should be amended to correct so-called "serious deficiency" in the proscription against "replies to replies" found in § 502.74(a)(1). Matson is concerned about the ability of parties initiating pleadings to rebut what it terms "factual inaccuracies or requests for alternate legal relief" contained in replies, and cites two recent Matson petitions as examples of how the rule barring "replies to replies" can lengthen proceedings. Matson suggests amending § 502.74(a)(1) to allow filing of a "reply to a reply" by a party who initiates a proceeding "* * * to answer those matters * * * which require rebuttal in order to prevent undue hardship or manifest injustice, or where required to promote the expeditious conduct of business," noting that § 502.10 permits waiver of the rules for such reasons.

Matson's proposal is beyond the scope of this rulemaking. Moreover, the Commission fails to see how the proposed revision would generate more fairness or expedite Commission proceedings. As Matson itself notes, § 502.10 now allows the Commission to waive its rule for the reasons Matson proposes. It is not clear if Matson proposes that the rebutting party have the discretion to effect such a waiver or if it proposes to allow surrebuttal in each case. Matson has failed to fully explain its proposal and the need for it. For the above reasons, Matson's proposal is not adopted.

Matson also commented on the proposed new § 502.119 regarding treatment of confidential material. Matson supports adoption of the proposed section, but urges that it be expanded to apply to confidential business and financial information submitted outside docketed proceedings, such as financial workpapers submitted in support of a general rate increase pursuant to § 502.67.

Proposed § 502.119 would apply to any filing submitted that has been designated as confidential by any Commission rule in part 502. Section 502.67 makes underlying workpapers confidential and bars their disclosure, except to the extent authorized by an order of the Commission or a presiding officer. Therefore, it does not appear necessary to expand the proposed rule. To reduce the likelihood of misleading implications, however, the language in the first sentence of proposed § 502.119 has been modified to clarify that § 502.119 applies to "all filings" under part 502. In addition, the proposed rule has been modified to require that such confidential materials be marked "confidential-restricted," so as to avoid confusion with national security information that is classified "confidential."

The Conferences support the proposed amendments, but ask for clarification of the proposed provision prohibiting the filing of fax transmission copies. The Conferences state that it is often necessary to file photocopies of faxed signature pages to meet Commission filing deadlines because conference headquarters are located overseas, even though deadlines may be met by placement in the mail or delivery to a courier under § 502.114. The conferences also ask for clarification whether the proposal would preclude use of photocopies of faxed documents in exhibits to part 502 filings.

Currently, fax filings are deficient since they do not comply with the requirements of § 502.111 for a signed original and multiple copies. The Commission has experienced difficulty obtaining properly signed and verified originals as well as the required number of copies when filings have been submitted by fax. Additionally, fax filings do not appear to provide the quality or permanency of copy needed for long term recordkeeping purposes. Moreover, the Commission does not believe fax filings are necessary in view of the provision in § 502.114 which permits most filing deadlines to be met by mailing or delivery to a courier. Conferences with overseas headquarters almost always manage to meet filing deadlines. Most do not use fax for that purpose.

Nevertheless, the Commission is cognizant of the convenience and widespread use of fax, and therefore will allow the tentative filing of photocopies of signature pages, provided that the originals are received by the Commission within seven workdays, and will allow use of photocopies of faxed documents in exhibits to part 502 filings. Also, since the filing date of protests under § 502.67 is determined by date of receipt and such proceedings involve a compressed time period, fax transmissions in those matters will be accepted provided the original and appropriate copies are

mailed or delivered to a courier that same day.

Synopsis of Final Rule

Proposed rule changes no discussed above generated not comments. Those proposed amendments are adopted essentially as published. A section by section explanation of the final amendments follows.

Section 502.51 is amended to make clear that the $50 filing fee required by § 502.69(b) for petitions generally is also applicable to petitions for rulemaking.

Section 502.53 is amended to clarify that when replies or succeeding rounds of comments are permitted in rulemaking proceedings, they must be served on all parties who have previously submitted comments in the proceeding.

Section 502.62 is amended to make clear that complaints filed thereunder must be verified. This requirement is in keeping with section 11(a) of the Shipping Act of 1984, 46 U.S.C. app. 1710(a), which authorizes the filing of "sworn complaints." Similarly, the general information on filing formal complaints, contained at subpart E, exhibit 1, is amended to specify that verification of a complaint is required whether or not the complainant is represented by an attorney or other person qualified to practice before the Commission. The small claim form at subpart S, exhibit 1, is changed in the same manner, and for the same purpose.

Section 502.111 is amended to provide that fax filings are not acceptable, except in the case of protests under § 502.67 which have been certified as having been mailed or delivered to a courier. Photocopies of faxed signature pages will be tentatively accepted pending receipt of the original within seven workdays. Photocopies of faxed documents will be allowed to be included in exhibits to part 502 filings.

Section 502.114 is revised to make clear that service must be effected on all prior participants when submitting comments or replies beyond the initial round, or when submitting post-decisional pleadings such as petitions for reconsideration, for stay or to reopen (including replies thereto) in all general notice proceedings. This requirement will apply in proceedings involving disposition of petitions for rulemaking (rule 51), petitions for declaratory order (rule 68), petitions general (rule 69), and notices of proposed rulemaking (rule 53), including proceedings under section 19 of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b) (part 585), and proceedings under section 13(b)(5) of the Shipping Act of 1984, 46 U.S.C. app. 1712(b)(5) (part 587). Section 587.1 is amended to conform that rule with this requirement.

Section 502.118 is amended to clarify that the Commission requires fifteen (15) copies of answers to complaints filed pursuant to § 502.64 and of filings on which it appears that the Commission may ultimately rule on review, even when the matter is to be initially determined by the administrative law judge. Motions to dismiss and petitions to intervene are examples of filings governed by this rule.

A new § 502.119 outlining requirements for submitting filings containing confidential material is being added. It is intended to fill a void in the existing rules. The new rule provides that all confidential filings be clearly marked "confidential-restricted"on the cover page and identified as such in a transmittal letter which describes the nature and extent of confidentiality sought, and that the public portions of such filings be clearly separated from the confidential portions and identify where confidential materials are excluded.

Finally, § 502.167 is amended to delete the requirement that a written motion be filed in connection with testimony which has been ordered at a hearing not to be disclosed to the public pursuant to objection. In practice, the requirement to file a written motion is often waived by the administrative law judge. Of course, the presiding administrative law judge retains the discretion of ordering such a written motion.

The Commission has determined that this is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; or investment productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental organizations.

The Paperwork Reduction Act, 44 U.S.C. 3501–3520, does not apply to this Notice of Proposed Rulemaking because the amendments to part 502 of title 46, Code of Federal Regulations, do not impose any additional reporting or recordkeeping requirements or change the collection of information from members of the public which require the approval of the Office of Management and Budget.

List of Subjects in 46 CFR Parts 502 and 587:

Administrative practice and procedure.

PART 502—[AMENDED]

Part 502 of title 46, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 559; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707–1711, 1713–1716; and E.O. 11222 of May 8, 1965 (30 CFR 6469).

2. Section 502.51, Petition for issuance, amendment, or repeal of rule, is amended by adding a new sentence immediately before the last sentence, to read as follows:

§ 502.51 [Amended]

* * * Petitions shall be accompanied by remittance of a $50 filing fee.

3. Section 502.53, Participation in Rulemaking, is amended by adding the following sentences to the end of paragraph (a):

§ 502.53 [Amended]

(a) * * * In the event that replies or succeeding rounds of comments are permitted, copies shall be served on all prior participants in the proceeding. A list of participants may be obtained from the Secretary of the Commission.

* * * * *

4. In § 502.62, paragraph (a) is revised to read as follows:

§ 502.62 Complaints and fee.

(a) The complaint must be verified and shall contain the name and address of each complainant, the name and address of each complainant's attorney or agent, the name and address of each person against whom complaint is made, a concise statement of the cause of action, and a request for the relief or other affirmative action sought.

* * * * *

Subpart E, Exhibit 1—[Amended]

5. The first sentence of the fifth paragraph of subpart E, Exhibit 1, "Information to Assist in Filing Formal Complaint," is revised to read as follows:

* * * * *

The format of exhibit No. 1 to subpart E must be followed and a verification must be included. (See § § 502.21–502.32, 502.62 and 502.112.) * * *

Subpart S, Exhibit 1—[Amended]

6. The first sentence of the fifth paragraph of subpart S, Exhibit 1, "Information to Assist in Filing Informal Complaints;" is revised to read as follows:

* * * * *

The format of Exhibit No. 1 must be followed and a verification must be included. (See §§ 502.21–502.32, 502.112, and 502.304.) * * *

7. Section 502.111 is amended by designating the current text of § 502.111 as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 502.111 Form and appearance of documents filed with Commission.

* * * * *

(b) Filings by facsimile will not be accepted, except for the purpose of meeting filing deadlines of protests filed pursuant to § 502.67 or replies thereto, in which case the original and required copies must also be certified as being deposited in the mail or delivered to a courier on or before the deadline. Photocopies of facsimile transmissions of signature pages on other filings will be tentatively accepted for the purpose of meeting filing deadlines pending receipt of the original within seven working days. Use of photocopies of facsimile transmissions in exhibits to part 502 filings is permitted.

8. Section 502.114 is amended by redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) reading as follows:

§ 502.114 Service and filing by parties.

* * * * *

(b) Service on all prior participants shall be shown when submitting comments or replies beyond the initial round, or when submitting post-decisional pleadings and replies such as petitions for reconsideration, or for stay under rule 261 or to reopen under rule 230 in all general notice proceedings, including those involving disposition of petitions for rulemaking (rule 51), petitions for declaratory order (rule 68), petitions general (rule 69), notices of proposed rulemaking (rule 53), proceedings under section 19 of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b) (part 585), and proceedings under section 13(b)(5) of the Shipping Act of 1984, 46 U.S.C. app. 1712(b)(5) (part 587). A list of all participants may be obtained from the Secretary of the Commission.

* * * * *

9. Section 502.118 is amended by revising paragraph (b)(1)(iv) and adding a new paragraph (b)(1)(v) to read as follows:

§ 502.118 Copies of documents for use of Commission.

* * * * *

(b) * * *

(1) * * *

(iv) All motions, replies and other filings for which a request is made of the administrative law judge for certification to the Commission or on which it otherwise appears it will be necessary for the Commission to rule either directly or upon review of the administrative law judge's disposition thereof, pursuant to § 502.227;

(v) Answers to complaints filed pursuant to § 502.64.

* * * * *

10. A new § 502.119 is added to read:

§ 502.119 Documents containing confidential materials.

Except as otherwise provided in the rules of this part, all filings which contain information previously designated as confidential pursuant to §§ 502.167, 502.201(i)(1)(vii), or any other rules of this part or for which a request for protective order pursuant to § 502.201(i)(1)(vii) is pending, are subject to the following requirements:

(a) Filings shall be accompanied by a transmittal letter which identifies the filing as confidential and describes the nature and extent of the authority for requesting confidential treatment.

(b) Such filings shall consist of public and confidential copies. The public copies shall exclude confidential materials and shall indicate on the cover page and on each affected page "confidential materials excluded." The confidential copies shall consist of the complete filing and shall include a cover page marked "confidential-restricted," with the confidential materials likewise clearly marked on each page.

(c) Confidential treatment afforded by this section is subject to the proviso that any information designated as confidential may be used by the administrative law judge or the Commission if deemed necessary to a correct decision in the proceeding. [Rule 119.]

11. Section 502.167 is revised to read as follows:

§ 502.167 Objection to public disclosure of information.

Upon objection to public disclosure of any information sought to be elicited during a hearing, the presiding officer may in his or her discretion order that the witness shall disclose such information only in the presence of those designated and sworn to secrecy by the presiding officer. The transcript of testimony shall be held confidential. Copies of said transcript need be served only upon the parties to whose representatives the information has been disclosed and upon such other parties as the presiding officer may designate. This rule is subject to the proviso that any information given pursuant thereto, may be used by the presiding officer or the Commission if deemed necessary to a correct decision in the proceeding. [Rule 167.]

PART 587—[AMENDED]

Part 587 of title 46, Code of Federal Regulations is amended as follows:

1. The authority citation of part 587 continues to read:

Authority: 5 U.S.C. 533; secs. 13(b)(5), 15 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1712(b)(5), 1714, and 1716).

2. In § 587.1, paragraph (b)(2) is revised to read as follows:

§ 587.1 Purpose; general provisions.

* * * * *

(b) * * *

(2) The provisions of part 502 of this chapter (Rules of Practice and Procedure) shall not apply to this part except for those provisions governing *ex parte* contacts (§ 502.11 of this chapter) and service of documents and copies of documents (§§ 502.114(b) and 502.118 of this chapter, and except as the Commission may otherwise determine by order.

* * * * *

Joseph C. Polking,

Secretary.

[FR Doc. 90–16047 Filed 7–10–90; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–287; RM–6605]

Radio Broadcasting Services; Valley, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 251A to Valley, Alabama, as that community's first local broadcast service, in response to a petition for rule making filed on behalf of Royal Broadcasting Company, Inc. See 54 FR 27040, June 27, 1989. Coordinates used for Channel 251A at Valley are 32–55–27 and 85–12–48. With this action, the proceeding is terminated.

DATES: Effective August 20, 1990; the window period for filing applications for Channel; 251A at Valley, Alabama, will open on August 21, 1990, and close on September 19, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632–0394.

SUPPLEMENTARY INFORMATION: This is synopsis of the Commission's Report and Order, MM Docket No. 89–287, adopted June 22, 1990, and released July 6, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Alabama by adding Valley, Channel 251A.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–16173 Filed 7–10–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–592; RM–6491]

Radio Broadcasting Services; Dunsmuir, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 261A to Dunsmuir, California, as that community's first local broadcast service, in response to a petition for rule making filed on behalf of Jay Stevens. See 54 FR 3822, January 26, 1989. Although the petitioner did not file an expression of interest in pursuing the proposal, supporting comments were filed by Bennet Broadcasting Company. Coordinates for Channel 261A at Dunsmuir are 41–12–30 and 122–16–18. With this action, the proceeding is terminated.

DATES: Effective August 20, 1990; the window period for filing applications on Channel 261A at Dunsmuir, California, will open on August 21, 1990, and close on September 19, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530. Questions related to the window application filing process should be addressed to the Audio Service Division, FM Branch, Mass Media Bureau, (202) 632–0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88–592, adopted June 22, 1990, and released July 6, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under California, by adding Dunsmuir, Channel 261A.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–16174 Filed 7–10–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–329; RM–6781]

Radio Broadcasting Services; Atlantic, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Great Southern Media, allots Channel 297A to Atlantic, North Carolina, as the community's first local FM service. Channel 297A can be allotted to Atlantic in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 34–53–30 and West Longitude 76–20–24. Because the petition which resulted in this allotment was filed prior to October 2, 1989, applicants may avail themselves of this provisions of § 73.213(c)(1) of the Commission's Rules *See* 47 CFR 73.213(c). With this action, this proceeding is terminated.

DATES: Effective August 20, 1990. The window period for filing applications will open on August 21, 1990, and close on September 19, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–329, adopted June 20, 1990, and released July 6, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under North Carolina, is revised by adding Atlantic, Channel 297A.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-16175 Filed 7-10-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[Docket No. 80349-8098]

Shrimp Fishery of the Gulf of Mexico

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

ACTION: Notice of Texas closure adjustment.

SUMMARY: NOAA announces that the trawl fishery for shrimp in the exclusive economic zone (EEZ) off Texas is opened at 30 minutes after sunset on July 8, 1990. This rule gives notice of the changed opening of the shrimp trawl fishery, as required by the regulations for the shrimp fishery of the Gulf of Mexico. The intended effect of this action is to allow harvest of brown shrimp in the EEZ at optimal size, coincident with the opening by Texas of its waters.

EFFECTIVE DATE: The EEZ off Texas is opened to trawl fishing for shrimp at 30 minutes after sunset on July 8, 1990.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-893-3722.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico shrimp fishery is managed under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico as provided by the Magnuson Fishery Conservation and Management Act. The implementing regulations at 50 CFR 658.25 describe the Texas closure and provide for adjustments to the closing and opening dates by the Director, Southeast Region, NMFS, under specified criteria. In accordance with these criteria, the annual Texas closure for 1990 was specified as May 17, 1990, to 30 minutes after sunset on July 15, 1990. The waters of Texas were also scheduled to be closed during this period. The closure dates were announced in the **Federal Register** on May 15, 1990 (55 FR 20162).

Available information and estimates indicate that an earlier opening is warranted and desirable. Biological data collected by the Texas Parks and Wildlife Department on the size of shrimp indicate that unusually fast growth has occurred and brown shrimp from the Texas bay systems will reach optimal harvest size earlier than anticipated and will begin to migrate out of the estuaries with the outgoing tides. Opening of the trawl fishery for shrimp in the EEZ on July 8, 1990, coincides with the opening in the waters of Texas.

Other Matters

This action is authorized by 50 CFR 658.25(b) and complies with E.O. 12291.

List of Subjects in 50 CFR Part 658

Fisheries, Fishing, Reporting and recordkeeping requirements.

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

Dated: July 6, 1990.

Richard H. Schaefer,

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

[FR Doc. 90-16148 Filed 7-6-90; 12:46 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 133
Wednesday, July 11, 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 Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1075, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1120, 1124, 1126, 1131, 1132, 1134, 1135, 1137, 1138, and 1139

[Docket No. AO-160-A66, etc; DA-90-024]

Milk in the Middle Atlantic and Other Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

7 CFR part	Marketing area	AO Nos.
1004	Middle Atlantic	AO-160-A66
1001	New England	AO-14-A63
1002	New York-New Jersey.	AO-71-A78
1005	Carolina	AO-388-A2
1006	Upper Florida	AO-356-A28
1007	Georgia	AO-366-A32
1011	Tennessee Valley	AO-251-A34
1012	Tampa Bay	AO-347-A31
1013	Southeastern Florida.	AO-286-A38
1030	Chicago Regional	AO-361-A27
1032	Southern Illinois-Eastern Missouri.	AO-313-A38
1033	Ohio Valley	AO-166-A59
1036	Eastern Ohio-Western Pennsylvania.	AO-179-A54
1040	Southern Michigan	AO-225-A41
1044	Michigan Upper Peninsula.	AO-299-A25
1046	Louisville-Lexington-Evansville.	AO-123-A61
1049	Indiana	AO-319-A37
1050	Central Illinois	AO-355-A26
1064	Greater Kansas City.	AO-23-A59
1065	Nebraska-Western Iowa.	AO-86-A46
1068	Upper Midwest	AO-178-A44
1075	Black Hills, South Dakota.	AO-248-A20
1076	Eastern South Dakota.	AO-260-A29
1079	Iowa	AO-295-A40
1093	Alabama-West Florida.	AO-386-A10
1094	New Orleans-Mississippi.	AO-103-A52
1096	Greater Louisiana	AO-257-A39
1097	Memphis, Tennessee.	AO-219-A45
1098	Nasville, Tennessee.	AO-184-A54
1099	Paduch, Kentucky	AO-183-A44
1106	Southwest Plains	AO-210-A51
1108	Central Arkansas	AO-243-A42
1120	Lubbock-Plainview, Texas.	AO-328-A29
1124	Pacific Northwest	AO-368-A18
1126	Texas	AO-231-A59
1131	Central Arizona	AO-271-A28
1132	Texas Panhandle	AO-262-A39
1134	Western Colorado	AO-301-A21
1135	Southwestern Idaho-Eastern Oregon.	AO-360-A8
1137	Eastern Colorado	AO-326-A25
1138	Rio Grande Valley	AO-335-A35
1139	Great Basin	AO-309-A29

SUMMARY: This hearing is being held to consider proposals that would change the formula for computing butterfat differentials in all Federal milk marketing orders. The hearing was requested by Agri-Mark and Prairie Farms Dairy, Inc., two dairy farmer cooperatives, and by the Milk Industry Foundation/International Ice Cream Association, which represent fluid milk processors and ice cream makers throughout the United States.

The proponents maintain that the current formula for computing butterfat differentials no longer adequately reflects the value of butterfat in the marketplace. The proposals would result in butterfat differentials that place more of the value of milk on the skim milk portion and less value on the butterfat.

Proponents have requested that this issue be handled on an emergency basis.

DATES: The hearing will convene at 8 a.m. local time on July 31, 1990.

ADDRESSES: The hearing will be held at the Ramada Hotel-Old Town, 901 N. Fairfax Street, Alexandria, Virginia, 22314, (703) 683-6000.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: This administrative action is goverened by the provisions of sections 556 and 558 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Ramada Hotel-Old Town, 901 N. Fairfax Street, Alexandria, Virginia, 22314, beginning at 8:00 a.m., on July 31, 1990, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Middle Atlantic and other marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to proposal(s) No. 1 through 4.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96-354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small

businesses. For the purposes of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with 6 copies of such exhibits for the Official Record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

List of Subjects in 7 CFR Parts 1004, and 1001 through 1139

Milk marketing orders.

The authority citation for 7 CFR parts 1004, and 1001 through 1139 continues to read as follows:

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

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Agri-Mark

Proposal No. 1

Revise § .74 Butterfat differential in all orders to read as follows:

For milk containing more or less than 3.5 percent butterfat the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential rounded to the nearest one-tenth cent, which shall be 0.138 times the simple average of the wholesale selling prices (using the mid point of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month less 0.0028 times the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin as reported by the Department for the month.

Proposed by the Milk Industry Foundation/International Ice Cream Association and Prairie Farms Dairy, Inc.

Proposal No. 2

Revise § .74 Butterfat differential in all orders to read as follows:

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential rounded to the nearest tenth cent, which shall be 0.134 times the simple average of the Chicago Mercantile Exchange prices (using the mid-point of any price range as one price) of Grade A (92-score) bulk butter per pound, less 0.0028 times the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin as reported by the Department for the month.

Proposed by United States Cheese Makers Association, American Producers of Italian Type Cheese Association, Wisconsin Cheese Makers Association, and Ohio Swiss Cheese Association

Proposal No. 3

Amend the appropriation provision (section .74 in most orders) in all Federal milk marketing orders to determine the butterfat differential as follows: § .74 For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 10 percent of the weighted average of:

(i) 1.15 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month, less a make allowance of ten cents per pound, and

(ii) 1.15 times the Commodity Credit Corporation Price Support Program price per pound for bulk butter for the month, less a make allowance of ten cents per pound, in accordance with the relative proportion of United States butter production sold for commercial use and sold to the Commodity Credit Corporation during the month, as determined by the Department.

Proposed by Farmers Union Milk Marketing Cooperative

Proposal No. 4

The butterfat differential (in all Federal milk marketing orders) should be adjusted to reflect the changes in prices between butter and nonfat dry milk in order to more accurately derive skim milk and butterfat values under orders. The method of calculating the butterfat differential so that skim milk valuation is considered shall be determined at the hearing.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 5

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrator of each of the aforesaid marketing areas, or from the Hearing Clerk, room 1083, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Offices of all the Market Adminstrators.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on: July 5, 1990.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 90–16162 Filed 7–10–90; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

[Docket No. 900112–0116]

RIN 0607–AA13

Foreign Trade Statistics; Amendment to the Foreign Trade Statistics Regulations

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: Effective with the statistics for January 1990, the United States will substitute Canadian import statistics for U.S. export statistics and therefore it is proposed to amend the Foreign Trade Statistics Regulations to eliminate the requirements for Shipper's Export Declarations (SEDs) for most direct exports originating in the United States where the country of ultimate destination is Canada effective October 1, 1990. Under the terms of a Memorandum of Understanding signed on July 27, 1987 by the Census Bureau, U.S. Customs Service, Canadian Customs, and Statistics Canada, each country agreed to replace its bilateral export statistics with counterpart import statistics (data exchange) not later than 1990. The substitution of Canadian import statistics for U.S. exports will provide the United States with more complete and accurate statistics. The Census Bureau will publish complete Schedule B commodity detail for items previously included in a single monthly value as "undocumented" shipments to Canada. Furthermore, imports are usually subject to more scrutiny by Customs officials than exports and therefore we expect higher quality for the U.S. export statistics. With the data exchange there will be no statistical reason to collect SEDs for such shipments. To allow continued enforcement of the Export Administration Act and the export regulations of other agencies, SED requirements remain in effect for shipments: (1) Requiring a Department of Commerce validated export license, (2) requiring a Department of State, Office of Defense Trade Controls, export license under the International Traffic in Arms Regulations (ITAR—22 CFR parts 121–130), (3) subject to the ITAR but exempt from license requirements, or (4) requiring a Department of Justice, Drug Enforcement Administration export permit (21 CFR part 1312). Furthermore, statistical information for merchandise exported for storage in Canada but ultimately destined for third countries, the specific country of destination being unknown at the time of exportation to Canada, must be reported directly to the Census Bureau on an existing SED form (7525–M, 7525–V, or 7525–V–Alt.) or in an automated format. In any case, the information required will not entail any more information that currently reported on SEDs.

The information that Canada will provide to the United States will come from Canadian importers. In many instances, these importers will not have information as to the U.S. Customs port of exportation or the method of transportation by which the merchandise was exported from the United States. It is proposed to add the U.S. Customs port of exportation and the method of transportation from the United States to the items that are the exporting carriers' responsibility and in the case of shipments to Canada, which are exempt from SED requirements, the carriers must enter the port of exportation and method of transportation on the bill of lading, air waybill, or other documents they prepare.

As a separate issue, because of the recent changes in the political status of the Trust Territories under U.S. Administration, it is proposed to remove any specific reference to them.

DATES: Comments should be submitted on or before September 10, 1990.

ADDRESSES: Send comments to the Director, Bureau of the Census, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: Don L. Adams, Chief, Foreign Trade Division, Bureau of the Census, (301) 763–5342.

SUPPLEMENTARY INFORMATION: The flow of goods traded between the United States and Canada is the largest bilateral trade in the world and totaled $152 billion in 1988. Not only is the flow large, but it is growing at a steady rate.

Ideally, the value of what one trading partner imports should equal what the other exports. In practice, this simple equality does not exist. The reason is that imports, which involve the collection of tariffs or duties, tend to be better documented and reported than exports. This is true virtually all over the world.

Significant divergence in the trade statistics reported by both countries became of particular concern when the discrepancy reached $1 billion in 1970. As a result, in December 1971 the two governments formed the U.S.-Canadian Trade Statistics Committee consisting of the U.S. Department of Commerce (Census Bureau) and Statistics Canada. This committee was charged with reconciling the differences in the statistics of merchandise trade between the two countries and harmonizing these statistics to the fullest possible extent. The reconciliation was based on an exchange of data on import and export trade at broad commodity levels. It was also agreed, at that time, that the committee would explore the feasibility of using each other's import data aggregates as a means of improving the statistics and reducing the reporting burden on exporters in both countries.

Historically, the reconciled trade balance has always been closer to the Canadian published figure than to the balance published by the United States. The reconciliation process revealed that the primary reason for this difference is the underfiling of U.S. export documents. Over the years, with the assistance of both countries' Customs offices, a number of joint United States/Canadian efforts were undertaken in an attempt to address the issue of underfiling of U.S. export documents. This included attempts at developing and exchanging common documentation and ongoing efforts consisting of informational mailings to exporters and carriers, bilateral collection of export documents at border crossings, and exchange of import data.

In the June 4, 1987 issue of the **Federal Register**, The Census Bureau announced that, effective with the June 1987 statistics, it would use the Canadian import data as the basis for adjusting total U.S. exports for undercoverage resulting from underfiling of U.S. export documents and include an aggregate export undercount estimate in the monthly official trade data release.

On July 27, 1987, a Memorandum of Understanding was signed by the Census Bureau, U.S. Customs Service, Canadian Customs, and Statistics Canada containing the proviso that each country would replace its bilateral export statistics with counterpart import statistics (data exchange) not later than 1990. The data exchange brings two major quality increases to the U.S. export statistics. First, we will receive and publish complete Schedule B commodity detail for those items previously included in a single monthly value and identified as "undocumented" exports to Canada. Second, as noted above, imports are subject to closer scrutiny because of tariff and quota considerations by the Customs officials than exports.

As a result of the Omnibus Trade Act of 1988, the United States, in January 1989, joined Canada, the European Community, Japan, and other countries in adopting the Harmonized Commodity Description and Coding System (HS) as the basis for reporting both export and import statistics. Under the HS, the U.S. and Canadian Customs Services and statistical agencies apply the same rules for classifying commodities. This minimizes classification discrepancies and allows use of the HS as the statistical standard in both countries.

With the first data exchange scheduled for the statistics for January 1990, there will be no statistical reason to collect the SED for goods being exported from the United States where the country of ultimate destination is

Canada. Because of the time required for the regulatory process, we expect this exemption to take effect October 1, 1990. To allow continued enforcement of Export Administration Act (15 CFR, parts 768–799) and the export regulations of other agencies by the U.S. Customs Service and the Bureau of Export Administration, SED requirements remain in effect for shipments to Canada: (1) Requiring a Department of Commerce validated export license, (2) requiring a Department of State, Office of Defense Trade Controls, export license under the International Traffic in Arms Regulations (ITAR–22 CFR, parts 121–130), (3) subject to the ITAR but exempt from license requirements, or (4) requiring a Department of Justice, Drug Enforcement Administration, export permit (21 CFR part 1312).

Information on certain shipments to or through Canada, while required for merchandise trade balances, are beyond the scope of the Memorandum of Unmderstanding and thus excluded from the data exchange. There is no change to the requirements for SEDs for shipments: (1) Destined to foreign countries other than Canada by routes passing through Canada and (2) moving in bond through the United States from a foreign country, other than Canada, destined to Canada and not exempt under § 30.55(e) of this part.

The most important area of U.S. exports that is not covered by the Memorandum of Understanding is that of merchandise shipped to Canada for storage prior to exportation to third countries, the specific country of destination being unknown at the time of exportation to Canada. While the United States considers such shipments as exports, Canada does not consider them as imports and therefore will exclude them from the data exchange program. The main commodities involved are cereals and oil seeds (wheat, soybeans, corn, and barley), which the Census Bureau has tracked since 1973 by assigning these shipments to "unidentified" countries, even though the SED shows Canada as the ultimate destination. Annually, the Department of Agriculture provides the Census Bureau with information as to the actual destination of these shipments. The dollar value of these shipments varies from year to year but is significant—ranging to over $1 billion in 1980 and $200 million in 1988. To ensure that the Census Bureau continues to receive statistical information for these shipments for inclusion in the merchandise trade balances as well as providing a complete picture of U.S. agricultural trade, it is proposed that these exporters (or their agents) report such information directly to the Census Bureau in lieu of filing SEDs with the U.S. Customs Service. The Census Bureau will identify the exporters involved and contact them to work out a mutually acceptable method of reporting on an existing SED form (7525–M, 7525–V or 7525–V–Alt.) or in an automated format (see s30.39). The information required will be identical to what is currently on the SED and therefore will not result in any additional reporting burden. The Department of Agriculture will continue to furnish actual destination information to the Census Bureau annually.

The U.S. Customs port of exportation and the method of transportation by which the merchandise is exported from the United States are currently required on the SED. In many cases, particularly with regard to Canadian shipments, the exporting carrier is the only one involved in the exportation that knows which port of exportation and method of transportation is used for each individual shipment. To ensure the accuracy of such information, it is proposed to add these items to the existing list of items on the SED for which the exporting carrier is responsible under § 30.22(b). The Canadian import statistics program does not currently collect this information from Canadian importers. Since the port of exportation and method of transportation are a vital part of the U.S. statistical output, we must make provision to obtain such information for shipments to Canada that become exempt from SED reporting requirements. Because the Canadian importer or broker becomes the source of U.S. export information, it is proposed to require the exporting carrier to enter such information on the bill of lading, air waybill, or other shipping documents they prepare.

Furthermore, the data exchange program eliminates the need for § 30.35, which requires SEDs for shipments diverted for import into Canada after originally being declared exempt as a shipment from one point in the United States to another by routes passing through Canada, and those parts of § 30.55(c) and (d) dealing with the exemptions from the requirements for filing SEDs for shipments from one point in the United States to another by routes passing through Canada and shipments from one point in Canada to another point thereof by routes through the United States.

These changes will eliminate the need to file over 2 million SEDs a year resulting in a significant reduction in paperwork and costs for U.S. exporters as well as reducing costs to the Government. Sections 30.1, 30.5, 30.39, and 30.55 are revised; 30.35 is deleted; and 30.58 is established.

To facilitate these changes as well as eliminate confusion, we are also proposing to eliminate the reference to the former Trust Territories under U.S. Administration from § 30.1. The Northern Mariana Islands became a U.S. possession and thus exempt from SED requirements. The other former Trust Territories, the Marshall Islands, the Federated States of Micronesia, and Palau are considered as foreign countries within these regulations.

This proposed amendment does not meet the criteria of a major rule as set forth in section 1(b) of Executive Order 12291; therefore, no Regulatory Impact Analysis is required. This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612. Pursuant to the provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), the General Counsel of the Department of Commerce certified to the Small Business Administration that the proposed regulations, if promulgated, will not have a significant economic effect on a substantial number of small entities because it reduces the reporting requirements of smaller entities. This imposes no additional burden on the public thus satisfying the requirements of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

This proposed rule contains a collection of information requirement subject to the Paperwork Reduction Act. The collection has current OMB approval under control numbers 0607–0018 and 0607–0152. The public reporting burden for this collection of information is estimated to average 11 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Associate Director for Management Services, Bureau of the Census, Washington, DC 20233; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

List of Subjects in 15 CFR Part 30

Economic statistics, Foreign trade, Reporting and recordkeeping requirements.

To effect this change, it is proposed to amend the Foreign Trade Statistics Regulations (15 CFR part 30) as set forth below.

PART 30—[AMENDED]

1. The authority citation for part 30 is revised to read as follows:

Authority: Title 13, United States Code, sections 301–307; and title 5, United States Code, section 301; Reorganization Plan No. 5 of 1950; Department of Commerce Organization Order No. 35–2A, August 4, 1975, 40 FR 42765.

2. Section 30.1 is amended by revising the introductory text of paragraph (a)(1) to read as follows:

§ 30.1 General statement of requirement for Shipper's Export Declarations.

(a) * * *

(1) To foreign countries or areas, including Foreign Trade Zones located therein, (see § 30.58 for exemptions for shipments from the United States to Canada) from any of the following:

* * * * *

3. Section 30.5 is amended by revising paragraph (a)(2) to read as follows:

§ 30.5 Number of copies of Shipper's Export Declaration required.

(a) * * *

(2) One copy only for shipments to Canada (see § 30.58 for exemption for shipments from the United States to Canada) and nonforeign areas.

* * * * *

4. Section 30.22 is amended by revising paragraph (b) to read as follows:

§ 30.22 Requirements for the filing of Shipper's Export Declarations by departing carriers.

* * * * *

(b) The exporting carrier shall be responsible for the accuracy of the following items of information (where required) on the declaration: Name of carrier (including flag, if vessel carrier), U.S. Customs port of exportation, method of transporation from the United States, foreign port of unloading, the bill of lading or air waybill number, and whether or not containerized. For shipments to Canada exempt from Shipper's Export Declaration filing requirements (see § 30.58), the exporting carrier shall enter the U.S. Customs port of exportation and method of transportation from the United States on the bill of lading, air waybill, or other documents, that they prepare.

* * * * *

§ 30.35 [Removed and Reserved]

5. Section 30.35 is removed and reserved for future use.

6. Section 30.39 is amended by adding paragraph (e) to read as follows:

§ 30.39 Authorization for reporting statistical information other than by means of individual Shipper's Export Declarations filed for each shipment.

* * * * *

(e) Exporters (or their agents) of merchandise for storage in Canada but ultimately destined for third countries, the specific country of destination being unknown at the time of exportation to Canada, must report statistical information directly to the Bureau of the Census in lieu of filing individual Shipper's Export Declarations for each shipment. The information must be submitted in a format and on a time schedule approved by the Bureau of the Census. The information required will be no more detailed than that which would be reported on a Shipper's Export Declaration.

6. Section 30.55 is amended by revising paragraphs (c) and (d) to read as follows:

§ 30.55 Miscellaneous exemptions.

* * * * *

(c) Shipments from one point in the United States to another thereof by routes passing through Mexico.

(d) Shipments from one point in Mexico to another point thereof by routes through the United States.

* * * * *

7. Section 30.58 is added to read as follows:

§ 30.58 Exemption for shipments from the United States to Canada.

(a) Except as noted in paragraph (b) of this section, shipments originating in the United States where the country of ultimate destination (see § 30.7(i)) is Canada are exempt from the Shipper's Export Declaration requirements of this part. This exemption also applies to shipments from one point in the United States or Canada to another point thereof by routes passing through the other country.

(b) This exemption does *not* apply to shipments:

(1) Requiring a Department of Commerce validated export license (Individual, Project, Distribution, and Service Supply) (15 CFR parts 772 and 773).

(2) Requiring a Department of State, Office of Defense Trade Controls, export license under the International Traffic in Arms Regulations (ITAR–22 CFR parts 121–130).

(3) Subject to the ITAR but exempt from license requirements.

(4) Requiring a Department of Justice, Drug Enforcement Administration, export permit (21 CFR part 1312).

(5) For storage in Canada but ultimately destined for third countries, the specific country of destination being unknown at the time of export to Canada (see § 30.39 for reporting requirements).

Dated: March 30, 1990.

Barbara Everitt Bryant,

Director, Bureau of the Census.

I concur:

John P. Simpson,

Acting Assistant Secretary for Enforcement, Department of the Treasury.

[FR Doc. 90–16083 Filed 7–10–90; 8:45 am]

BILLING CODE 3510–07–M

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, UNITED STATES SECTION

22 CFR Part 1102

Freedom of Information

AGENCY: United States Section, International Boundary and Water Commission.

ACTION: Proposed rule.

SUMMARY: The United States Section, International Boundary and Water Commission (IBWC) has revised its regulations to implement the provisions of the Freedom of Information Reform Act of 1986. This legislation amended the FOIA to provide broader exemption protection for law enforcement information and modified the Act's fee and fee waiver provisions. IBWC's regulations implementing the Freedom of Information Act are also being revised to conform with the Office of Management and Budget's final fee schedule guidelines published in the **Federal Register** on March 27, 1987, and fee waiver criteria established by the Department of Justice.

DATES: Comments should be submitted in writing on or before August 10, 1990, to the address shown below.

ADDRESSES: United States Section, International Boundary and Water Commission, 4171 North Mesa, Suite C–310, El Paso, TX 79902–1422.

FOR FURTHER INFORMATION CONTACT: Mr. Reinaldo Martinez, U.S. Section Freedom of Information Act (FOIA) Officer (915–534–6674).

SUPPLEMENTARY INFORMATION: On October 27, 1986, the President signed the Freedom of Information Reform Act of 1986 (Pub. L. 99–570). This legislation amended the FOIA to provide broader exemption protection for law enforcement information and modified the Act's fee and fee waiver provisions. IBWC's regulations implementing the Freedom of Information Act are also being revised to conform with the Office of Management and Budget's final fee schedule guidelines published in the **Federal Register** on March 27, 1987, and fee waiver criteria established by the Department of Justice. The regulations are revised to:

a. Add various definitions which are to be applied when setting the fees for records requested under the FOIA.

b. Establish four categories of requesters and specific levels of fees for each of these categories.

c. Allow the U.S. Section to charge a commercial-use requester for the time spent in reviewing records to determine whether they are exempt from disclosure.

d. Increase the fees for manual searches based on the class and average grade of the employee(s) performing the search.

e. Provide that requesters subject to search fees, with the exception of commercial-use requesters, not be charged for the first two hours of search time.

f. Implement a $10 amount for which there will be no charge, and with certain exceptions, the prepayment threshold from $10 to $250.

g. Eliminate search fees for educational and noncommercial scientific institutions and the news media.

h. Revise and clarify the general fee waiver standard.

i. Add several administrative actions which the U.S. Section may take to improve assessment and collection of fees.

j. Revise exemption 7 in accordance with the new statutory language concerning protection of law enforcement records and activities.

List of Subjects in 22 CFR Part 1102

Freedom of information.

It is proposed to revise 22 CFR part 1102 to read as follows:

PART 1102—FREEDOM OF INFORMATION ACT

Sec.

1102.1 Purpose.
1102.2 Definitions.
1102.3 Procedures for requesting access to records or information.
1102.4 Fees.
1102.5 Categories of requesters for fee purposes.
1102.6 Fee waivers and appeals.
1102.7 The Section's determination and appeal procedures.
1102.8 Exemptions.
1102.9 Annual report to Congress.
1102.10 Examination of records.

Authority: 5 U.S.C. 552 (Pub. L. 90–23, as amended by Pub. L. 93–502 and 99–570).

§ 1102.1 Purpose.

The purpose of these regulations is to prescribe rules, guidelines and procedures to implement the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended on November 21, 1974, by Pub. L. 93–502, and on October 27, 1986, by Pub. L. 99–570.

§ 1102.2 Definitions.

(a) The *Section* means United States Section, International Boundary and Water Commission, United States and Mexico.

(b) *Commissioner* means head of the United States Section, International Boundary and Water Commission, United States and Mexico.

(c) *Act* means the Freedom of Information Act, 5. U.S.C. 552, as amended.

(d) *Records* and/or *information* are defined as all books, papers, manuals, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the Section under Federal law or in connection with the transaction of public business or in carrying out its treaty responsibilities and obligations, and preserved or appropriate for preservation by the Section as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the information value of the data in them, but does not include books, magazines or other material acquired solely for libary purposes and through other sources, and does not include analyses, computations, or compilations of information not extant at the time of the request. The term "records" does not include objects or articles such as structures, furniture, paintings, sculptures, three-dimensional models, vehicles and equipment.

(e) *Request* means a letter or other written communication seeking records or information under the Freedom of Information Act.

(f) *Person* or *Requester* includes any individual, firm, corporation, organization or other entity.

(g) *Direct costs* means those expenditures which the Section actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility where the records are stored.

(h) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Searches should be performed in the most efficient and least expensive manner so as to minimize costs for both the Section and the requester; for example, line-by-line searches should not be undertaken when it would be more efficient to duplicate the entire document. Note that such activity should be distinguished from "review" of material in determining whether the material is exempt from disclosure (see paragraph (j) of this section). Searches may be done manually or by computer using existing programming.

(i) *Duplication* refers to the process of making a copy of a document in response to a FOIA request. Such copies can take the form of paper, microform, audiovisual materials, or machine-readable documentation. The Section will provide a copy of the material in a form that is usable by the requester unless it is administratively burdensome to do so.

(j) *Review* refers to the process of examining documents located in response to a request that is for commercial use (see paragraph (k) of this section) to determine if any portion of that document is permitted to be withheld, and processing any document for disclosure (i.e., doing all that is necessary to excise them and otherwise prepare them for release). It does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(k) *Commercial-use request* refers to a request from or on behalf of one who seeks information for a cause or purpose that furthers the commercial, trade, or profit interests of the requester or person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the Section will consider how the requester will use the documents.

(l) *Educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(m) *Noncommercial scientific institution* refers to an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (k) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(n) *Representative of the news media* refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization even though not actually employed by it.

(o) *Disclose or disclosure* means making records available, on request for examination and copying, or furnishing a copy of records.

(p) All terms used in these regulations which are defined in 5 U.S.C. 552 shall have the same meaning herein.

§ 1102.3 Procedures for requesting access to records or information.

(a) A request for any information or records shall be addressed to the FOIA Officer, United States Section, International Boundary and Water Commission, 4171 North Mesa, Suite C–310, El Paso, TX 79902–1422. The envelope and the letter shall be clearly marked "Freedom of Information Request" or "Request for Records," or the equivalent, to distinguish it from other mail to the Section. If the request is not so marked and addressed, the 10-day time limit described in the Act will not begin to run until the request has been received by the FOIA Officer in the normal course of business. In each instance where a request is received in the normal course of business, the FOIA Officer shall notify the requester that its request was improperly addressed and the date the request was received.

(b) In order for the Section to locate records or information and make them available, it is necessary that it be able to identify the specific record or information sought. Persons wishing to inspect or obtain copies of records or information should, therefore, seek to identify them as fully and accurately as possible. In cases where requests are submitted which are not sufficient to permit identification, the FOIA Officer will endeavor to assist the persons seeking the records or information in filling in necessary details. In most cases, however, persons seeking records or information will find that time taken in trying to identify materials in the beginning is well worth their while in enabling the Section to respond promptly to their request.

(c) A person submitting a request should—

(1) Indicate the specific event or action, if any or if known, to which the request has reference.

(2) Designate the Division, Branch, or Project Office of the Section which may be responsible for or may have produced the record or information requested.

(3) Furnish the date of the record or information or the date or period to which it refers or relates, if known.

(4) Name the character of record or information, such as a contract, an application, or a report.

(5) List the Section's personnel who may have prepared or have knowledge of the record or information.

(6) Furnish the reference material such as newspapers or publications which are known to have made a reference to the record or information desired.

(7) If the request relates to a matter in pending litigation or one which has been litigated, supply the Court location and case style and number.

(8) Describe, when the request includes more than one record or source of information, specifically each record or information so that availability may be separately determined.

(9) Clearly indicate whether the request is an initial request or an appeal from a denial of a record or information previously requested.

(10) Identify, when the request concerns a matter about the Section's personnel, the person as follows: First name, middle name or initial, and surname; date and place of birth; and social security account number, if known.

(d) No particular format is needed for the request, except that it:

(1) Must be in writing;

(2) Must describe the records or information sought with sufficient detail to permit identification;

(3) Should state a limitation of the fees the requester is willing to pay, if any; and

(4) Must include the name, address, and telephone number (optional) of the person submitting the request.

§ 1102.4 Fees.

(a) The following shall be applicable with respect to services rendered to members of the public under this subpart:

(1) Fee schedule.

(i) Searching for records, per hour or fraction thereof per individual:

Professional.....$18.00
Clerical.....$9.00

Includes the salary of the category of employee who actually performs the search, plus an additional 16% of that rate to cover benefits.

(ii) The cost for computer searches will be calculated based on the salary of the category of employee who actually performs the computer search, plus 16% of that rate to cover benefits, plus the direct costs of the central processing unit, input-output devices, and memory capacity of the actual computer configuration.

(iii) Reproduction fees:

Pages no larger than 8½ by 14 inches when reproduced by routine electrostatic copying—$0.10 per page
Pages requiring reduction, enlargement, or other special services will be billed at direct cost to the Section.
Reproduction by other than routine electrostatic copying will be billed at direct cost to the Section.

(iv) Certification of each record as a true copy.....$1.00
(v) Certification of each record as a true copy under official seal.....$1.50
(vi) For each signed statement of negative result of search for record.....$1.00
(vii) For each signed statement of nonavailability of record.....$1.00

(viii) Duplication of architectural photographs and drawings:

Available tracing or reproducible, per square foot.....$0.10
If intermediate negative and reproducible required.....$2.00; plus tracing per square foot.....$1.00

(ix) *Postage and handling.* It will be up to the person requesting the records or information to designate how the material will be mailed or shipped. In the absence of such instructions no records or information will be sent to a foreign address, and records and information will be sent to domestic addresses utilizing first class certified

mail, return receipt requested and will be billed at direct cost to the Section.

(2) Only requesters who are seeking documents for commercial use will be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. The cost for review will be calculated based on the salary of the category of the employee who actually performed the review plus 16% of the rate to cover benefits. Charges will be assessed only for the initial review (i.e., review undertaken the first time in order to analyze the applicability of specific exemption(s) to a partcular record or portion of a record) and not for review at the administrative appeal level of the exemption(s) already applied.

(3) If records requested under this subpart are stored elsewhere than the headquarters of the U.S. Section, IBWC, 4171 North Mesa, El Paso, TX, the special cost of returning such records to the headquarters shall be included in the search costs. These costs will be computed at the actual costs of transportation of either a person or the requested record between the place where the record is stored and the Section headquarters when, for time or other reasons, it is not feasible to rely on Government mail service.

(4) When no specific fee has been established for a service, or the request for a service does not fall under one of the above categories due to the amount or size or type thereof, the FOIA Officer is authorized to establish an appropriate fee, pursuant to the criteria established in Office of Management and Budget Circular No. A–25, entitled "User Charges."

(b) Where it is anticipated that the fees chargeable under this subpart will amount to more than $25 and the requester has not indicated in advance her/his willingness to pay fees as high as anticipated, the requester shall be promptly notified of the amount of the anticipated fees or such portion thereof as can readily be estimated. The notice or request for an advance deposit shall extend an offer to the requester to confer with knowledgeable Section personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requester. Dispatch of such notice or request shall suspend the running of the period for response by the Section until a reply is received from the requester.

(c) Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made, or if the Section determines that a record which has been requested, but which is exempt from disclosure under this subpart, is to be withheld.

(d) The Section will begin assessing interest charges on an unpaid bill starting the 31st day following the day on which the billing was sent. The accrual of interest will be stayed upon receipt of the fee, rather than upon its processing by the Section. Interest will be at the rate prescribed in section 3717 of Title 31 U.S.C.

(e) A requester may not file multiple requests at the same, time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When the Section reasonably believes that a requester or a group of requesters acting in concert is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Section will aggregate any such requests and charge accordingly.

(f) The Section will not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) The Section estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. Then the Section will notify the requester of the likely costs and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) Requesters who have previously failed to pay fees charged in a timely fashion (i.e., within 30 days of the date of the billing), the Section will require such requesters to pay the full amount owed plus any applicable interest as provided above or demonstrate that they have, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process new requests or pending requests from such requesters.

When the Section acts under paragraph (f) (1) or (2) of this section, the adminstrative time limit presecribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests plus permissible extensions of that time limit) will begin only after the Section has received payments described above.

(g) In accordance with the provisions and authorities of the Debt Collection Act of 1982 (Pub. L. 97–365), the Section reserves the right to disclose information to consumer reporting agencies and to use collection agencies, where appropriate, to encourage repayment.

(h) No fees under $10 will be billed by the Section because the cost of collection would be greter than the fee.

(i) Requesters should pay fees by check or money order made out to the U.S. Section, International Boundary and Water Commission, and mailed to the Finance and Accounting Office, United States Section, International Boundary and Water Commission, 4171 North Mesa, Suite C–310, El Paso, TX 79902–1422.

§ 1102.5 Categories of requesters for fee purposes.

There are four categories of requesters: Commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. The Act prescribes specific levels of fees for each of these categories. The Section will take into account information provided by requesters in determining their eligibility for inclusion in one of these categories is as defined in § 1102.2. It is in the requester's best interest to provide as much information as possible to demonstrate inclusion within a non-commercial category of fee treatment.

(a) The Section will assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought for commercial use. Commercial use requesters are entitled to neither two hours of free search time per 100 free pages of reproduction of documents.

(b) The Section will provide documents to educational and non-commercial scientific institutions for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request being made is authorized by, and under the auspices of, a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(c) The Section will provide documents to representatives of the news media for the cost of reproduction along, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requester must meet the criteria in § 1102.2(n), and the request must not be made for a commercial use. In reference to this class of requesters, a request for records supporting the news dissemination function of the requester

shall not be considered to be a request that is for a commercial use.

(d) The Section will charge requesters who do not fit into any of the categories above fees which recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge. Moreover, requests from record subjects for records about themselves will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction.

(e) In making determinations under this section, the Section may take into account whether requesters who previously were granted (b), (c), or (d) status did in fact use the requested records for purposes compatible with the status accorded them.

§ 1102.6 Fee waivers and appeals.

(a) Waiver or reduction of any fee provided for in § 1102.4 may be made upon a determination by the FOIA Officer, United States Section, International Boundary and Water Commission, 4171 North Mesa, Suite C–310, El Paso, TX 79902–1422. The Section shall furnish documents without charge or at a reduced charge provided that: Disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, and is not primarily in the commercial interest of the requester. Requests for a waiver or reduction of fees shall be considered on a case-by-case basis.

(1) In order to determine whether disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, the Section will consider the following four factors:

(i) *The subject of the request.* Whether the subject of the requested records concerns the operations or activities of the Government;

(ii) *The informative value of the information to be disclosed.* Whether the disclosure is likely to contribute to an understanding of Government operations or activities;

(iii) *The contribution to an understanding of the subject by the general public likely to result from disclosure.* Whether disclosure of the requested information will contribute to public understanding; and

(iv) *The significance of the contribution to public understanding.* Whether the disclosure is likely to contribute significantly to public understanding of Government operations or activities.

(2) In order to determine whether disclosure of the information is not primarily in the commercial interest of the requester, the Section will consider the following two factors:

(i) *The existence and magnitude of a commercial interest.* Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if ao

(ii) *The primary interest in disclosure.* Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(b) The Section will not consider waiver or reduction of fees for requesters (persons or organizations) from whom unpaid fees remain due to the Section for another information access request.

(c) (1) The Section's decision to refuse to waive or reduce fees as requested under paragraph (a) of this section may be appealed to the Commissioner, United States Section, International Boundary and Water Commission, 4171 North Mesa, Suite C–310, El Paso, TX 79902–1422. Appeals should contain as much information and documentation as possible to support the request for a waiver or reduction of fees.

(2) Appeals will be reviewed by the Commissioner, who may consult with other officials of the Section as appropriate. The requester will be notified within thirty working days from the date on which the Section received the appeal.

§ 1102.7 The Section's determination and appeal procedures.

Upon receipt of any request for records or information under the Act the following guidelines shall be followed:

(a) The FOIA Officer will determine within 10 days (excepting Saturdays, Sundays and legal holidays) after receipt of any such request whether to comply with such request and will immediately notify the person making such request of such determination, the reasons therefor, and of the right to such person to appeal to the Commissioner any adverse determination.

(b) All appeals should be addressed to the Commissioner, United States Section, International Boundary and Water Commission, 4171 North Mesa, Suite C–310, El Paso, TX 79902–1422, and should be clearly identified as such on the envelope and in the letter of appeal by using the marking "Freedom of Information Appeal" or "Appeal for Records" or the equivalent. Failure to properly address an appeal may defer the date of receipt by the Section to take into account the time reasonably required to forward the appeal to the Commissioner. In each instance when an appeal is incorrectly addressed to the Commissioner, he shall notify the person making the appeal that his appeal was improperly addressed and of the date the appeal was received by the Commissioner. The Commissioner will make a determination with respect to any appeal within 20 days (excepting Saturdays, Sundays, and legal holidays) after the receipt of an appeal. If on appeal the denial or the request is in whole or in part upheld, the Commissioner will notify the person making such request of the provisions for judicial review under the Act. An appeal must be in writing and filed within 30 days from receipt of the initial determination (in cases of denials of an entire request), or from receipt of any records being made available pursuant to the initial determination (in case of partial denials). In those cases where a request or appeal is not addressed to the proper official, the time limitations stated above will be computed from the receipt of the request or appeal by the proper official.

(c) In unusual circumstances, as set forth in paragraph (d) of this section, the time limits for responding to the original request or the appeal may be extended by not more than an additional 10 working days by written notice to the person making a request. This notice must be sent within either a 10- or 20-day time limit and will specify the reason for the extension and the date on which determination is expected to be dispatched. The extension may be invoked only once during the consideration of a request either during the initial consideration period or during the consideration of an appeal, but not both.

(d) The unusual circumstances are:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the requestor among two or more components of the agency having substantial subject-matter interest therein.

(e) If the FOIA Officer receives a request which is of proper concern to an agency or entity outside the Section, it will be returned to the person making the request, advising the requester to refer it to the appropriate agency or entity if requester desires, and providing the requester with the name or title, address and other appropriate information. An information copy of the request and the letter of referral will be forwarded promptly to the agency or entity outside the Section that may expect the request. In the event the FOIA Officer receives a request to make available a record or provide information which is of interest to more than one agency (Federal, State, municipal, or legal entity created thereby), the FOIA Officer will retain and act upon the request if the Section is one of the interest agencies and if its interest in the record is paramount.

(f) The Commissioner's determination on an appeal shall be in writing and when it denies records in whole or in part, the letter to the person making a request shall include:

(1) Notation of the specific exemption or exemptions of the Act authorizing the withholding.

(2) A statement that the decision is final for the Section.

(3) Advice that judicial review of the denial is available in the district in which the person making the request resides or has his principal place of business, the district in which the Section's records are situated, or the District of Columbia.

(4) The names and titles or positions of each official responsible for the denial of a request. When appropriate, the written determination may also state how an exemption applies in that particular case, and, when relevant, why a discretionary release is not appropriate.

(g) In those cases where it is necessary to find and examine records before the legality or appropriateness of their disclosure can be determined, and where after diligent effort this has not been achieved within the required period, the FOIA Officer may advise the person making the request that a determination to presently deny the request has been made because the records or information have not been found or examined, that the determination will be considered when the search or examination is completed and the time within which completion is expected, but that the person making the request may immediately file an administrative appeal to the Commissioner.

§ 1102.8 Exemptions.

(a) 5 U.S.C. 552(b) provides that the requirements of the FOIA do not apply to matters that are:

(1) *Classified Documents.* Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and that are, in fact, properly classified under the Executive order.

(2) *Internal Personnel Rules and Practices.* Related solely to the internal personnel rules and practices of an agency.

(3) *Information Exempt Under Other Laws.* Specifically exempted from disclosure by statute, provided that the statute—

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) *Confidential Business Information.* Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(5) *Internal Government Communications.* Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

(6) *Personal Privacy.* Personnel, medical, and similar files the disclosures of which would constitute a clearly unwarranted invasion of personal privacy.

(7) *Law Enforcement.* Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(8) *Financial Institutions.* Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(9) *Geological Information.* Geological and geophysical information and data, including maps, concerning wells.

(b) The Section will provide any reasonably segregable portion of a record to a requester after deletion of the portions that are exempt under this section.

(c) The section will invoke no exemption under this section if the requested records are available to the requester under the Privacy Act of 1974 and its implementing regulations.

(d) Whenever a request is made which involves access to records described in § 1102.8(a)(7)(i) and

(1) The investigation or proceeding involves a possible violation of criminal law, and

(2) There is reason to believe that the subject of the investigation or proceeding is not aware of its pendency, and disclosure of the existence of the records could reasonably be expected to interference with enforcement proceedings, the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

§ 1102.9 Annual report to Congress.

(a) On or before March 1 of each calendar year the Commissioner shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include:

(1) The number of determinations made by the Section not to comply with request for records made to the Section under the Act and these regulations and the reasons for each such determination.

(2) The number of appeals made by persons under the Act and these regulations, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information.

(3) The names and titles or positions of each person responsible for the denial of records requested under the Act, and the number of instances of participation for each.

(4) The results of each proceeding conducted pursuant to 552(1)(4)(F) of the Act, including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken.

(5) A copy of these regulations.

(6) A copy of the fee schedule and the total amount of fees collected by the Section for making records available under the Act.

(7) Such other information as indicates efforts to administer fully the Act.

(b) A copy of each such report to the Congress made pursuant to paragraph (a) of this section will be made available for public inspection and copying in the office of the FOIA Officer, United States Section, International Boundary and Water Commission, 4171 North Mesa, Suite C–310, El Paso, TX 79902–1422.

§ 1102.10 Examination of records.

When a request to examine records is approved by the FOIA Officer, every reasonable effort will be made to provide facilities for the purpose of such examination. "On the spot" copying will be available if the FOIA Officer decides there will be no interference with ordinary activities or routine business of the Section.

Dated: July 3, 1990.

Reinaldo Martinez,

FOIA Officer.

[FR Doc. 90–16040 Filed 7–10–90; 8:45 am]

BILLING CODE 4710–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. N–90–3098; FR–2841–N–01]

Section 8 Housing Assistance Payment Program; Fair Market Rents for New Construction and Substantial Rehabilitation, St. Croix, Virgin Islands; Fiscal Year 1988

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed fair market rents.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to establish Fair Market Rents (FMRs) periodically, but not less frequently than annually. This document proposes to amend the Fiscal Year (FY) 1988 Fair Market Rent Schedule to establish new FMRs for the St. Croix, Virgin Islands market area for that FY. These rents are necessary to provide FMRs more comparable to market rents for new construction in this market area.

DATES: Comments due: August 10, 1990.

ADDRESSES: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Chief Appraiser, Valuation Branch, Technical Support Division, Office of Insured Multifamily Housing Development, 451 Seventh Street SW., Washington, DC 20410–0500, telephone (202) 708–0624. This phone number is not a toll free number.

SUPPLEMENTARY INFORMATION:

Background

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (the Act) authorizes a system of housing assistance payments to aid lower income families in renting decent, safe, and sanitary housing. These programs, known collectively as the Section 8 Housing Assistance Payments Program, provide assistance payments for lower income families for a variety of housing options, including new construction and substantial rehabilitation.

Under these programs, HUD or public housing agencies (PHAs) make rental assistance payments on behalf of eligible families to owners. When families lease an eligible unit, the housing assistance payment is made and is based upon the difference between the total housing expense and the total family contribution. Initial contract rents, plus an allowance for utilities generally may not exceed area-wide FMRs established by the Department. FMRs are based primarily on the level of rentals paid for recently completed or newly constructed dwelling units of modest design within each market area as determined by HUD Field Office staff. The FY 1988 FMRs were previously promulgated by the Department (see the December 1, 1989, FR, 54 FR 49886.)

These rents reflected the Department's cost containment efforts in relation to housing assistance provided in the Section 8 New Construction and Substantial Rehabilitation Programs.

This Document

This document announces a special revision to the FY 1988 FMR schedule applicable to the St. Croix, Virgin Islands market area. These FMRs reflected data submitted by the Caribbean Office. Further, where sufficient market rental comparables do not exist, HUD procedures permit the use of an interpolation technique to arrive at indicated FMRs. Although the use of interpolation and adjustments to establish rents are sound principles and techniques, the best data for "market rents" would be that from recently constructed projects, as it would necessarily reflect current conditions in the marketplace with respect to financing, vacancy rates, etc., and would provide a degree of assurance that rents so derived should be adequate to support new projects, all factors being equal.

The Caribbean Office requested that the Department establish new rents for the St. Croix, Virgin Islands market area. Careful analysis of this request indicates that the FY 1988 FMRs for this market area are not adequate, since the FY 1988 FMRs for that market area did not have published FMRs for the two-to-four story elevator category. Accordingly, FMRs for the two-to-four story elevator category are added to the schedule applicable to the St. Croix, Virgin Islands market area. It is intended that when this schedule is published for effect, its applicability will be the same as set forth in the preamble to the original FY 1988 FMR schedule, published on December 1, 1989, at 54 FR 49886.

Other Information

HUD regulations in 24 CFR part 50, implementing section 102(2)(c) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the FMRs established in

this Notice are within the exclusion set forth in § 50.20(1), no environmental assessment is required, and no environmental finding has been prepared.

The Catalog of Federal Domestic Assistance Program number and title for the activities covered by this Notice are 14.156, Lower Income Housing Assistance Program (Section 8).

Accordingly, the following amendments to the FY 1988 FMR schedule is proposed for St. Croix, Virgin Islands.

Schedule A—Fair Market Rents for New Construction and Substantial Rehabilitation (Including Housing Finance and Development Agencies' Programs)

Region 4—Atlanta Regional Office
Market: St. Croix, Virgin Islands

SPECIAL REVISION OF FY 1988 FAIR MARKET RENTS

[Number of bedrooms]

Structure type	0	1	2	3	4
Detached			653	737	849
Semi-Detached/Row	432	504	592	684	779
Walk-up	367	432	525	591	596
Elevator 2–4 Story	486	566	666		

Dated: July 2, 1990.

James L. Logue III,

Deputy Assistant Secretary for Multifamily Housing Programs

James E. Schoenberger,

Associate General Deputy—Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 90–16098 Filed 7–10–90; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Montana Permanent Regulatory Program

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

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

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Montana permanent regulatory program (hereinafter, the "Montana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to new rules governing disposal of underground development waste and disposal of coal processing waste and revisions to various existing rules. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards, incorporate the additional flexibility afforded by the revised Federal regulations and improve operational efficiency.

This notice sets forth the times and locations that the Montana program and proposed amendments to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., m.d.t. August 10, 1990. If requested, a public hearing on the proposed amendment will be held on August 5, 1990. Requests to present oral testimony at the hearing must be received by 4 p.m., m.d.t. on July 26, 1990.

ADDRESSES: Written comments should be mailed or hand delivered to E.E. Filer, Acting Director, Casper Field Office at the address listed below.

Copies of the Montana program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

E.E. Filer, Acting Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, room 2128, Casper, WY 82601–1918, Telephone: (307) 261–5776

Gary Amestoy, Administrator, Department of State Lands, Reclamation Division, Capitol Station, 1625 Eleventh Avenue, Helena, MT 59620, Telephone: (406) 444–2074

FOR FURTHER INFORMATION CONTACT: E.E. Filer, Acting Director, Casper Field Office, on telephone number (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Montana Program

On April 1, 1980, the Secretary of the Interior conditionally approved the Montana program. General background information on the Montana program including the Secretary's findings and the disposition of comments can be found in the April 1, 1980 Federal Register (45 FR 21560). Subsequent actions concerning the Montana program and program amendments can be found at 30 CFR 926.15 and 926.16.

II. Proposed Amendment

By letter dated June 19, 1990 (Administrative Record No. MT–7–01) Montana submitted a proposed amendment to its program pursuant to SMCRA. Montana submitted the proposed amendment at the State's own initiative in response to changes to the Montana program and mining conditions in the State and to more closely comply with current Federal regulations. Included in the amendment package are rules previously reviewed and approved by OSM in the May 11, 1990 Federal Register (55 FR 19727). These rules are included in this amendment in order to facilitate the State's rule promulgation process. They are not subject to a second review by OSM and are therefore not listed here.

The sections of the program that Montana proposes to add or amend that are subject to review are: ARM 26.4.920, Placement and Disposal of Underground Development Waste; ARM 26.4.924, Disposal of Underground Development Waste: General Requirements; ARM 26.4.925, Disposal of Underground Development Waste: Valley Fill; ARM 26.4.926, Disposal of Underground Development Waste: Head of Hollow Fill; ARM 26.4.927, Disposal of Underground Development Waste: Durable Rock Fills; ARM 26.4.930, Placement and Disposal of Coal Processing Waste: Special Application Requirements; ARM 26.4.932, Disposal of Coal Processing Waste; ARM 26.4.301,

Definitions; ARM 26.4.304, Baseline Information: Environmental Resources; ARM 26.4.305, Maps; ARM 26.4.313, Reclamation Plan; ARM 26.4.321, Transportation Facilities Plan; ARM 26.4.324, Prime Farmlands: Special Application Requirements; ARM 26.4.325, Coal Mining Operations on Areas or Adjacent to Areas Including Alluvial Valley Floors: Special Application Requirements; ARM 26.4.501, General Backfilling and Grading Requirements; ARM 26.4.522, Permanent Cessation of Operations; ARM 26.4.805, Alluvial Valley Floors: Significance Determination; ARM 26.4.837, Remining: Bonding; ARM 26.4.1129, Annual Report; and ARM 26.4.1221, Small Operator Assistance Program: Program Services.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Montana program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under the **"FOR FURTHER INFORMATION CONTACT"** by 4 p.m., m.d.t. on July 26, 1990. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at a public hearing, a hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed under **"FOR FURTHER INFORMATION CONTACT"**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **"ADDRESSES"**. A written summary of each meeting will be made a part of the administrative record.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 3, 1990.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 90–16125 Filed 7–10–90 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 148 and 268

[FRL–3806–3]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to grant case-by-case extension.

SUMMARY: EPA is proposing to grant the request from Cabot Corporation (Cabot) located in Tuscola, Illinois, for a 3 month extension of the August 8, 1990, effective date of the hazardous waste injection restrictions applicable to injected acidic wastewater with the hazardous waste code D002. This action responds to a petition submitted under RCRA section 3004(h)(3) and 40 CFR 148.4 according to procedures set out in 40 CFR 268.5, which allows any person to request that the Administrator grant, on a case-by-case basis, an extension of the applicable effective date based on a showing that the petitioner has entered into a binding contractual commitment to construct or otherwise provide adequate alternative treatment, recovery, or disposal capacity for the petitioner's waste. If this proposed action is finalized, Cabot can continue to inject acidic D002 wastewater at the facility located in Tuscola, Illinois, until November 8, 1990, but not later than this date, without being subject to the prohibitions applicable to such waste.

DATES: Comments on this notice must be received on or before August 10, 1990.

ADDRESSES: The public must send an original and two copies of their comments to: EPA Region V, Underground Injection Control Section (5WD–TUB–9), 230 S. Dearborn Street, Chicago, Illinois 60604 Attn: John Taylor. The Administrative Record for this action is located at the above address. The Record is open from 9:00 a.m. to 4 p.m., Monday through Friday, except for public holidays. The public must make an appointment to review Record materials by calling (312) 886–2929. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For information on specific aspects of this notice contact Laura Flynn at (312) 886–2929.

SUPPLEMENTARY INFORMATION:

I. Background

A. Congressional Mandate

On November 8, 1984, Congress enacted the Hazardous and Solid Waste Amendments (HSWA) of 1984 to amend the Resource Conservation and Recovery Act (RCRA). HSWA imposes additional responsibilities on persons managing hazardous wastes. Sections 3004 (d) through (g) prohibit the land disposal of indicated hazardous wastes by specified dates in order to protect human health and the environment for as long as the wastes remain hazardous. On July 26, 1988, EPA promulgated a final rule (53 FR 28118, effective August 8, 1988), that established an effective date of August 8, 1990 for injected spent F001–F005 solvent wastes containing less than 1 percent solvent constituents. An August 8, 1990, an effective date was established for specified California list wastes that are deep well injected. See 53 FR 30908, effective August 8, 1988.

Section 3004(m) requires the Agency to set levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized. Wastes that meet treatment standards establishes by EPA are no longer prohibited and may be land disposed.

Sections 3004 (d), (e), (f), and (g) also allow the applicant to demonstrate to the Administrator that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The no migration petition process has been established by the Agency for injected wastes under 40 CFR part 148, subpart C. See 53 FR 28118, July 26, 1988.

Congress recognized that adequate alternative treatment, recovery, or disposal capacity, any of which is protective of human health and the environment, may not be available by the applicable statutory effective dates and authorized EPA to grant a variance (based on the earliest dates that such capacity will be available) from the effective date which would otherwise apply to specific hazardous wastes (RCRA 3004 (h)(2) and (h)(3)). In addition, under section 3004(h)(3), the Agency can grant case-by-case extensions of the statutory deadlines for up to one year beyond the applicable deadlines. These extensions are renewable once for up to one additional year.

On November 7, 1986, EPA published a final rule (51 FR 40572) establishing the regulatory framework to implement the land disposal restrictions program including procedures for submitting case-by-case extensions under § 268.5. On July 26, 1988, EPA published a final rule (53 FR 28118) establishing restrictions and requirements for Class I hazardous waste injection wells, including the framework for the no migration petition process and allowing case-by-case extensions under § 148.4 following § 268.5 procedures.

B. Summary of Demonstration Requirements

Case-by-case extension applications must satisfy the requirements outlined in 40 CFR 268.5. These requirements include those specified in RCRA section 3004(h)(3): the applicant must have entered into a binding contractual commitment to construct or otherwise provide alternative capacity (40 CFR 268.5(a)(2)), but, due to circumstances beyond his control, this alternative capacity cannot reasonably be made available by the applicable effective date (40 CFR 268.5(a)(3)).

In addition, EPA has interpreted the statute to require the following: the applicant must demonstrate that he has made a good faith effort to locate and contract with treatment, recovery, or disposal facilities nationwide to manage his waste (40 CFR 268.5(a)(1)). Again, the applicant must demonstrate why this nationwide capacity cannot reasonably be made available by the effective date.

The applicant must also show that the alternative treatment, recovery, or disposal capacity will be adequate for all of his waste (40 CFR 268.5(a)(4)). He must submit a schedule showing the progress that will be made toward providing adequate alternative capacity by including dates for obtaining required operating and construction permits and dates for completing key phases of the project (40 CFR 268.5(a)(5)), and must also show that he has arranged for sufficient capacity to manage the entire quantity of waste which is the subject of his petition during the requested extension period, and must document in his application the location of all sites at which the waste will be managed (40 CFR 268.5(a)(6)).

If the waste would be disposed of in a surface impoundment or landfill during the period of the extension, the unit must meet the minimum technological requirements for these units (40 CFR 268.5(a)(7)).

After an applicant has been granted a case-by-case extension, he is required to keep EPA informed of the progress being made towards obtaining adequate alternative treatment, recovery, or disposal capacity. Any change in the demonstrations made in the petition must be immediately reported to the Agency (40 CFR 268.5(f)). Also, at specified intervals, he must submit progress reports which describe the progress being made towards obtaining alternative capacity, identify any delay or possible delay in developing capacity, and describe the mitigating actions being taken (40 CFR 268.5(g)).

C. Facility Operation and Process

The Cabot facility in Tuscola, Illinois, is a chemical manufacturing plant conceived to produce fumed silicon, used as an additive in many products. The central reaction in the manufacturing process is combination of silicon tetrachloride with oxygen and hydrogen to produce both fumed silicon and hydrogen chloride vapor. Separation results in both fumed silicon and product hydrochloric acid as well as contaminated hydrochloric acid which must be disposed of. The fumed silicon dioxide is used in many varied products including paints, printing inks, decorative coatings, silicone rubber, free flowing powders, adhesives, pharmaceuticals, and cosmetics. The product hydrochloric acid has value and is sold when demand exists. The market for hydrochloric acid is irregular and sometimes the product acid must be disposed of as a waste to allow the manufacture of fumed silicon to continue. These wastes are normally injected into one on-site, Class I hazardous waste injection well, Well No. 2. A second well, Well No. 1, is maintained as a standby well and is used only when Well No. 2 is undergoing testing or maintenance work. Both wells are completed for injection into the Potosi and Eminence Dolomites and the Gunter Sandstone equivalent. Well No. 1 was drilled and completed in August 1966, and Well No. 2 was completed in January 1976. Virtually all of the liquid injected into Well No. 1 was injected before Well No. 2 was completed. The total volume of fluid injected into Well No. 2 is 1,029 million gallons as of March 30, 1990, for a yearly average of 73 million gallons. For the last three years, 1987 through 1989, injection volumes have been 75, 69, and 89 million gallons, respectively.

D. No Migration Exemption Petition

Cabot submitted a no migration petition in April, 1989, requesting an exemption from the Land Disposal Restrictions pursuant to 40 CFR part 148. Several subsequent submittals have been made in response to the review of the document by USEPA. A final revision of the petition document was received on June 20, 1990. If the exemption is granted, Cabot will be allowed to continue injection of acidic hazardous waste (D002).

II. Case by Case Extension

A. Submission

On June 14, 1990, Cabot Corporation at the Tuscola, Illinois, facility petitioned EPA to grant a 12 month extension of the effective date of the hazardous waste injection restrictions applicable to its acidic waste with the hazardous waste code D002, which is also restricted by "California List" from injection, effective August 8, 1990. This submission was reviewed and additional information was received on June 26, 1990. The no migration petition documents submitted by Cabot were also reviewed as part of this proposed action.

B. Petition Demonstration for Case-by-Case Extension

Requirements to qualify for a case-by-case extension are enumerated in 40 CFR 268.5(a). Cabot Corporation submitted a request for the case-by-case extension, which has been determined to demonstrate Cabot's good faith efforts to manage their waste in an environmentally safe and legally acceptable manner pursuant to these requirements. Demonstrations for

specific requirements are discussed below.

1. Commitment to Provide Protective Disposal Capacity

EPA believes that the applicant for today's proposed case-by-case extension has shown the necessary commitment to provide protective disposal capacity within the meaning of RCRA 3004(h)(3) and 40 CFR 268.5(a)(1). These provisions require an applicant to make two showings: (1) that the proposed "disposal capacity" is "protective of human health and the environment", and (2) that the applicant has made "a binding contractual commitment to construct or otherwise provide" such capacity. The Agency construes the first phase to mean a no migration unit. No migration findings in 40 CFR part 148 or part 268 provide for a variance to the land disposal prohibitions and, accordingly, are functionally equivalent to compliance with treatment standards under part 268. Moreover, the statute defines protective disposal capacity for purposes of RCRA 3004 (d), (e), and (g) as no migration units. EPA also considers no migration capacity as protective disposal capacity for purposes of RCRA 3004(h)(2).

With respect to showing a "binding contractual commitment", where applicants have already constructed (and, indeed, are operating) the disposal units at issue, EPA interprets the regulatory language to require objective indicia of applicants' commitment to provide this capacity. EPA's approach is in line with similar practical interpretations of regulatory language. For example, the Agency has construed the term "commend construction" to include facilities which have completed construction but did not commence operations. See 46 FR 2344, 2346 (January 9, 1981).

EPA does not believe that the simple filing of a no migration petition provides sufficient indication that the applicant will provide protective disposal capacity. Where an applicant seeks to provide treatment capacity, EPA can rely on design criteria as a basis to predict that the treatment capacity will provide for treatment in compliance with 40 CFR part 268. Where the Agency has determined that a no migration petition is sufficient to propose a no migration finding, this proposed finding is legitimate indicia that the applicant is, in good faith, committed to providing protective disposal capacity for purposes of 40 CFR 268.5. See 55 FR 22520. In addition, case-by-case extensions necessarily involve predictions about future capacity. For example, such predictive findings specifically include the need for permits that may not yet be issued. See 40 CFR 268.5(a)(5).

Today's proposed case-by-case extension is based on objective indicia of the applicant's commitment to provide disposal capacity through continued use of its deep wells. Since the petitioner's application is based on already cosntructed wells, this petitioner's commitment is more tangible than petitions based solely on contracts to construct such capacity. See RCRA 3004(h)(3). Second, the injection wells have been permitted under both RCRA and SDWA standards, thus further demonstrating a commitment to provide this capacity. The applicant has demonstrated that only a no migration finding prevents the units from being available as protective disposal capacity. Finally, EPA has a good basis for believing that this capacity will, in fact, be provided in a short period of time. EPA has evaluated the no migration petition and several supplemental submissions received from Cabot for the facility in this proposal and believes at this time the exemption package is in an approvable format. If EPA does not formally propose a no migration finding, then it will not proceed to finalize a case-by-case extension for the wells in question. This indicia serves to prevent the mere filing of a no migration petition itself from providing the basis for a case-by-case extension.

2. Requirements To Seek Alternative Capacity and Reasons Alternative Capacity Cannot Reasonably Be Made Available by the Applicable Effective Date

The applicant's commitment to provide protective disposal capacity is not the sole basis for EPA granting a case-by-case extension. Under 40 CFR 268.5(a)(1), they must also make a good faith effort to seek other protective treatment, recovery, or disposal where feasible during the period that applicants' proposed alternative capacity is not available. Such good faith efforts under § 268.5(a)(1) can be evaluated considering both the expected time period that the alternative capacity will take to become available and technical difficulties that the operator will face in bringing his waste to alternative capacity in consideration of factors in § 268.5(a)(3). Cabot has attempted to find alternate capacity for waste disposal during the period between the effective date of August 8, 1990, and the final petition decision date.

Today's applicant has pursued the no migration process with a good faith belief that the Agency would provide a no migration finding by the August 8, 1990, effective date. Cabot first began preparing for submittal of its no migration petition in the Summer of 1987, a year before the Part 148 rules were issued in final form. Although Cabot submitted its petition to the Agency over one year ago, in April, 1989, both industry and the Agency have learned from experience that the no migration petition process is taking substantially more time than initially had been envisioned.

The no migration finding is a precondition to the provision of the alternative disposal capacity. The Agency needs additional time to assess exemption petition material recently supplied by the petitioner. The no migration review process is the reason that the applicant's wells may not be available as no migration units by the effective prohibition dates.

According to the demonstration supplied by the applicant, several logistic problems make short-term capacity not reasonably available. Despite the presence of capacity to dispose of the waste, the capacity cannot be used due to the limited facilities for loading at the Tuscola facility. Studies cited in sections of the letter of June 25, 1990, entitled, A. "Long Term Treatment" and B. "Temporary Alternatives," indicate that at least a year will be required for construction of treatment facilities on site or 18 months for construction of loading facilities. Therefore, unless an extension to the effective date is granted, Cabot will be forced to cease operations due to lack of disposal capacity.

Cabot's facility relies on immediate disposal in on-site injection wells. In order to make the necessary adjustments, the facility would need to temporarily shut down, perform necessary retooling and repiping, and construct a transportation system to move the large volumes of waste at issue. These factors indicate that the other capacity is not reasonably available for short-term waste management. EPA has relied on similar criteria in providing nationwide variances under RCRA 3004(h)(2). See 55 FR 22520.

There is limited other capacity under (a)(1) to eventually handle the waste from Cabot's facility. However, due to Cabot's claimed logistic problems of retooling, repiping, and transportation of the large volume of waste at issue, this other capacity is not reasonably available during the short period of time EPA anticipates is necessary to process

the final no migration approval or denial for these wells.

3. Other Requirements

The capacity of the constructed well will be sufficient to manage the entire quantity of waste that is the subject of the application pursuant to § 268.5(a)(4). If, as is anticipated, a decision is made to approve the petition, Cabot would then continue to use the deepwell system to dispose of acidic waste water and unsold by-product acid. The deepwell system has the capacity to dispose of several times the volume of the Cabot waste stream.

Cabot has provided a detailed schedule for obtaining required operating permits or an outline of how and when alternative capacity will be available pursuant to § 268.5(a)(5). Cabot has constructed two Class I wells to provide for economical and environmentally safe disposal. In mid 1987, Cabot solicited proposals for a demonstration of no migration pursuant to 40 CFR part 148. Pursuant to 40 CFR 268.5(a)(5), Cabot has submitted a chronology showing what progress occurred from this period through submission of the most recently revised petition document on June 20, 1990. Cabot's management believed that a petition for exemption from land disposal restrictions could be prepared by consultants and subsequently approved by the USEPA before the effective date for D002 wastes. Because of the sparsity of site-specific data, an approvable demonstration of no migration was not accomplished and submitted in a revised petition until June, 1990. In the letter of June 4, 1990, requesting a case-by-case extension, a schedule, prepared for the Cabot exemption petition, indicates that a final decision on this petition will not be made before the end of September 1990, in order to allow USEPA technical staff and consultants time to review the now complete package and complete the administrative requirements of 40 CFR Part 124.

Cabot has arranged for adequate capacity to manage its waste during an extension and has documented in the application the location of all sites at which waste will be managed (§ 268.5(a)(6)). If the extension is granted, Cabot will be able to continue to dispose of acidic waste waters and waste acid through the deepwell disposal system until a final decision on the petition is reached. If the petition is denied then Cabot will be forced to close the facility until physical alterations are made to allow either on-site treatment or off-site disposal.

Any waste managed in a surface impoundment or landfill during the extension period must meet the requirements of paragraph (h)(2) of this § 268.5(a)(7). This condition is not applicable in Cabot's case because no such storage unit will be used.

III. EPA's Proposed Action

For the reasons discussed above, the Agency believes that Cabot's demonstrations have satisfied all the requirements for a 90 day case-by-case extension of the effective date of the hazardous waste injection restrictions applicable to its acidic waste (D002). Although Cabot asked for the maximum 12 month extension, since the Cabot justification for the petition was based primarily on the Agency need for additional time to complete the exemption process, and the Agency intends to complete its actions within 90 days, a 90 day extension is justified.

Therefore, EPA is proposing to grant an extension of the August 8, 1990, effective date of the restrictions on acidic waste (D002) for Cabot's facility at Tuscola, Illinois. If the extension is granted, these wastes, which would not be prohibited from land disposal, could be injected over a 3 month period, starting from the effective date of August 8, 1990, but not later than November 8, 1990.

If Cabot obtains a case-by-case extension, it would have to submit a progress report two months after the date the extension is granted, addressing the status or progress made toward obtaining alternative disposal capacity. The Agency must be notified of any change in the conditions specified in the petition. The extension would remain in effect unless Cabot fails to make a good faith effort to meet the schedule for completion, the Agency denies or revokes any required permit, conditions certified in the application change, or if Cabot violates any law or regulations implemented by EPA. (Sections 1006, 2002(a), 3001, and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6924)). Cabot's request and supporting documentation are available in the Administrative Record for this proposed action. Interested persons are invited to submit comments or written data on this petition. All comments will be considered by EPA and addressed in a **Federal Register** notice stating the Agency's final decision to grant or deny the petition.

Dated: June 29, 1990.

Valdas V. Adamkus,

Regional Administrator, EPA Region V.

[FR Doc. 90-15801 Filed 7-10-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATION COMMISSIONS

47 CFR Part 73

[MM Docket No. 89-448; RM-6612]

Television Broadcasting Services; Montgomery, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed on behalf of Troy State University, permittee of Station WTSU-TV, Channel *63, Montgomery, Alabama, based upon its withdrawal of interest. The petitioner had requested dereservation of Channel *63 to permit its use for commercial operation. See 54 FR 42808, October 18, 1989. With this action, the proceeding is terminated.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-448, adopted June 22, 1990, and released July 6, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suit 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-16176 Filed 7-10-90; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1057 and 1058

[EX Parte No. MC-41 (Sub-No. 1)]

RIN 3120-AB59

Identification of Motor Vehicles

AGENCY: Interstate Commerce Commission.

ACTION: Discontinuance of rulemaking proceeding.

SUMMARY: The Commission is discontinuing its proceeding (Proposed Rule, 54 FR 49104, November 29, 1989) to eliminate the vehicle identification regulations at 49 CFR part 1058 that require every for-hire motor carrier operating under authority granted pursuant to the Interstate Commerce Act to display on both sides of each vehicle operated under its own power the name or trade name of the motor carrier under whose authority the vehicle is being operated, as well as the certificate, permit or docket number assigned to such authority and to make necessary adjustments in the leasing regulations at 49 CFR part 1057 as would be required as a result of such action. An overwhelming majority of the participants in this proceeding contend that the Commission should not remove its existing vehicle identification requirements from regulation. These participants have convinced us that the adoption of this proposal could adversely affect shippers, carriers and the public, as well as Federal and State safety enforcement programs.

DATES: The proceeding is discontinued as of July 11, 1990.

FOR FURTHER INFORMATION CONTACT: Roy M. Wilkins, (202) 275-7452, or Heber P. Hardy, (202) 275-7148. [TDD for hearing impaired (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call or pickup in person from Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275-1721].

Decided: June 22, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90-16225 Filed 7-10-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 198

[Docket No. PS-116; Notice 1]

RIN 2137-AB 66

Grant Regulations: State Adoption of One-Call Damage Prevention Program

May 18, 1990.

AGENCY: Office of Pipeline Safety (OPS), RSPA, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Congress has directed the Secretary of Transportation to issue regulations that require each State to adopt or seek to adopt a one-call damage prevention program under State law as a condition to receiving a full grant-in-aid for the State's pipeline safety compliance program. The one-call damage prevention program must require that a one-call notification system cover each area of the State that contains underground pipeline facilities in accordance with minimum operational requirements. One-call notification systems, which are in existence throughout the country, are established to prevent excavation damage to underground pipelines and other utilities. They transfer information from excavators about intended excavation activities to the participating operators of underground pipelines and utilities, who then temporarily mark and identify their facilities. The state one-call damage prevention program must compel excavators to use the one-call notification systems and pipeline operators to participate in such systems under the threat of strong civil and criminal penalties for noncompliance. This notice invites interested persons to comment on the proposed regulations.

DATES: Interested persons are invited to submit written comments in duplicate by August 10, 1990. OPS will not consider late filed comments before issuing final regulations in order for States to have as much time as possible before the end of this fiscal year to apply for grant money Congress appropriated to assist them in developing and establishing one-call damage prevention programs.

ADDRESSES: Send comments to the Dockets Unit, room 8417, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice numbers stated in the heading of this notice. Interested persons should submit as part of their written comments all the material that is considered relevant to any statement of fact or argument made. All comments and materials cited in this document will be available in the docket for inspection and copying in room 8417 between 8 a.m. and 4 p.m. each working day. Non-Federal employee visitors are admitted to DOT headquarters building through the southwest quadrant at Seventh and E Streets.

FOR FURTHER INFORMATION CONTACT: Albert C. Garnett, (202) 366-2036, regarding the subject matter of this notice, or Dockets Unit (202) 366-4453, for copies of this notice or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

Year after year statistics show that excavation activities are the largest single cause of accidents on underground gas and hazardous liquid pipelines. One-call notification systems are generally seen as the most effective way to reduce the incidence of excavation damage to pipelines and underground utilities.

A one-call notification system provides a telephonic communication link between excavators (persons intending to move or disturb the ground) and operators of underground pipeline and utilities. The heart of the system is an operational center whose main function is to transfer information from excavators about their intended excavation activities to the operators of underground pipelines and utilities participating in the system. Excavators have to make only a single call to an operational center to start the process, thus the name "one-call." Upon receipt of the information, operators of pipelines and utilities that could be affected by the excavation activity arrange for the timely identification and temporary marking of underground facilities that are in the vicinity of the intended activity. When necessary the underground operators inspect the site being excavated and advise the excavator of the need for special measures to protect buried or exposed facilities. One-call notification systems may perform various other functions relevant to protecting underground pipelines and utilities from damage, such as recordkeeping and public awareness programs.

In a closely related approach to the excavation damage problem, OPS has required gas pipeline operators to conduct excavation damage prevention programs in urban areas (see 49 CFR

192.614), and has proposed to extend this requirement to rural areas and to adopt a similar requirement for hazardous liquid pipelines (see 53 FR 24747; June 30, 1988). Both the existing and proposed damage prevention program requirements essentially parallel the features of one-call notification systems. In fact, they allow pipeline operators to perform program objectives by participating in such systems.

Currently, there are approximately 105 one-call notification systems operating in 49 States and the District of Columbia. Generally, one-call notification systems have been set up voluntarily by operators of underground utilities. Approximately, 40 States and the District of Columbia have damage prevention laws that are designed to protect underground facilities from damage by excavation activities.

The State laws require excavators to give operators of underground pipelines and utilities advance notice of their excavation activities. Additionally, about 21 States require operators of underground pipelines and utilities to participate in one-call notification systems and temporarily mark and identify their underground facilities when the one-call center notifies them of a pending excavation in the vicinity of the facilities. Most of the State laws that require excavators to advise one-call notification systems of their intended activities have penalty clauses for violations.

Now Congress has officially recognized the safety benefit of State laws regarding the establishment, operation, and use of one-call notification systems. In a new section 20 of the Natural Gas Pipeline Safety Act of 1968 (NGPSA), as added by section 303 of the Pipeline Safety Reauthorization Act of 1988 (Pub. L. No. 100–561; October 31, 1988), Congress required the Secretary of Transportation to issue regulations that are intended to prompt States without one-call laws to enact them and to provide commonality among all such laws. The regulations are to require that each State adopt or seek to adopt a one-call damage prevention program under State law for protection of underground pipeline facilities as a condition to receiving a full grant-in-aid for its pipeline safety compliance program under section 5 of the NGPSA (49 U.S.C. app. 1674) and section 205 of the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA) (49 U.S.C. app. 2004). The new section 20 lays out nine requirements that are to be included in the regulations and form the core of each State's one-call damage prevention program.

In enacting these new requirements, Congress was aware that a one-call notification system operates most effectively when all underground pipelines and utilities in the region covered by the system participate in the system. Only in this way can excavators truly use one call to reach operators of all potentially affected underground facilities. However, among the various types of underground facilities, Congress applied its new requirements only to pipeline facilities that are subject to the NGPSA and the HLPSA. OPS does not have independent authority to require the States to include other underground utilities. Consequently, under the regulations proposed by this notice, a State's one-call damage prevention program would not be disqualified if it were applied just to underground pipeline facilities. However, for maximum effectiveness, OPS urges the States to include in their one-call damage prevention programs all other underground utilities. These utilities include water mains, storm sewers, sanitary sewers, steam lines, electric power cables, telephone cables, fiber optic cables, and television cables.

Proposed Regulations

The proposed regulations emulate the nine requirements prescribed by Congress. Those requirements are repeated below for the convenience of the reader, and the corresponding proposed regulations are cited in brackets.

1. [§ 198.37(a)] A requirement that the system or systems apply to all areas of the State containing underground pipeline facilities.

2. [§§ 198.33 and 198.37(c)] A requirement that any person intending to engage in any activity, as determined by the Secretary, which could cause physical damage to an underground pipeline facility must contact the appropriate one-call notification system to determine if there are underground pipeline facilities present in the area of the intended activity.

3. [§ 198.37(e)(1)] A requirement that all operators of underground pipeline facilities participate in an appropriate one-call notification system.

4. [§§ 198.37(b) and 198.39] Qualifications for operation of such a system whether by operators of pipeline facilities, private contractors, or State or local agencies.

5. [§ 198.37(f)] Procedures for advertisement and notice of the availability of such a system.

6. [§ 198.37(c)] Requirements for the information to be provided by persons contacting the system under paragraph 2.

7. [§§ 198.39(b), (c), (d), and (e) and 198.37(e)(2)] Requirements for the response of the operator of such notification system and of the operator of the pipeline facility after contact by a person under this subsection.

8. [§ 198.37(d)] A requirement that each State determine whether the notification system will be toll free or not.

9. [§ 198.37(g)] Requirements for sanctions substantially the same as are provided under sections 11 and 12 of this Act.

A few of the proposed regulations refer to certain provisions of the existing gas pipeline damage prevention program rule in 49 CFR 192.614. Parts of the gas damage prevention rule are comparable to requirements Congress specified for the one-call notification systems. Since State agencies participating in OPS's pipeline safety program have already adopted this rule or are familiar with it, referencing this rule in the proposing regulations should facilitate State adoption of a one-call damage prevention program under the Congressional requirements.

The following sections in the proposed regulations refer to § 192.614, and the referenced text is set forth verbatim to facilitate comments:

Section	Reference	Text
198.33	192.614	For the purpose of this section, "excavation activities" include excavation, blasting, boring, tunneling, backfilling, the removal of above ground structures by either explosive or mechanical means, and other earth moving operations.

Section	Reference	Text
198.37(f)	192.614(b) (1) and (2)	(b) The damage prevention program required by paragraph (a) of this section must, at a minimum: (1) Include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located. (2) Provide for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in paragraph (b)(1) of the following as often as needed to make them aware of the damage prevention program: (i) The program's existence and purpose; and (ii) How to learn the location of underground pipelines before excavation activities are begun.
198.37(e)(2)	192.614 (b) (4)–(6)	(b) The damage prevention program required by paragraph (a) of this section must, at a minimum: * * * * * (4) If the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings. (5) Provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins. (6) Provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities: (i) The inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and (ii) In the case of blasting, any inspection must include leakage surveys.

Impact on Grants-In-Aid for State Pipeline Safety Programs

Under section 5 of the NGPSA and section 205 of the HLPSA, OPS annually reimburses State agencies up to 50 percent of the cost of their pipeline safety programs, using funds that Congress appropriates for this purpose. Reimbursement amounts are determined by applying a grant-allocation formula, which weights certain factors related to the size and adequacy of the program and performance of the agency.

The new section 20 of the NGPSA affects these determinations by requiring a reduction in the reimbursement of any State that does not adopt or seek to adopt a one-call damage prevention program under the regulations to be issued in this proceeding. Congress left the amount of such reduction to OPS's discretion, and it will be calculated by modifying the current performance factors. OPS will assign performance points to each of the 9 requirements prescribed by Congress. These points will be assigned as to the importance of each requirement and will not necessarily be equal. (The present performance portion of the grant allocation that addresses one-call damage prevention is comprised of four out of 27 points for the gas program and four out of 17 points for the liquid program.) OPS will work with its State partners through the National Association of Pipeline Safety Representatives (NAPSR) and the National Association of Regulatory Utility Commissioners (NARUC) to implement this modification of the performance criteria of the grant allocation. The earliest that these modifications will effect the participating State agencies is the grant allocation for Calendar Year 1991. OPS will review the status of each State's one-call damage program under the final regulations in connection with the annual Federal grant-in-aid reimbursements.

Availability of grants for States to adopt one-call damage prevention programs

Section 20(c) of the NGPSA authorizes DOT to make grants to States for development and establishment of one-call damage prevention programs that are consistent with the regulations to be issued in this proceeding. Congress appropriated $672,000 (after mandated Fiscal Year 1990 adjustments) for these supplemental grants, but restricted disbursement of this amount to fiscal-year 1990, which ends September 30, 1990 (Pub. L. 101–164).

Due to mandated ceilings prescribed in the NGPSA and the HLPSA, only those States that have received less than 50 percent reimbursement are eligible to apply for the supplemental grants. Because the period between issuance of final regulations and September 30, 1990, will be brief, OPS will have little time to evaluate any grant applications received. Therefore, eligible States should submit applications as soon as possible after the final regulations are issued, demonstrating how their development and implementation actions will result in one-call damage prevention programs consistent with the regulations. States wishing more information about grant applications should contact OPS's State Programs Officer, Tom Fortner, at (202) 366–4564.

Impact Assessment

There are approximately 105 one-call notification systems in operation in forty-nine States and the District of Columbia. Additionally, there are some 40 States and the District of Columbia that have damage prevention programs that are designed to protect underground facilities from damage by excavators. This proposal would merely specify minimum requirements for a State to receive a full grant-in-aid for its pipeline safety compliance program. The proposed regulations parallel the general features of one-call notification systems and provide flexibility for most States with one-call damage prevention programs to meet the requirements, although additional laws will be necessary in those few States without one-call damage prevention programs. Therefore, this proposal is considered to be nonmajor under Executive Order 12291 and nonsignificant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since the proposed rule should require minimal compliance expense, it does not warrant preparation of a Draft Evaluation. Also, based on the facts available concerning the impact of this proposal, I certify under Section 605 of the Regulatory Flexibility Act that it would not, if adopted as final, have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rulemaking would require collection of information under proposed §§ 198.37 and 198.39. This proposal will be submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. chap. 35). Persons desiring to comment on these information collection requirements should submit their comments to the Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, Attention: Desk Officer, Research and Special Programs Administration (RSPA). Persons submitting comments to OMB are also

requested to submit a copy of their comments to OPS as indicated above under **ADDRESSES.**

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. OPS has determined that it does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 198

Grant programs—Transportation, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, OPS requests comments on the following proposed amendments to chapter I of title 49 of the Code of Federal Regulations.

Part 198 would be added to read as follows:

PART 198—REGULATIONS FOR GRANTS TO AID STATE PIPELINE SAFETY PROGRAMS

Subpart A—General

Sec.

198.1 Scope.
198.3 Definitions.

Subpart B—[Reserved]

Subpart C—Adoption of One-Call Damage Prevention Program

198.31 Scope.
198.33 Definitions.
198.35 Grants conditioned on adoption of one-call damage prevention program.
198.37 State one-call damage prevention program.
198.39 Qualifications for operation of one-call notification system.

Authority: 49 app. U.S.C. 1674, 1687, and 2004; 49 CFR 1.53.

Subpart A—General

§ 198.1 Scope.

This part prescribes regulations governing grants to aid State pipeline safety compliance programs.

§ 198.3 Definitions.

As used in this part:

Person means any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association, or joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

Pipeline facility means a pipeline facility under the Natural Gas Pipeline Safety Act of 1968 (49 app. U.S.C. 1671 *et seq.*) or the Hazardous Liquid Pipeline Safety Act of 1979 (49 app. U.S.C. 2001 *et seq.*).

State means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

Subpart B—[Reserved]

Subpart C—Adoption of One-Call Damage Prevention Program

§ 198.31 Scope.

This subpart implements section 20 of the Natural Gas Pipeline Safety Act of 1968 (49 App. U.S.C. 1687), which directs the Secretary of Transportation to require each State to adopt a one-call damage prevention program as a condition to receiving a full grant-in-aid for its pipeline safety compliance program.

§ 198.33 Definitions.

As used in this subpart:

Adopt means establish under State law by statute, regulation, license, certification, order or any combination of these legal means.

Excavation activity means an excavation activity defined in § 192.614(a) of this chapter, other than a specific activity the State determines would not be expected to cause physical damage to an underground pipeline facility.

Excavator means any person intending to engage in an excavation activity.

One-call notification system means a system of telephonic communication in which an operational center receives notices from excavators of intended excavation activities and transmits the notices to operators of pipeline facilities and any other utilities that participate in the system.

Seeking to adopt means actively and effectively proceeding toward adoption.

§ 198.35 Grants conditioned on adoption of one-call damage prevention program.

In allocating grants to State agencies under section 5 of the NGPSA and under section 205 of the HLPSA, the Office of Pipeline Safety considers whether a State has adopted or is seeking to adopt a one-call damage prevention program in accordance with § 198.37. If a State has not adopted or is not seeking to adopt such program, the State agency may not receive the full reimbursement to which it would otherwise be entitled.

§ 198.37 State one-call damage prevention program.

A State must adopt a one-call damage prevention program that requires the following at a minimum:

(a) Each area of the State that contains underground pipeline facilities must be covered by a one-call notification system.

(b) Each one-call notification system must be operated in accordance with § 198.39.

(c) Excavators must be required to notify the operational center of the appropriate one-call notification system of each intended excavation activity, giving the following information:

(1) Name of the person notifying the system.

(2) Name, address and telephone number of the excavator.

(3) Location, starting date, and description of the intended excavation activity.

However, in an emergency excavators may be allowed to begin an excavation activity if they are required to notify the operational center at the earliest practicable moment.

(d) The State must determine whether telephonic communications to the operational center of a one-call notification system under paragraph (c) of this section are to be toll free or not.

(e) Operators of underground pipeline facilities must be required to—

(1) Participate in the one-call notification systems that cover the areas of the State in which those pipeline facilities are located; and

(2) Respond in the manner prescribed by § 192.614 (b)(4) through (b)(6) of this chapter to notices of intended excavation activity received from the operational center of a one-call notification system.

(f) Either persons who control one-call notification systems or operators of underground pipeline facilities must be required to notify the public and known excavators in the manner prescribed by §§ 192.614 (b)(1) and (b)(2) of this chapter of the availability and use of one-call notification systems to locate underground pipeline facilities. However, this paragraph does not apply to condominium or cooperative associations or to operators who only own or operate gas distribution systems in connection with the leasing of real property.

(g) Operators of underground pipeline facilities, excavators, and persons who control one-call notification systems must be subject to civil penalties and injunctive relief for violations of applicable program requirements adopted under this section that are substantially the same as are provided under sections 11 and 12 of the Natural Gas Pipeline Safety Act of 1988 (49 app. U.S.C. 1679a and 1679b).

§ 198.39 Qualifications for operation of one-call notification system.

A one-call notification system qualifies to operate under this subpart if it complies with the following:

(a) It is controlled by—

(1) One or more persons who operate underground pipelines or other underground utilities;

(2) Private contractors;

(3) A State or local government agency; or

(4) A person who is otherwise eligible under State law to operate a one-call notification system.

(b) It receives and records information from excavators about intended excavation activities.

(c) It promptly transmits to the appropriate operators of underground pipeline facilities the information received from excavators about intended excavation activities.

(d) It maintains a record of each notice of intent to engage in an excavation activity for the minimum time set by the State or, in the absence of such time, for the time specified in the applicable State statute of limitations on tort actions.

(e) It tells persons giving notice of an intent to engage in an excavation activity the names of participating pipeline facility operators to whom the notice will be transmitted.

Issued in Washington, DC on July 5, 1990.

George W. Tenley, Jr.,

Director, Office of Pipeline Safety.

[FR Doc. 90–16014 Filed 7–10–90; 8:45 am]

BILLING CODE 4910–60–M

Notices

Federal Register
Vol. 55, No. 133
Wednesday, July 11, 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

Mt. Ashland Ski Development Plan

AGENCY: Forest Service, USDA.

ACTION: Notice intent to prepare a new draft environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare a new draft environmental impact statement (EIS) to replace the former draft EIS published in May 1987 for the proposed development of the Mt. Ashland Ski Area on the Ashland Ranger District, Rogue River National Forest, Jackson County, Oregon. The purpose of this new draft EIS is to present for public review and comment additional information that was not included in the May 1987 draft EIS. The agency invites written comments on the scope of this new draft EIS. The agency is giving notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the final.

DATES: Comments concerning the scope of this new draft must be received by July 30, 1990.

ADDRESSES: Submit written comments and suggestions concerning this new draft EIS to District Ranger, Ashland Ranger District, Ashland, Oregon 97520.

FOR FURTHER INFORMATION CONTACT: Mary Smelcer, District Ranger, Ashland Ranger District, Ashland, Oregon 97520; phone (503) 482–3333.

SUPPLEMENTARY INFORMATION: A notice of intent to prepare a draft EIS for this proposal was published in the Federal Register in February 26, 1987 (52 FR 5793). The notice of intent was revised twice: January 4 1989 (54 FR 164) and November 30, 1989 (54 FR 49318). Due to delays in the process and increased public concern regarding lack of documentation, additional information was collected and re-analyzed. The new draft EIS will include: new alternatives considered, new mitigation measures, new information on slope stability, soil sedimentation and delivery, risks to water quality from pollutants, and effects of implementation on the south side of Mt. Ashland.

The following issues and analysis will be addressed in the new draft EIS: protection of water quality within the Ashland Creek Watershed and how it would be affected by sewage facilities and soil disturbance, effects on the scenic resources at Mt. Ashland, and effect of proposals on the south side of Mt. Ashland.

The new draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by August, 1990. At that time, copies of the new draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a notice of availability of the draft EIS in the Federal Register.

The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the Federal Register. It is very important that those interested in the management of the Mt. Ashland Ski Area participate at that time.

To be the most helpful, comments on the new draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental reviews of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS, *City of Angoon* v. *Hodel*, 803 F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

After the comment period on the new draft EIS ends, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by Fall, 1990. In the final EIS, the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to review under 36 CFR part 217.

Dated: June 29, 1990.

Steven W. Deitemeyer,

Forest Supervisor.

[FR Doc. 90–16113 Filed 7–10–90; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Glendale Resource Conservation and Development, Utah; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Glendale Resource Conservation and Development Measure, Kane County, Utah.

FOR FURTHER INFORMATION CONTACT: Francis T. Holt, State Conservationist, Soil Conservation Service, 125 South State Street, Salt Lake City, Utah 84147–0350, telephone 801/586–5050.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Francis T. Holt, State Conservationist, has determined that the

preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for the reconstruction of two rock grade stabilization structures on the east fork of the Virginia River, north of Glendale, Utah. The planned improvements include: replacing the concrete floor in one structure and replacing the wingwall on the other structure.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic Data developed during the environmental assessment are on file and may be reviewed by contacting Francis T. Holt, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Domestic Assistance Program under No. 10.901—Resource Conservation and Development Program. Executive Order 12372, regarding state and local clearing house review of Federal and federally assisted programs is applicable)

Dated: May 29, 1990.

Norm Priest,

Deputy State Conservationist.

[FR Doc. 90-16046 Filed 7-10-90; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Arizona Advisory Committee to the United States Commission on Civil Rights; 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 the Arizona Advisory Committee to the Commission will convene at 3 p.m. and adjourn at 8 p.m. on Friday, July 27, 1990 and reconvene at 9 a.m. and adjourn at 4 p.m. on Saturday, July 28, 1990 at the Hyatt Regency, 122 North 2nd Street, Phoenix, Arizona 85004, (602) 252-1234. The Committee will evaluate information presented by Committee members on various projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Manual Pena or Philip Montez, Director of the Regional Divison (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division 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, July 3, 1990.

Wilfredo J. Gonzalez,

Staff Director.

[FR Doc. 90-16107 Filed 7-10-90; 8:45 am]

BILLING CODE 6335-01-M

North Carolina Advisory Committee to United States Commission on Civil Rights; 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 North Carolina Advisory Committee to the Commission will convene at 10:30 a.m. and adjourn at 4:00 p.m. on Thursday, July 26, 1990, at Shaw University, 118 East South Street, board room, Raleigh, NC 27611. The Committee will conduct a planning session featuring a prospective project on causes of racial tension on school and college campuses in North Carolina.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dr. David Broyles or John I. Binkley, Director, Eastern Regional Division at (202) 523-5264, TDD (202) 376-8117. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Division 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, July 3, 1990.

Wilfredo J. Gonzalez,

Staff Director.

[FR Doc. 90-16108 Filed 7-10-90; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 900669-0169]

Service Annual Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of consideration.

SUMMARY: The Bureau of the Census is proposing to expand, for 1990, the Service Annual Survey. This ongoing survey is conducted on a sample basis under authority of title 13, United States Code, sections 131, 182, 224, and 225. The survey provides national estimates of the total dollar volume of receipts for selected personal, business, social, health and other professional services.

Effective with the 1990 survey, the Census Bureau plans to begin collecting information on the major sources of receipts for computer and data processing services, management and consulting services, equipment rental and leasing, automotive rental and leasing, amusement parks, and offices of health practitioners. The survey shall begin not earlier the December 31, 1990.

DATES: Comments must be submitted on or before August 10, 1990.

ADDRESSES: Director, Bureau of the Census, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: Howard N. Hamilton on (301) 763-7564.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to take surveys necessary to furnish current data on subjects covered by the major censuses authorized by title 13, United States Code. This survey provides continuing and timely national statistical data on service industries for the period between economic censuses. The next economic censuses will be conducted for 1992. The data collected in this survey will be within the general scope and the type and character of those inquiries covered in the economic censuses.

Prelimiary information and recommendations received by the Bureau of the Census indicate that the data have significant application to the information needs of government agencies, the public, and the service industries, and that the data are not publicly available from other sources on a continuing basis.

The Bureau of the Census needs reports only from a limited sample of service firms on the United States, with probability of selection based on receipts size. The sample will provide, with measurable reliability, statistics on the above subject.

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

Dated: June 25, 1990.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 90-16097 Filed 7-10-90; 8:45 am]

BILLING CODE 3510-07-M

Bureau of Export Administration

Automated Manufacturing Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held August 1, 1990, 9:30 a.m. in the Herbert C. Hoover Building, room 1617F, 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to automated manufacturing equipment and related technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 377–2583.

Dated: July 6, 1990.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 90–16129 Filed 7–10–90; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

Short-Supply Request for Reconsideration; Certain Type 430 Stainless Steel Wire Rod

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply request for reconsideration.

SHORT-SUPPLY REVIEW NUMBER: 19.

SUMMARY: The Secretary of Commerce ("Secretary") hereby grants an request for reconsideration of its short-supply decision with respect to certain type 430 stainless steel wire rod for July-December 1990 under the U.S.-Brazil, U.S.-EC, U.S.-Japan, and U.S.-Korea steel arrangements.

EFFECTIVE DATE: June 21, 1990.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (202) 377–0159.

SUPPLEMENTARY INFORMATION: On May 29, 1990, the Secretary received an adequate short-supply petition from the American Wire Producers Association ("AWPA"), on behalf of four members of the Stainless Committee, requesting a short-supply allowance for 1,650 metric tons of various sizes of certain type 430 stainless steel wire rod with a carbon level not exceeding 0.04 percent, under Paragraph 8 of the Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Certain Steel Products, Article 8 of the Arrangement Between the Government of Brazil and the Government of the United States of America Concerning Trade in Certain Steel Products, Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products, and Article 8 of the Arrangement Between the Government of Korea and the Government of the United States of America Concerning Trade in Certain Steel Products. The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101–221, 103 Stat. 1886 (1989) ("the Act") and § 357.102 of the Department of Commerce's Short-Supply Regulations, published in the **Federal Register** on January 12, 1990, 55 FR 1348 ("Commerce's Short-Supply Regulations").

Because a potential domestic supplier of type 430 stainless steel wire rod demonstrated the ability to produce two sizes of the requested type 430 stainless steel wire rod and th willingness to supply 900 metric tons of this product, partially meeting the needs of members of the AWPA, the Secretary determined on June 13, 1990, that short supply exists only for the remaining 750 metric tons of this product. Pursuant to section 4(b)(4)(A) of the Act, and § 357.102 of Commerce's Short-Supply Regulations, the Secretary granted a short-supply allowance for 750 metric tons of the requested type 430 stainless steel wire rod for the second half of 1990. A notice of this decision was published in the **Federal Register** on June 21, 1990.

On June 21, 1990, the AWPA filed a timely request for reconsideration under § 357.109 of Commerce's Short-Supply Regulations for the remaining 900 metric tons of its third and fourth quarter needs, alleging that the statutory and regulatory standards governing short-supply reviews were misapplied, and information included in this review indicating that a condition of short supply exists in the domestic market was overlooked or ignored.

The Secretary hereby grants the AWPA's request for reconsideration and will review and affirm, modify, or reverse the original determination, and publish such decision in the **Federal Register.**

Dated: July 5, 1990.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–16128 Filed 7–10–90; 8:45 am]

BILLING CODE 3510–05–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

July 6, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 13, 1990.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535–6736. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain cotton, wool and man-made fiber textile products are being adjusted, variously, for carryover and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 47548, published on November 15, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 6, 1990.

Commissioner of Customs,
Department of the Treasury Washington, D.C. 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 9, 1989 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the period which began on January 1, 1990 and extends through December 31, 1990.

Effective on July 13, 1990, the directive of November 9, 1989 is being amended to adjust the current limits for cotton, wool and man-made fiber textile products in the following categories, as provided in the current bilateral textile agreement between the Governments of the United States and Singapore:

	Adjusted twelve-month limit [1]
Category levels in group I:	
334	63,899 dozen.
338/339	179,400 dozen.
335	893,534 dozen of which not more than 524,758 dozen shall be in Category 338 and not more than 583,465 dozen shall be in Category 339.
347/348	808,938 dozen of which not more than 506,479 dozen shall be in Category 347 and not more than 393,928 dozen shall be in Category 348.
435	6,547 dozen.
634	229,486 dozen.
640	148,709 dozen.
641	227,635 dozen.
Sublevel in group II:	
237	196,252 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception on the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-16164 Filed 7-10-90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Advisory Committee on Women in the Services

AGENCY: Defense Advisory Committee on Women in the Services (DACOWITS).

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92-463, notice is hereby given of a forthcoming meeting of the Executive Committee of the (DACOWITS). The purpose of the meeting is to review unresolved resolutions made by the committee at the DACOWITS 1990 Spring Conference; review the Subcommittee Issue Agenda; review the proposed agenda for the DACOWITS 1990 Fall Conference; and discuss issues relevant to women in the Services. All meeting sessions (with the exception of an office call with the Secretary of Defense) will be open to the public.

DATES: September 7, 1990, 9:30 a.m.-4 p.m.

ADDRESSES: SECDEF Conference Room 3E869, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Mary C. Pruitt, Director, DACOWITS and Military Women Matters, OASD (Force Management and Personnel), The Pentagon, Room 3D769, Washington, DC 20301-4000; telephone (202) 697-2122.

Dated: July 5, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-16093 Filed 7-10-90; 8:45 am]

BILLING CODE 3810-01-M

Closed Meeting of the Defense Intelligence Agency Advisory Board

AGENCY: Defense Intelligence Agency Advisory Board, DOD.

ACTION: Notice of cancellation of closed meeting.

SUMMARY: Notice is hereby given that the closed meeting of the DIA Advisory Board's Threat Modeling and Simulation Panel, scheduled for June 26, 1990, announced in the Federal Register on Thursday, June 14, 1990, Page 24135, Volume 55, was cancelled.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John G. Sutay, USAF, Chief, DIA Advisory Board Office, Washington, DC 20340-1328 (202/373-4930).

Dated: July 5, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-16092 Filed 7-10-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Privacy Act of 1974; Deletion and Amendment of Record Systems

AGENCY: Department of the Air Force, (DoD).

ACTION: Amendment and deletion of record systems for public comment.

SUMMARY: The Department of the Air Force proposes to delete two and amend five record systems in its inventory of record systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: The deletions will become effective upon publication in the Federal Register. The amended systems will be effective August 10, 1990, unless comments are received which result in a contrary determination.

ADDRESSES: Send any comments to Mrs. Anne Turner, SAF/AAIA, The Pentagon, Washington, DC 20330-1000. Telephone (202) 697-3491 or AUTOVON 227-3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force record systems notices subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a), have been published in the Federal Register as follows:

50 FR 22332, May 29, 1985 (DoD Compilation, changes follow)
50 FR 24672, Jun 12, 1985
50 FR 25737, Jun 21, 1985
50 FR 46477, Nov 8, 1985
50 FR 50337, Dec 10, 1985
51 FR 4531, Feb 5, 1986
51 FR 7317, Mar 5, 1986
51 FR 16735, May 6, 1986
51 FR 18927, May 23, 1986
51 FR 41382, Nov 14, 1986
51 FR 44332, Dec 9, 1986
52 FR 11845, Apr 13, 1987
53 FR 24354, Jun 28, 1988
53 FR 45800, Nov 14, 1988
53 FR 50072, Dec 13, 1988
53 FR 51301, Dec 21, 1988
54 FR 10034, Mar 9, 1989
54 FR 43450, Oct 25, 1989
54 FR 47550, Nov 15, 1989

55 FR 21770, May 29, 1990 (Air Force Address Directory)
55 FR 21900, May 30, 1990

The deletion and amendments do not require the submission of altered systems reports, as required by the Privacy Act of 1974, as amended (5 U.S.C. 552a). The changes to the record systems, and the amended record systems in their entirety, are provided below.

Dated: July 5, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS

F035 MP C

SYSTEM NAME:

F035 MP C—Personnel Action File (Officer Digest File) (51 FR 44347, December 9, 1986).

REASON:

This system is no longer required. There are no plans to reinstate the system in the future.

F050 TAC B

SYSTEM NAME:

F050 TAC B—Mobility Automated Training System (MATS) (50 FR 22460, May 29, 1985).

REASON:

This system is no longer required. There are no plans to reinstate the system in the future.

F067 AF B

SYSTEM NAME:

F067 AF B—Base Service Store/Tool Issue Center Access (51 FR 41402, November 14, 1986).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entire entry and substitute with "Retail Sales Sections at Air Force installations. Official mailing addresses are published as an appendix to the agency's compilation of record system notices."

* * * * *

AUTHORITY FOR MAINTAINING THE SYSTEM:

At end of entry, add "* * * and Executive Order 9397."

* * * * *

RETRIEVABILITY:

Delete entire entry and replace with "Access is by Social Security Number for military members. Access is by Social Security Number or civilian identification card number for civilian employees and foreign nationals."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entire entry and replace with "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F067 AF B

SYSTEM NAME:

F067 AF B—Base Service Store/Tool Issue Center Access.

SYSTEM LOCATION:

Retail Sales Section at Air Force installations. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and reserve military and civilian personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Identification data on individuals authorized access to purchase Base Service Store/Tool Issue items.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 U.S.C. 9832; Property Accountability Regulations; and Executive Order 9397.

PURPOSE(S):

Control access to Base Supply's Base Service Store and Tool Issue Center Units at each Air Force installation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Maintain on computer and computer output products, and in paper form.

RETRIEVABILITY:

Access is by Social Security Number for military members. Access is by Social Security Number or civilian identification card number for civilian employees and foreign nationals.

SAFEGUARDS:

Access to the records is controlled by computer system software and is limited to individuals responsible for servicing the system.

RETENTION AND DISPOSAL:

Retained until superseded or cancelled by individual's commander.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force, Washington, DC 20330–5130.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address inquiries to the Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force, Washington, DC 20330–5130.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address requests to the Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force, Washington, DC 20330–5130.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from the individual or from the individual's commander.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F067 AF LE A

SYSTEM NAME:

F067 AF LE A—Personal Clothing and Equipment Record (50 FR 22469, May 29, 1985).

CHANGES:

* * * * *

SYSTEM LOCATION:

Change "Equipment Management Offices * * *" to read, "Individual Equipment Units * * *".

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to end of sentence "* * *, and Executive Order 9397."

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Add as first sentence, "Recorded electronically in a microcomputer."

RETRIEVABILITY:

Delete entire entry and replace with "Access is by Social Security Number for military members. Access is by Social Security Number or civilian identification card number for civilian employees and foreign nationals. Filed by last name, first initial, and last four digits of Social Security Number."

SAFEGUARDS:

Add as first sentence, "Access to the microcomputer records for the purpose of making adds, changes, or deletions will be controlled using passwords assigned to individuals assigned to the Individual Equipment Unit." Begin second sentence with, "Paper records will be * * *".

RETENTION AND DISPOSAL:

Add as first sentence, "Microcomputer records will be programmatically deleted 180 days after an individual has returned accountable items to the Individual Equipment Unit."

Begin second sentence with, "Paper records will be * * *". In second from last sentence, delete "Equipment Management function * * *", and replace with, "Individual Equipment Unit * * *".

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entire entry and replace with "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

* * * * *

F067 AF LE A

SYSTEM NAME:

F067 AF LE A—Personal Clothing and Equipment Record.

SYSTEM LOCATION:

Individual Equipment Units at Air Force installations. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and reserve military and civilian personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Expendable and non-expendable individual personal clothing and equipment records.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 U.S.C. 9832; Property Accountability Regulations; and Executive Order 9397.

PURPOSE(S):

Accounting for authorized clothing and equipment issued to members and employees. Periodically reviewed by supply personnel and certified by the individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Recorded electronically in a microcomputer. Maintained as paper records and stored in vertical file folders.

RETRIEVABILITY:

Access is by Social Security Number for military members. Access is by Social Security Number or civilian identification card number for civilian employees and foreign nationals. Filed by last name, first initial, and last four digits of Social Security Number.

SAFEGUARDS:

Access to the microcomputer records for the purpose of making adds, changes, or deletions will be controlled using passwords assigned to individuals assigned to the Individual Equipment Unit. Paper records will be stored in file cabinets in locked rooms. Records are accessed by person(s) responsible for servicing the records system in performance of their official duties.

RETENTION AND DISPOSAL:

Microcomputer records will be programmatically deleted 180 days after an individual has returned accountable items to the Individual Equipment unit. Paper records will be retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

When the individual is discharged, the signed copy of the record is forwarded to the Consolidated Base Personnel Office for disposition. The originals are retained by the Individual Equipment Unit and destroyed after the turn-in of all equipment by the individual. Records are then destroyed by tearing into pieces, shredding, macerating, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force, Washington, DC 20330–5130.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address inquiries to the Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force, Washington, DC 20330–5130.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address requests to the Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force, Washington, DC 20330–5130.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F050 TAC A

SYSTEM NAME:

F050 TAC A—Student Record File (50 FR 22459, May 29, 1985).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entire entry and replace with "Tactical Air Command (TAC) Noncommissioned Officer (NCO) Academy West, Bergstrom Air Force Base, TX 78743–5000, and Detachment 1, 4500 School Squadron, TAC NCO Academy East, Tyndall AFB, FL 32403–5000."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change "10 U.S.C. § 8012" to "10 U.S.C. § 8013."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM; INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entire entry and replace with "The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation apply to this system."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entire entry and replace with "Maintained in card files and on computer and computer output products."

* * * * *

RETENTION AND DISPOSAL:

Delete entire entry and replace with "Records are retained for 10 years after individual completes or discontinues a training course, then destroyed by tearing into pieces, shredding, macerating, or burning. Computer records will be destroyed by degaussing or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entire entry and replace with "Director of Education, TAC NCO Academy West, Bergstrom AFB TX 78743–5000 and Director of Education, TAC NCO Academy East, Tyndall AFB, FL 32403–5000."

NOTIFICATION PROCEDURE:

Delete entire entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the appropriate system manager."

RECORD ACCESS PROCEDURES:

Delete entire entry and replace with "Individuals seeking access to records about themselves contained in this system should address requests to the appropriate system manager."

CONTESTING RECORD PROCEDURES:

Delete entire entry and replace with "The Air Force rules for access to record and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F050 TAC A

SYSTEM NAME:

F050 TAC A—Student Record File.

SYSTEM LOCATION:

Tactical Air Command (TAC) Noncommissioned Officer (NCO) Academy West, Bergstrom Air Force Base, TX 78743–5000, and Detachment 1, 4500 School Squadron, TAC NCO Academy East, Tyndall AFB, FL 32403–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty enlisted military personnel assigned to the Academy.

CATEGORY OF RECORDS IN THE SYSTEM:

Individual student evaluation record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; Powers and Duties, delegation by.

PURPOSE(S):

Used to monitor the academic progress of academy students and as a history file.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM; INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Maintained in card files and on computer and computer output products.

RETRIEVABILITY:

Filed by class and by name.

SAFEGUARDS:

Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

Records are retained for 10 years after individual completes or discontinues a training course, then destroyed by tearing into pieces, shredding, macerating, or burning. Computer records will be destroyed by degaussing or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Education, TAC NCO Academy West, Bergstrom AFB TX 78743–5000 and Director of Education, TAC NCO Academy East, Tyndall AFB, FL 32403–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Director of Education, TAC NCO Academy West, Bergstrom AFB TX 78743–500 and/or Director of Education, TAC NCO Academy East, Tyndall AFB, FL 32403–5000.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system should address requests to the Director of Education, TAC NCO Academy West, Bergstrom AFB TX 78743–500 and/or Director of Education, TAC NCO Academy East, Tyndall AFB, FL 32403–5000.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information for this system is obtained form automated system interfaces and from student performance evaluations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 AF MP N

SYSTEM NAME:

F035 AF MP N–Individual Weight Management File (50 FR 22382, May 29, 1985).

CHANGES:

SYSTEM NAME:

Delete current name and substitute "Individual Weight Management and Physical Fitness File."

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entire entry and replace with "Air Force active duty military personnel; Air National Guard (ANG) and Air Force Reserve personnel who are enrolled in the Weight Management and/or Fitness Programs."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entire entry and replace with "File contains individual weight management/physical fitness record; letters informing individual or overweight/unfit status, changes in weight/fitness status, scheduling medical evaluation, documenting meducal progress, copies of administrative actions taken and other pertinent documentation."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entire entry and repalae with "10 U.S.C. 8013, Secretary of the Air Force; Powers and Duties, delegation by; as implemented by Air Force Regulation 35–11, Air Force Weight Control and Physical Fitness Programs; and Executive Order 9397."

PURPOSE(S):

Delete entire entry and replace with "To document individuals' progress in the Weight Management/Physical Fitness Program. The file keeps individuals informed of weight loss and fitness goals in attaining maximum allowable weight, provides history of weight loss, fitness and counselling, and provides as input for medical determinations."

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

delete entire entry and repace with "Maintained in file folders and on computer and computer output products."

SAFEGUARDS:

Delete entire entry and replace with "Records are accessed by custodian of the records system and by person(s) responsible for servicing the records system in performance of their official duties who are properly screened and cleared for need-to-know. Records are controlled by personnel screening."

RETENTION AND DISPOSAL:

Delete entire entry and replace with "When a person achieves the prescribed weight standards or desired fitness level, file is retained for one year from removal from the Weight Management/Fitness Program and destroyed by unit; or destroyed upon retirement or separation by unit, whichever is earlier; or upon successful completion of probation and rehabilitation under Air Force Regulation 39–10."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entire entry and replace with "Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force, Washington, DC 20330–5060."

NOTIFICATION PROCEDURE:

Delete entire entry and replace with "Individuals seeking to deatermine whether this system or records contains information on them should address inquiries to the Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force, Washington, DC 20330–5060 or to the Commander at the unit of assignment or attachment. Official mailing addresses are published as an appendix to the agency's compilation of records system notices.

RECORD ACCESS PROCEDURE:

Include full name, grade, and Social Security Number. Personal visits require proof of identity with an Armed Forces Identification Card."

RECORD ACCESS PROCEDURES:

Delete entire entry and replace with "Individuals seeking access to records about themselves contained in this system should address requests to the Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force, Washington, DC 20330–5060 or to the commander at the unit of assignment or attachment. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

Include full name grade, and Social Security Number. Personal visits requires proof of identity with an Armed Forces Identification Card."

CONTESTING RECORD PROCEDURES:

Delete entire entry and replace with "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F035 AF MP N

SYSTEM NAME:

F035 AF MP N—Individual Weight Management and Physical Fitness File

SYSTEM LOCATION:

Air Force unit of assignment or attachment and servicing medical facility. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel; Air National Guard (ANG) and Air Force Reserve personnel who are enrolled in the Weight Management and/or Fitness Programs.

CATEGORY OF RECORDS IN THE SYSTEM:

File contains individuals weight management/physical fitness record; letters informing individual of overweight/unfit status, changes in weight/fitness status, scheduling medical evaluation, documenting medical progress, copies of administrative actions taken and other pertinent documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; Powers and Duties, delegation by; as implemented by Air Force Regulation 35–11, Air Force Weight Control and Physical Fitness Program; and Executive Order 9397.

PURPOSE(S):

To document individuals' progress in the Weight Management/Physical Fitness Programs. The file keeps individuals informed of weight loss and fitness goals in attaining maximum allowable weight, provides history of weight loss, fitness and counselling, and provides an input for medical determinations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM; INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer and computer output products.

RETRIEVABILITY:

Filed by name, Social Security Number and grade.

SAFEGUARDS:

Records are accessed by custodian of the records system and by person(s) responsible for servicing the records system in performance of their official duties who are properly screened and cleared for need-to-know. Records are controlled by personnel screening.

RETENTION AND DISPOSAL:

When a person achieves the prescribed weight standards or desired fitness level, file is retained for one year from removal from the Weight Management/Fitness Program and destroyed by unit; or destroyed upon retirement or separation by unit, whichever is earlier; or upon successful completion of probation and rehabilitation under Air Force Regulation 39–10.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force, Washington, DC 20330–5060.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains

information on them should address inquiries to the Deputy Chief of Staff/ Manpower and Personnel, Headquarters United States Air Force, Washington, DC 20330–5060 or to the Commander at the unit of assignment or attachment. Official mailing addresses are published as an appendix to the agency's compilation or record system notices.

Include full name, grade, and Social Security Number. Personal visists require proof of identity with an Armed Forces Identification Card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address requests to the Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force, Washington, DC 20330–5060 or to the Commander at the unit of assignment or attachment. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

Include full name, grade, and Social Security Number. Personal visits require proof of identity with an Armed Forces Identification Card.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 43 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F112 AF JA A

SYSTEM NAME:

112 AF JA A—Claims Administrative Management Program (CAMP) (50 FR 22485, May 29, 1985)

CHANGES:

SYSTEM NAME:

Delete current name and substitute with "Air Force Claims Information Management System (AFCIMS)".

SYSTEM LOCATION:

Delete entire entry and replace with "Headquarters United States Air Force (HQ USAF), Washington, DC 20330–5120; 2nd Computer Services Center (2CSS), 8961 Tesoro Drive, Suite 201, San Antonio, TX 78217–6297; and headquarters of major commands and at all levels down to and including Air Force installations. Official mailing addresses are published as an appendix to the agency's compilation of record system notices."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to the end of the entry "* * * and Claims Administrative Management Program (CAMP) records."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change "10 U.S.C. § 8012 * * *" to "10 U.S.C. §8013. * * *", and add to end of sentence, "* * * and Executive Order 9397."

PURPOSE(S):

Delete entire entry and replace with "Used by the Judge Advocate General (JAG) and claims processing JAG offices within the Air Force for claims adjudication and processing, budgeting, management of claims processing to ensure worldwide consistency, and establishment of manpower authorization based on claims workload.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entire entry and substitute with "The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of records system notices apply to this system."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Delete entire entry and replace with "By name, claim number or Social Security Number."

SAFEGUARDS:

Add to second sentence, "* * * and on computers with passwords required to access the system, or in physically securable areas."

RETENTION AND DISPOSAL:

Delete entire entry and replace with "At HQ USAF and within mainframe located at 2CSS, retained for 10 years then destroyed by tearing into pieces, shredding, pulping, macerating, burning, or erasure from computer data system.

At other than HQ USAF and 2CCS, retained in office files for five years, then destroyed by tearing into pieces, shredding, pulping, macerating, burning or erasure from computer data systems."

SYSTEM MANAGER(S) AND ADDRESS:

Add to end of sentence, "* * * Building 5683, Bolling AFB, DC 20332–6128."

NOTIFICATION PROCEDURE:

Delete entire entry and replace with "Individuals seeking to determine if information about themselves is contained in this system should address written inquiries to the Judge Advocate General, HQ USAF, Building 5683, Bolling AFB, DC 20332–6128.

Requests should include full name, current military or civilian (DoD) status, Social Security Number and proof of identity with an Armed Forces identification card or drivers license."

RECORDS ACCESS PROCEDURES:

Delete entire entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the Judge Advocate General, HQ USAF, Building 5683, Bolling AFB, DC 20332–6128.

Requests should include full name, current military or civilian (DoD) status, Social Security Number and proof of identity with an Armed Forces identification card or drivers license."

* * * * *

F112 AF JA A

112 AF JA A—Air Force Claims Information Management System (AFCIMS)

SYSTEM LOCATION:

Headquarters United States Air Force (HQ USAF), Washington, DC 20330–5120; 2nd Computer Services Center (2CSS), 8961 Tesoro Drive, Suite 201, San Antonio, TX 78217–6297; headquarters of major commands and at all levels down to and including Air Force installations. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military and civilian personnel filing administrative claims against the Air Force or against whom the Air Force has filed an administrative claim.

CATEGORIES OF RECORDS IN THE SYSTEM;

Individual claim record and Claims Administration Management Program (CAMP) records.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and Duties; delegation by, and Executive Order 9397.

PURPOSE(S):

Used by the Judge Advocate General (JAG) and claims processing JAG offices within the Air Force for claims adjudication and processing, budgeting,

management of claims processing to ensure worldwide consistency, and establishment of manpower authorization based on claims workload.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, on computer and computer output products, and mircrofilm.

RETRIEVABILITY:

By name, claim number, or Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets and in vaults, and on computers with passwords required to access the system, or in physically securable areas in offices.

RETENTION AND DISPOSAL:

At HQ USAF and within mainframe located at 2CSS, retained for 10 years then destroyed by tearing into pieces, shredding, pulping, macerating, burning, or erasure from computer data system.

At other than HQ USAF and 2CSS, retained in office files for five years, then destroyed by tearing into pieces, shreeding, pulping, macerating, burning or erasure from computer data system.

SYSTEM MANAGER(S) AND ADDRESS:

The Judge advocate General, HQ USAF, Building 5683, Bolling AFB, DC 20332-6128.

NOTIFICATION PROCEDURE:

Individuals seking to determine if information about themselves is contained in this system should address written inquiries to the Judge advocate General, HQ USAF, Building 5683, Bolling AFB, DC 20332-6128.

Requests should include full name, current military or civilian (DoD) status, Social Security Number and proof of identity with an Armed Forces identification card or drivers license.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Judge Advocate General, HQ USAF, Building 5683, Bolling AFB, DC 20332-6128.

Requests should include full name, current military or civilian (DoD) status, Social Security Number and proof of identity with an Armed Forces identification card or drivers license.

CONTESTING RECORDS PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12-35; 32 CFR part 860b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information from claimants and government agencies involved.

EXCEPTIONS CLAIMED FOR THE SYSTEMS:

None.

[FR Doc. 90-16094 Filed 7-10-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF THE DEFENSE

Department of the Army

Availability of a Draft Environmental Impact Statement for the Fort Douglas, Utah, Base Closure

AGENCY: U.S Army, DoD.

SUMMARY: Fort Douglas was recommended for closure by the Defense Secretary's Commission on Base Realignment and Closure. The Commission specifically recommended: The relocation of the Reserve Pay Input Station to Fort Carson, CO; the relocation of other major activities to leased space in Salt Lake City, UT; and the segregation and retention of a portion of Fort Douglas for reserve component activities. This document focuses upon the environmental and socioeconomic impacts and mitigations associated with the planned closure of Fort Douglas and realignment activities at Fort Carson and Tooele Army Depot, UT.

No long-term adverse environmental effects at Fort Douglas are expected as a result of realignment and closure implementation. The Department of Defense Office of Economic Adjustment is working withg the local community to develop reuse alternatives to lessen the socioeconomic impacts. No adverse environmental or socioeconomic impacts are anticipated at either Fort Carson or Tooele Army Depot.

The public is encouraged to comment on the Draft EIS. Public notices requesting input and comments will be issued, and a public hearing will be held in the community adjacent to Fort Douglas in about one month. A copy of the Draft EIS may be obtained by contacting Mr. Frank Baser, (916) 551-2146 or 962-2558, or by writing to: Commander, U.S. Army Corps of Engineers, Sacramento District, 650 Capitol Mall, Sacramento, California 95814-2147.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environmnent, Safety and Occupational Health) OASA (I, L&E).

[FR Doc. 90-16039 Filed 7-10-90; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection.

ADDRESSES: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson, Office of Federal Acquisition Policy, (202) 501-3221 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697-7268.

SUPPLEMENTARY INFORMATION:

a. Purpose

The provision at 52.207-4, Economic Purchase Quantities—Supplies, invites offerors to state an opinion on whether the quantity of supplies on which bids, proposals, or quotes are requested in solicitations is economically advantageous to the Government. Each offeror who believes that acquisitions in different quantities would be more advantageous is invited to (a) recommend an economic purchase quantity, showing a recommended unit and total price, and (b) identify the

different quantify points where significant price breaks occur. This information is required by Public Law 98–577 and Public Law 98–525.

b. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, *2,252;* responses per respondent, *35;* total annual responses, *78,820;* hours per response, *.83;* and total response burden hours, *65,421.*

Obtaining Copies of Proposals: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0082, Economic Purchase Quantities—Supplies.

Dated: June 29, 1990.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 90–16106 Filed 7–10–90; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Arbitration Panel Decision

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on August 1, 1989, an arbitration panel rendered a decision in the matter of *Lessie Hall, vendor,* v. *the State of Tennessee, Tennessee Department of Human Services, State licensing agency (Docket No. R–S/87–11).* This panel was convened by the Secretary of the Department of Education pursuant to 20 U.S.C. 107d–1(a), upon receipt of a complaint filed by petitioner Lessie Hall on June 4, 1987. Under this section of the Act, a blind licensee who is dissatisfied with the State's operation or administration of the vending facility program authorized under the Randolph-Sheppard Act may request a full evidentiary hearing from the State licensing agency. If the licensee is dissatisfied with the State agency's decision, the licensee may complain to the Secretary, who is then required to convene an arbitration panel to resolve the dispute.

FOR FURTHER INFORMATION CONTACT: George F. Arsnow, Chief, Vending Facility Branch, Division for Blind and Visually Impaired, Rehabilitation Services Administration, room 3230, Mary E. Switzer Building, Department of Education, 330 C Street, SW., Washington, DC 20202–2738. Telephone: (202) 732–1317 or TTY (202) 732–1298. A synopsis of the panel's decision follows. The full text of the arbitration panel decision can be obtained from this contact.

Dated: July 5, 1990.

Dr. Robert R. Davila,

Assistant Secretary for Special Education and Rehabilitative Services.

Synopsis of Arbitration Panel Decision

Lessie Hall, complainant, is a blind vendor licensed by the respondent, the Tennessee Department of Human Services, the State licensing agency (SLA), pursuant to the Randolph-Sheppard Act in 20 U.S.C. 107 *et seq.* The SLA, through its Division of Services for the Blind, operates the Tennessee Vending Facility Program for blind vendors. The purpose of the program is to establish and support blind vendors operating vending facilities on Federal and State property.

Mr. Hall successfully participated in the State agency program, managing vending facilities since 1970.

The dispute giving rise to arbitration arose in September, 1986, when the SLA rejected Mr. Hall's application to become the manager of Facility No. 205 (a State office building in Memphis) and awarded the position to a competing applicant. Earlier, on August 13, 1986, the agency had notified Mr. Hall and all participating vendors that Facility No. 205 was recently vacant and solicited bids from those who wanted to be considered for the vacancy. The rules and regulations of the agency specified that the position be awarded to a qualified applicant with the greatest amount of seniority in the program. On September 12, 1986, the agency awarded the facility to another applicant, although Mr. Hall had more seniority in the program. The agency denied Mr. Hall the position because, in its view, he was not qualified.

Mr. Hall complained that the SLA had improperly changed the level of service at Facility No. 205. Specifically, at the time Facility No. 205 was vacated in late July, 1986, it was classified as a Category 3 facility, which offers counter service and vending sales. The agency decided to upgrade the stand to a Category 4 facility, a combination facility that would offer onsite food preparation in addition to counter service and vending sales. The reclassification meant that the State agency would have to purchase new food preparation equipment for installation at the facility—a process that would take several months. Nevertheless, the agency's August 13, 1986 notice to vendors stated that Facility No. 205 was immediately available as a Category 4 facility. Under the rules of the agency, the manager of a Category 4 facility must be trained and certified for onsite food preparation. At the time of the August notice, when the agency advertised the facility as a Category 4 operation, Mr. Hall had not been trained nor had he been certified to operate such a facility.

Mr. Hall formally protested the award of Facility No. 205 through the administrative procedures of the State agency. On February 19, 1987, his complaint was heard before a Hearing Officer. The Report and Initial Order was issued on March 27, 1987, and contained the following findings: (1) Although the State agency could rclassify Facility No. 205 unilaterally, and without participation of the State Committee of Blind Vendors, it had failed to equip the facility with the food preparation equipment needed for the reclassification; (2) the award of the facility to another applicant violated agency rules because the other applicant was not qualified to operate a Category 4 Facility; (3) the State agency violated its training regulations by awarding the facility before Mr. Hall had been afforded the opportunity to receive the requisite training; and (4) despite the preceding findings, Mr. Hall was not entitled to the award "due to his lack of certification" (quotations in original). Based upon these findings, the Hearing Officer recommended that the State agency rebid the facility and further denied Mr. Hall's claim for monetary relief.

On May 7, 1987, the Commissioner of the SLA issued a Final Order that adopted the Hearing Officer's Initial Order "insofar as it found Mr. Hall had not been a qualified bidder." In a related case, the Commissioner directed that Facility No. 205 be awarded to another unsuccessful bidder, and that, if unsuccessful bidder declines, the Facility be readvertised for bids. On June 22, 1987, Mr. Hall obtained an injunction from a Federal District Court to prevent any permanent award of the disputed facility pending completion of arbitration proceedings.

Arbitration Panel Decision

Upon receipt of a complaint filed by Lessie Hall on June 4, 1987, the Secretary of Education convened an arbitration panel that conducted a hearing on August 4, 1988. The central issue was whether the SLA properly applied State Randolph-Sheppard Vending Facility rules and regulations in

the September 12, 1986 award of Facility No. 205.

The panel found that the State agency had not notified Mr. Hall or any other vendors that classification of Facility No. 205 had been changed. Therefore, the panel found that Mr. Hall had no reason to believe that additional training was needed in order to qualify for the facility since, only a few months before, the agency had announced that the facility had been classified as a Category 3 stand.

The panel further found that the State agency had the authority to reclassify the disputed facility. However, the panel agreed unanimously with Mr. Hall's complaint that the State agency violated its own regulations—(1) by making the change in a manner that denied Mr. Hall adequate opportunity to learn of the change in time to seek training for the upgraded facility; and (2) by not making that training available to Mr. Hall before awarding the facility.

The panel directed the SLA to give appropriate notice and training opportunities to vendors in the program when facility service levels are modified. The panel further ordered the State agency to make Mr. Hall whole by offering him the Memphis facility (Facility No. 205) if the selected applicant declined it, or, if the selected applicant accepted it, by extending to Mr. Hall for a period of two years a preference in assignment to a future vacancy at a facility comparable to the one in Memphis. Given the uncertain value of the right that Mr. Hall was denied, the inadvertent nature of the denial, and the practical problems presented by a remedy that would affect persons (vendors) not subject to our (the panel's) jurisdiction," the panel declined to direct the State agency to vacate the original assignment and repeat the bid process. For these same reasons, the panel determined that an award of consequential damages to Mr. Hall was not appropriate.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

[FR Doc. 90-16126 Filed 7-10-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award Intent To Award Grant to Tecogen, Inc.

AGENCY: U.S. Department of Energy.

ACTION: Notice of non-competitive financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.7(b)(2)(i)(A), it plans to make a non-competitive financial assistance award to Tecogen, Inc. to fund the completion of work to develop desiccant based heat actuated cooling assessment for District Heating and Cooling (DHC) systems over a 1-year budget and project period under Grant Number DE-FG01-90CE26593 to Tecogen, Inc. in the amount of $94,633.

SCOPE: The objective of the grant will be to advance the state-of-the-art of existing industrial-grade, commercially available systems by 50 percent. Under this grant Tecogen, Inc. will, (1) Continue investigating a number of case studies that were begun under the first phase of the project in order to more fully define the practical domain of liquid desiccant technology, (2) perform a comprehensive cost reduction study for heating, ventilating, and air conditioning (HVAC) grade liquid desiccant technology, in order to design a system that can be cost-competitive with other cooling technologies, and (3) perform a study to obtain valuable input from potential users that will assist in the cost reduction study.

ELIGIBILITY: The proposed grant is being restricted to Tecogen, Inc. because Tecogen, Inc. has completed two studies related to desiccant based heat actual assessment for DHC systems.

Mr. Frederick E. Becker, the principal investigator, holds a B.S. and a M.B.A. in business administration, specializing in research, development and commercialization of space conditioning hardware, and has extensive experience in the field of energy conservation technology. He was responsible for the development of a high-efficiency, warm air heating system and more recently, he has been closely involved in the design and development of Tecogen's liquid and solid desiccant systems.

Tecogen, Inc. has completed an analytical study of a novel quasi-open-cycle (steam) heat pump system for a district heating applications which was reported to the Department under report number DOE/RE/26563-5 entitled, "Open-Cycle Heat Pump Development for Local Resource Use" November 1987. A final report for the second phase (a detailed case study of a typical application of this quasi-open-cycle steam heat pump concept) is being prepared for submittal to DOE. The proposed activity to be funded is necessary to the satisfactory completion of an activity previously funded by DOE and for which competition would have a significant adverse effect on completing the activity.

Upon conclusion of the research and analysis Tecogen, Inc. proposed to commercialize use of the desiccant based heat actuated cooling systems to reduce the cost of existing industrial-grade systems and to continue efforts to identify suitable applications of the system within the DHC network.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: Calvin Lee, PR-542, 1000 Independence Avenue, SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B" Office of Procurement Operations.

[FR Doc. 90-16166 Filed 7-10-90; 8:45 am]

BILLING CODE 6450-01-M

Advisory Committee on Nuclear Facility Safety; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Advisory Committee on Nuclear Facility Safety

Date and Time: Wednesday, August 1, 1990, 8 a.m. to 6 p.m. Thursday, August 2, 1990, 8 a.m. to 1 p.m.

Place: U.S. Department of Energy, Forrestal Building, room 1E-245, 1000 Independence Ave., SW., Washington, DC 20585.

Contact: Wallace R. Kornack, Executive Director, ACNFS, S-2, 1000 Independence Ave. SW., Washington, DC 20585, 202/586-1770.

Purpose of the Committee: The Committee was established to provide the Secretary of Energy with advice and recommendations concerning the safety of the Department's production and utilization facilities, as defined in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

Tentative Agenda

August 1, 1990

8 a.m. Chairman John F. Ahearne opens meeting; DOE Facility Issues
Noon Lunch
1 p.m. Review of Selected Technical Issues
5 p.m. Public Comment Period
6 p.m. Meeting Adjourned Until Next Day

August 2, 1990

8 a.m. Review of Selected Technical Issues; Subcommittee Reports; Committee Business
1 p.m. Meeting Ends

Public Participation

This meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Wallace Kornack at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Ave. SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on July 5, 1990.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 90–16168 Filed 7–10–90; 8:45 am]

BILLING CODE 6450–01–M

Solicitation of Public Comments for a Draft Report Entitled "Assessment of Costs of Producing Methanol From Unutilized Domestic Natural Gas"

AGENCY: Office of Policy, Planning and Analysis, Department of Energy.

ACTION: Solicitation of public comments.

SUMMARY: The Department of Energy (DOE) has prepared a draft report that characterizes unutilized domestic natural gas and provides an economic analysis of methanol plants as required by the Alternative Motor Fuels Act of 1988.

DATES: Written comments must be received on or before August 10, 1990.

ADDRESSES: For copies of the draft: Mark E. Bower, Department of Energy, Office of Energy Demand Policy, PE–50, 1000 Independence Avenue SW., Washington, DC 20585, Phone: (202) 586–4456.

For submittal of written comments: Benton F. Massell, Department of Energy, Office of Energy Demand Policy, PE–50, 1000 Independence Avenue SW., Washington, DC 20585, Phone: (202) 586–4456.

SUPPLEMENTARY INFORMATION: The Alternative Motor Fuels Act of 1988 (Pub. L. 100–494, section EE) states that the Secretary of Energy—

> * * * shall study methanol plants, including the costs and practicability of such plants, that are (a) Capable of utilizing current domestic supplies of unutilized gas; (b) relocatable; or (c) suitable for natural gas to methanol conversion by natural gas distribution companies. For purposes of this subsection, the term "unutilized natural gas" is defined as gas that is available in small remote fields and cannot be economically transported to natural gas pipelines, or gas the quality of which is so poor that extensive and uneconomic pretreatment is required prior to its introduction into the natural gas distribution system.

The Department of Energy has prepared a draft report, "Assessment of Costs of Producing Methanol From Unutilized Domestic Natural Gas," that characterizes unutilized domestic natural gas and provides an economic analysis of methanol plants as required by the Act.

Linda G. Stuntz,

Deputy Under Secretary, Office of Policy, Planning and Analysis.

[FR Doc. 90–16167 Filed 7–10–90; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Record of Decision on the Capacity for Energy Exchange and Surplus Firm Capacity Sale Agreement With the Cities of Riverside and Anaheim, CA

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Record of decision (ROD).

SUMMARY: BPA has decided to enter into agreements with each of the Cities of Riverside and Anaheim, California ("Resale Cities"), which provides for BPA to exchange capacity for energy and for BPA to sell surplus firm capacity. Beginning no earlier than May 1, 1990, BPA will make available, and the Resale Cities will purchase, surplus firm capacity during the months of November through May, and BPA will deliver capacity during the months June through October in exchange for delivery of energy by the Resale Cities during the period October 1 through April 15. The contract demand for the capacity for energy exchange is 47 megawatts (MW). The contract demand for the capacity sale is 32 MW for the months of November through April and 47 MW for the month of May.

The potential environmental effects of this decision are addressed in the Intertie Development and Use Final Environmental Impact Statement (IDU Final EIS, DOE/EIS–0125F). The IDU Final EIS analyzed the environmental effects of various extraregional firm marketing activities, such as these agreements with the Resale Cities. The alternative actions considered were: (1) To take no action, *i.e.*, not to enter into firm contracts with extraregional entities; and (2) to enter into a variety of firm contracts including features like those contained in the agreements with the Resale Cities. In making this decision, full consideration was given to environmental, economic, and legal factors.

Except for potential effects on resident fish and cultural resources, the IDU analyses indicated no significant adverse environmental impacts in the Pacific Northwest (PNW), California, Inland Southwest (ISW), or British Columbia as a result of BPA's proposal to make firm sales or exchanges outside the PNW. In consultation with the U.S. Fish and Wildlife Service and the State of Montana, BPA is funding imprint planting and habitat improvements on Hungry Horse Reservoir tributaries to preclude potential adverse impacts on resident fish, an important food source for bald eagles. To mitigate for potential adverse effects on cultural resources at the five major Federal storage reservoirs studied, BPA is developing a Programmatic Memorandum of Agreement (PMOA) with appropriate parties. This PMOA will fully satisfy BPA's National Historic Preservation Act obligations. All other consultation, review, and permit requirements have been met. All practicable means to avoid or minimize environmental harm of BPA's firm marketing activities identified in the IDU EIS have been, or are in the process of being adopted.

Economic analysis of this agreement shows that the net present value of the expected revenues from the capacity transaction to the Resale Cities is $39 million. This amount contrasts with an alternative use of BPA's surplus capacity for short term market transactions, whose expected revenues would be roughly $17 million over the same period.

BPA's agreements with the Resale Cities are consistent with applicable legislation, including Public Law (Pub. L.) 88–552, 16 U.S.C. 837–837h (Northwest Preference Act), and the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839–839h (Northwest Power Act). Both contracts permit the termination of deliveries of the capacity sold when BPA determines it is needed in the Pacific Northwest.

Entering into an agreement with the Resale Cities is the environmentally preferred alternative because of slight near-term reductions in air pollution in densely populated areas in California,

reduced near-term consumption of nonrenewable oil and gas fuels, and the added potential to defer building new resources in both California and the Northwest.

FOR FURTHER INFORMATION CONTACT: Anthony R. Morrell, Assistant to the Administrator for Environment—AJ, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208; telephone (503) 230–5136. For copies of documents mentioned in this notice (the IDU Draft and Final EISs, the Hydro Operations Information Paper, the Long-Term Intertie Access Policy and its ROD, the DC (Direct Current) Terminal Expansion ROD, the Third AC (Alternating Current) ROD, the Southern California Edison ROD, and the M–S–R Public Power Agency (representing the cities of Modesto, Santa Clara and Redding, California) ROD), you may contact BPA's Public Involvement office at 503–230–2378. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Neveda, Utah, Washington, and Wyoming may use 800–547–6048.

SUPPLEMENTARY INFORMATION:

I. Major Components of the Agreement

The major components of the capacity for energy exchange and capacity sale agreement are as follows:

Term

The agreement will remain in effect for 20 years from the effective date. The effective date is the earliest date after which all agreements needed to effect the transaction are signed and appropriate regulatory approvals are received.

Amount of Surplus Firm Capacity Sale: 32 MW of contract demand November through April and 47 MW of contract demand in May. BPA delivers firm capacity in amount up to the contract demand 10 hours a day, 50 hours a week.

Amount of Capacity for Energy Exchange: BPA delivers firm peaking capacity in an amount up to the contract demand of 47 MW, 10 hours a day, 50 hours a week.

Rate

Initial rate for the capacity sale is $4.65/kilowatt-month (kW-mo.). On each October 1 beginning October 1, 1990, the damand rate will escalate based on the increase in BPA's Priority Firm Power (PF) rate, at a 50 percent load factor, plus 1.0 percent.

Restrictions

The capacity sale is subject to a 60-month termination of deliveries by BPA persuant to and consistent with the provisions of Pub. L. 88–552, 16 U.S.C. 837–837h (Northwest Preference Act) and 16 U.S.C. 839–839h (Northwest Power Act).

II. Decision

Bonneville Power Administration has decided to sign a 20-year capacity for energy exchange and capacity sale agreement with each of the Resale Cities.

III. Background

In the fail of 1984, BPA began preparing the IDU Draft EIS to address actions related to several power system proposals:

(1) Adoption of a Long-Term Intertie Access Policy (LTIAP);

(2) Potential export marketing arrangements; and (3) expansion of Intertie capacity. The IDU Draft EIS was issued on October 31, 1986. The need for the actions addressed by the IDU Draft EIS included managing the transfer of surplus power between the PNW and California (see IDU Draft EIS, 1–1). The BPA/Resale Cities capacity for energy exchange and capacity sale agreement is an export marketing arrangement of the type analyzed in the IDU Draft EIS.

The IDU Draft EIS used computer models to simulate the operation of the PNW combined thermal and hydropower system and the resulting potential impacts on fish, recreational resources, cultural resources, irrigation, air and water quality, land use, and nonrenewable resources. As a result of comments received during a 78-day public comment period, some changes were made in the models.

On November 13, 1987, BPA published the Hydro Operations Information Paper. This paper was based on an analysis of computer simulations produced by the revised, updated computer models. The paper included analyses of the effects of long-term extraregional firm marketing on anadromous and residents fish, recreational resources, and cultural resources. The results of these analyses were similar to the results shown in the IDU Draft EIS. Public review and further BPA analysis did not reveal any significant new information, so BPA completed its IDU Final EIS and filed it with the U.S. Environmental Protection Agency on April 8, 1988. A ROD on one of the proposed IDU Draft EIS actions, the adoption of a Long-Term Intertie Access Policy, was signed by the Administrator on May 17, 1988.

IV. Alternatives

BPA considered two alternatives: (1) Take no action—do not enter into such agreements as the capacity for energy exchange and capacity sale agreement with the Resale Cities; and (2) enter into contracts for extraregional capacity for energy exchanges or capacity sale agreements such as the capacity for energy exchange and capacity sale agreement with the Resale Cities.

V. Decision Factors and Issues

In arriving at the decision to enter into the agreement with the Resale Cities, environmental, economic, and legal factors were considered.

A. Environmental Factors

In the IDU Final EIS, BPA analyzed how various extraregional long-term firm contract scenarios, including Federal marketing, could be expected to affect the quality of the human environment. The capacity/energy exchange and capacity sale to the Resale Cities represents only a small portion of the 3150 MW (capacity) of generic firm contracts analyzed in the EIS. Therefore, only a small portion of any environmental impacts from Federal marketing activities could be attributed to the BPA/Resale Cities agreement. On the other hand, if BPA took no action, there would be no change in the environmental status quo in the Northwest.

1. Impacts on Fish, Wildlife, and Vegetation Related to Operation of Pacific Northwest Hydroelectric Resources

Under the Northwest Power Act, BPA must protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries. BPA must conduct its river operations in a manner that provides for equitable treatment for fish and wildlife. Firm extraregional marketing activities were found in general to have no significant effect on anadromous fish and vegetation. Potential adverse effects on resident fish, an important food source for bald eagles, at Hungry Horse Reservoir will be mitigated by imprint planting, habitat improvement, and monitoring.

Commenters on the IDU Draft EIS and Hydro Operations Information Paper stated that the potential for significant adverse effects on resident and anadromous fish, wildlife, and cultural resources from firm marketing activities was a major environmental concern. Some expressed concern that the methodology BPA used to analyze impacts on anadromous fish underpredicts, incorrectly predicts, or is too uncertain to predict these impacts.

BPA performed extensive analyses on how various firm marketing activities

could affect fish. Results are reported in the IDU Final EIS. BPA believes that the System Analysis Model (SAM) and the FISHPASS model used for the IDU Final EIS constitute the best available methodology for analysis of impacts on anadromous fish caused by operation of the hydrosystem. Sensitivity analyses were performed to test the uncertainty of the model results with respect to key FISHPASS model parameters, bypass system assumptions, and key SAM assumptions. These analyses showed that, when used for a comparative analysis (i.e., when comparing fish survival under one alternative versus another), variations in the key assumptions tested made little difference. Therefore, much of the uncertainty of the FISHPASS model parameters is not critical to the study results for changes in survival associated with the alternatives addressed in the IDU Final EIS (see IDU Final EIS, pp. 4.2.3–23 through 4.2.3–32, and appendix E, part 6). The effects of firm marketing activities on anadromous fish survival were found to be small and are not expected to be significant provided planned fish passage improvements are made at the mid-Columbia Public Utility District (PUD) projects (see IDU Final EIS, pp. 4.2.3–35).

BPA's reliance on the accomplishment of planned fish passage improvements at Federal and public utility dams on the Columbia and Snake Rivers, to preclude potential significant impacts on anadromous fish, was an issue raised by several commenters in the IDU Draft EIS process. The potential effects of failure to install planned fish passage facilities were addressed in four sensitivity analyses (see IDU Final EIS, pp. 4.2.3–33 through 2.3–34). In the first, bypass installation was delayed 3 years beyond the dates assumed in BPA's principal analysis. In the second, planned new bypass systems at The Dalles and Ice Harbor Dams were assumed to be forgone. In the third, an assumption was made of no new planned bypass systems at The Dalles, Ice Harbor, and Lower Monumental Dams. The fourth sensitivity test assumed no additional new bypass systems and no improvements of existing systems at any of the dams.

The predicted effects of firm marketing activities under these various conditions were not significantly different from what was described in the IDU Final EIS. However, sensitivity analyses did indicate that failure to construct the planned mid-Columbia bypass facilities, in conjunction with firm marketing activities, could impact Methow River spring chinook (see IDU Final EIS, p. 4.2.3–35).

BPA has recently discovered that bypass installation has been delayed beyond what was assumed in the IDU FEIS base care for Wanapum and Priest Rapids. Screens may not be installed at Priest Rapids dam pending a scheduled Federal Energy Regulatory Commission hearing to determine whether or not screens must be installed at Priest Rapids, or if transportation is acceptable for moving fish from Wanapum to below Priest Rapids dam.[1]

In addition, the installation of a bypass facility will not be feasible at the Rock Island second powerhouse. It should be noted that the mortality of juvenile fish passing through the bulb turbines at Rock Island is only 3 to 5 percent compared to the assumed mortality of 15 percent at other dams. The impact to Methow River spring chinook from delayed installation of bypass at Wanapum and Priest Rapids is not quantifiable, but is thought to be very small, especially in view of the fact that prototype testing of screens at Priest Rapids (which is expected to be the same or better at Wanapum) has shown a fish guidance efficiency averaging 82 percent for yearling chinook.

The Methow River spring chinook is a mixture of fish from the Winthrop National hatchery and natural stocks. The stock has shown improvements in recent years with each run having about 600 spawners. Although improvements are promising, Methow stocks, like many upriver stocks, are still considered depressed and unharvestable. There has been no direct sport or Indian harvest of the Methow River spring chinook stock. Columbia River sport, commercial, and Indian spring chinook fisheries are regulated to harvest minimum number of upriver stocks. Therefore, it is assumed that no significant numbers of Methow spring chinook are taken in any fishery. The stock is managed throughout its life-cycle as a potentially critical hatchery supplemented stock.

An analysis also was conducted to assess the impacts of firm marketing activities on the ability to coordinate fall and spring flow levels to facilitate successful adult spawning and fry emergence within the Hanford Reach. No significant effects were found (see IDU Final EIS, p. 4.2.3–41).

[1] Bypass installation is expected to be completed at Wanapum in 1997. If transportation around Priest Rapids is acceptable, it can begin as soon as screened units come on line at Wanapum. Otherwise, screens will still be installed at Priest Rapids but at a later time.

With regard to resident fish production in PNW reservoirs, long-term firm power contracts, such as Federal marketing, do affect reservoir elevations. Elevations generally are lower in the fall and winter months. There are potential adverse impacts on resident fish in Hungry Horse Reservoir, where monthly average reservoir levels drop by as much as about 5 feet during the critical months of September through November (see IDU Final EIS, pp. 4.2.3–12 through 4.2.3–14). Mitigation to avoid these impacts is discussed later in this ROD.

Wildlife and vegetation around the reservoirs are not expected to be affected significantly, since changes in reservoir operations are expected to be small and are within reservoir operating constraints (see IDU Final EIS, p. 4.2.5–1). BPA completed informal consultation with the U.S. Fish and Wildlife Service on endangered and threatened species. BPA determined that firm marketing activities were not likely to adversely affect any threatened and endangered species. The U.S. Fish and Wildlife Service concurred with BPA's biological assessment.

2. Impacts on Water Quality and Fish in British Columbia

BPA found no adverse impacts on water quality and fish in British Columbia due to firm marketing activities. Anadromous fish do not exist in the Columbia or Peace River systems within British Columbia. Because firm marketing activities have only minor effects on reservoir levels and flows on the Peace River reservoirs and Columbia River reservoirs in British Columbia, impacts on resident fish are not expected to be significant (see ID Final EIS, pp. 4.2.4–4 through 4.2.4–9).

3. Impacts on Irrigation

BPA found no adverse impacts on irrigation due to firm marketing activities. Levels of allowable irrigation withdrawals are determined by the States and are established water rights. Hydro operations planning is developed around flows that include authorized irrigation withdrawals. Therefore, firm marketing activities would not affect the amount of water available for irrigation (see IDU Final EIS, pp. 4.2.2–4 through 4.2.2–6).

4. Impacts on Recreation

No adverse impacts on recreation were found from firm marketing activities. Projected changes in reservoir levels associated with firm marketing are small, especially during the summer recreation season, and result in minimal

recreation impacts at all the reservoirs studied. Changes in downstream flows also are projected to have no significant effects (see IDU Final EIS, p. 4.2.2–4).

5. Impacts on Cultural Resources

Changes in reservoir levels (within existing constraints) at hydroelectric projects might have effects on cultural resources in and around Federal storage reservoirs in the PNW. These reservoirs are Grand Coulee (Lake Roosevelt); Dworshak; Libby (Lake Koocanusa); Albeni Falls (Lake Pend Oreille); and Hungry Horse. Many cultural resource sites in the areas of potential effect already have been and continue to be affected by erosion and vandalism. Changes in reservoir elevations may change the rate of site erosion and may make sites more or less accessible to vandals.

Known properties on or eligible for the National Register of Historic Places on these reservoirs are the Middle Kootenai River Archeological District at Lake Koocanusa, Montana, and the Kettle Falls Archeological District and the Fort Spokane Historic District at Lake Roosevelt, Washington.

Information about the existence and significance of cultural resources within the area of potential effect is incomplete. It is possible that other potentially affected properties may be eligible for the National Register.

Analysis of the data in the IDU Final EIS indicates that increased erosion of cultural resource sites at Libby Reservoir could have been a potential problem with firm marketing activities in 1988, the earliest year studied. Analyses were conducted to address both wave erosion effects and effects on site accessibility for vandals and relic collectors. Libby will continue to be operated according to project constraints used in Coordination Agreement planning and constraints provided by the U.S. Army Corps of Engineers (Corps). The initiation of a Programmatic Agreement to mitigate potential impacts on cultural resources caused by firm marketing activities, as well as other power marketing activities analyzed in the IDU Final EIS, is discussed later in this ROD under Mitigation and Monitoring.

Other hydroelectric project reservoirs in the Federal Columbia River Power System are operated either as run-of-river or primarily for flood control and are generally independent of power marketing activities. Therefore, Federal marketing activities will not affect cultural resources at these projects (see IDU Final EIS, pp. 4.2.2–7 through 4.2.2–8, and 4.6–1 through 4.6–2).

6. Nonrenewable Resource Use and Land Use Impacts

No adverse impacts on nonrenewable resource use and land use were found from firm marketing activities. Differing levels of long-term firm contracts have negligible impacts on PNW coal generation. Hence, impacts on coal consumption and associated land disturbance also are negligible (see IDU Final EIS, p. 4.3.1–3).

Annual coal use in the ISW is projected to increase slightly with firm marketing (see IDU Final EIS, pp. 4.3.1–5 and 4.3.1–20). Gas and oil consumption in California is not significantly affected by firm marketing activities. During the early years, however, there is a slight reduction in consumption of gas and oil fuels (see IDU Final EIS, pp. 4.3.1–4 and 4.3.1–15).

The exchange portion of the Resale Cities transaction actually has the potential to slightly reduce land use impacts resulting from the construction of new resources. An equivalent amount of new generating capability would be needed in the absence of the exchange energy received from the Resale Cities.

7. Air Quality and Solid Waste Impacts

No adverse impacts were found in the PNW, California, or the ISW. Air quality impacts related to power system operational effects of firm marketing activities were found to derive from changes in the operation of coal-fired power plants in the PNW and the ISW and changes in the operation of gas- and oil-fired generating plants in California. All projected ambient air quality changes due to firm marking activities are small (see IDU Final EIS p. 4.3.2–13). In the early years, these changes do include small reductions in air pollution in densely populated air basins in California.

Solid waste impacts vary with changes in annual generation at coal-fired plants. Solid waste impacts from altering coal plant operations to accommodate firm marketing activities are not considered significant (see IDU Final EIS, p. 4.3.2–7 and Appendix G).

8. Water Use and Quality Impacts of Thermal Plants

No adverse impacts on water use and water quality in the PNW, California, or the ISW were found. The only potentially significant problem areas identified were entrainment at the Pittsburg and Contra Costa thermal plants in California. It was not possible to determine quantitatively how firm marketing activities would affect these entrainment problems. However, since the average annual generation at these plants is reduced with firm marketing activities, it is unlikely that the entrainment would be made worse (see IDU Final EIS, p. 4.3.3–8 through 4.3.3–13).

9. Impacts on Vegetation and Wildlife Related to Thermal Plant Operational Changes

No adverse impacts in the PNW, California, or the ISW were found from firm marketing activities. This is primarily because air quality, acid deposition, solid waste, and water consumption impacts of the coal-fired plants considered in the analysis are not significant. In addition, because of permit requirements, enforcement of compliance with permits, and the fact that effects on threatened and endangered species must be considered before permits are granted, firm marketing activities will not cause significant adverse effects to any threatened or endangered species (see IDU Final EIS, p. 4.3.4–2).

Nuclear plant operations are not expected to be affected (see IDU Final EIS, p. 4.1–14). Therefore, firm marketing should not change the impacts on vegetation and wildlife from operation of nuclear plants.

10. Impacts Related to Development of New Power Resources

Firm marketing activities were found to have virtually no effect on the development of future PNW resources (see IDU Final EIS, p. 4.4–7). Capacity and exchange sales of the firm Resale Cities variety may delay the need for development of new resources in both the PNW and California.

11. Consultation, Review, and Permit Requirements

In addition to their responsibilities under the National Environmental Policy Act (NEPA), Federal agencies are required to carry out the provisions of other Federal environmental laws. The Federal government is required to take State and local government environmental and land-use laws and regulations into consideration when making its decisions (see IDU Final EIS, p. 4.6–1 through 4.6–3). Throughout preparation of the IDU Draft EIS, the Hydro Operations Information Paper, IDU Final EIS, and the LTIAP, BPA worked closely with the Corps, the Bureau of Reclamation, the U.S. Fish and Wildlife Service, and the Columbia River Inter-Tribal Fish Commission to ensure that its responsibilities under NEPA and other appropriate laws and regulations were fulfilled.

B. Economic Factors

The economic effects that could be expected from BPA's proposed sale are potential impacts, as a result of the revenues received or forgone due to the sale, on: (1) BPA's and the Resale Cities' customers' rates; (2) both parties' financial conditions; and (3) BPA's ability to repay the U.S. Treasury as scheduled.

The proposed rate for the capacity sold under the Resale Cities contracts begins at $4.65 per kW-mo. The initial demand rate will be escalated each October 1 beginning October 1, 1990, by factors based on changes in Bonneville's PF rate plus 1.0 percent.

BPA expects to benefit from the proposed transaction. BPA's forecast of the net present value of the capacity sales revenue during the term of the transaction is approximately $39 million. The present value of forecast spot market sales, BPA's alternative market for the capacity, is approximately $17 million over the same period.

The proposed capacity sales to the Resale Cities thus would provide higher revenues to BPA than would the short term transactions assumed for the No-Action Alternative. The sales would provide BPA a stable market for a portion of its surplus firm capacity at a favorable, predictable rate. This would aid BPA's long-term resource and financial planning and increase BPA's ability to keep its rates to its customer groups as low and stable as possible and to repay the U.S. Treasury on schedule.

Similarly, the contracts with BPA provide the Resale Cities with a stable amount of capacity at a predictable price. The purchase could aid the Resale Cities' long-term resource and financial planning, enhancing their rates and financial stability. Capacity from BPA could allow the Resale Cities to defer or postpone expensive purchase or construction of resources, especially sources of capacity. Similarly, the capacity for energy exchange will allow the Northwest to meet a portion of its load growth that would otherwise require construction of new resources as the region moves from a condition of energy surplus to load/resource balance.

C. Legal Factors

On May 24, 1988, BPA published notice that it had surplus firm power available for sale to the PNW and Pacific Southwest. In its December 1988 Pacific Northwest Loads and Resources Executive Summary, BPA forecast the long-term availability of surplus energy and capacity as being 481 average MW of firm power in 1989 and 2600 MW capacity through the year 2006. However, the 1989 forecast indicates BPA no longer has a firm power surplus, although it is expected to return to a surplus firm power condition during the 1994–2001 period. These firm power surpluses are expected to be approximately 100 to 200 average MW. Long term surplus capacity is now forecast to be about 2400 MW.

In making marketing decisions, BPA must consider certain loads in forecasting future PNW customer requirements. These loads include those of BPA's direct-service industrial customers and all utility loads. Certain energy requirements of PNW customers are excluded. For example, section 9(c) of the Northwest Power Act excludes a utility's firm energy (both hydro and thermal) that is sold outside the region and which increases the firm energy requirements of that utility customer or any other utility customer of BPA in the region.

Under section 5(f) of the Northwest Power Act and the Northwest Preference Act, BPA may sell outside the PNW only peaking capacity from Federal hydro plants that is surplus to 5 (b), (c), and (d) obligations under the Northwest Power Act and for which there is no demand in the region at any rate established for the disposition of such surplus capacity. Sections 5(f) and 9(c) of the Northwest Power Act apply this restriction to all BPA power sold outside the PNW.

Section 2 of the Northwest Preference Act requires BPA to provide written notice to its customers that negotiations are pending for a contract for the sale, delivery, or exchange of surplus energy and peaking capacity for use outside the PNW. BPA will provide notice of the Resale Cities Agreements at least 30 days prior to contract execution. Upon request, BPA will make copies of the draft contract offered by the Resale Cities available for inspection.

PNW customers have an opportunity during the 30-day notice period, prior to BPA's execution of the Resale Cities offer, to request a contract containing the same terms and conditions as the offer to the Resale Cities. If a PNW customer of BPA seeks to purchase on the same terms and conditions, including price, within this period then BPA will make such capacity available for sale to the PNW customer. If no requests are made or if additional capacity is available after filling such requests, then the capacity is surplus to PNW demand. BPA will accept the Resale Cities' offer.

Before negotiating the present offer from the Resale Cities, BPA determined the amount of surplus firm capacity available for sale to both PNW and Pacific SouthWest customers. The Resale Cities' offer is less than the amount of available capacity. The sale will not impair BPA's ability to meet planned or forecasted capacity requirements of BPA's PNW customers under section 5(f) of the Northwest Power Act or the Northwest Preference Act. In accordance with section 3(c) of the Northwest Preference Act, a sale of capacity under this agreement is subject to termination upon 60 months' notice. The capacity for energy exchange portion of the transaction meets the requirements of section 5 of the Northwest Preference Act.

VI. Environmentally Preferred Alternative

The environmentally preferred alternative is for BPA to enter into capacity for energy exchange and capacity sale agreements with the Resale Cities. There will be no significant adverse impacts from this action. Even with the delay of bypass facilities at Wanapum until 1997; the delay of, or possible substitution of transportation for, bypass facilities at Priest Rapids; and the infeasibility of bypass at Rock Island, significant adverse impacts on anadromous fish are not expected. Mitigation activities are being implemented for resident fish at Hungry Horse Reservoir to preclude significant adverse impacts on bald eagles which rely on the fish for food. And impacts on cultural resources at the five Federal storage projects from power generation in general will be mitigated through the conduct of critical resource surveys and, where indicated, excavation or preservation of artifacts. In addition, this altenative has some slight environmental benefits not achievable under the No-Action Alternative. These benefits are: (1) Small reductions in air pollution in densely populated air basins in California in the early years; (2) reduced consumption of nonrenewable gas and oil fuels in the early years; and (3) potential for additional deferral of the construction of new generating resources and their subsequent operation.

VII. Conclusion

Because an exchange and capacity sale to the Resale Cities is the environmentally preferred alternative, would achieve economic benefits for BPA and others, and is consistent with statutory guidelines, BPA's decision is to enter into the previously described capacity for energy exchange and

capacity sale agreement with the Resale Cities.

VIII. Environmental Mitigation and Monitoring

Several mitigation and monitoring actions are being adopted to preclude potential environmental impacts from this decision. These actions include programs to: (1) Survey resident fish populations at Hungry Horse Reservoir to assure that an adequate food supply is maintained for the bald eagles living in or passing through the area; and (2) survey and evaluate cultural resource sites surrounding Federal storage reservoirs on tributaries to the Snake and Columbia Rivers (Dworshak, Albeni Falls, Libby and Hungry Horse) and on the mainstem Columbia (Lake Roosevelt, behind Grand Coulee Dam).

BPA expects to preclude significant adverse impacts to resident fish at Hungry Horse Reservoir by undertaking measures to increase use of Hungry Horse tributaries by resident fish. BPA consulted with the U.S. Fish and Wildlife Service and the Montana Department of Fish, Wildlife and Parks in developing these measures. Measures include funding for imprint planting of westslope cutthroat trout and mountain whitefish in four Hungry Horse Reservoir tributaries over a 5-year period. Also included is funding for off-site fish habitat improvements on Flathead River sloughs, including cleaning of spawning gravels and imprint planting of cutthroat trout, kokanee, and mountain whitefish (see IDU Final EIS, p. 4.2.3–13). If monitoring studies at Hungry Horse Reservoir indicate that significant adverse effects on resident fish are occurring as a result of Intertie actions, including Federal marketing activities, information from these monitoring studies will be used to develop and implement additional effective mitigation measures.

In order to mitigate for potential adverse effects on cultural resources at the Federal storage reservoirs, BPA has initiated procedures to develop a Programmatic Agreement with the Advisory Council on Historic Preservation; the Idaho, Montana, and Washington State Historic Preservation Officers; the Bureau of Reclamation; and the Corps. Also involved in developing the Programmatic Agreement are Confederated Tribes of the Colville Reservation in Washington; the Spokane Tribe of the Spokane Reservation in Washington; the Kalispel Indian Community of the Kalispel Reservation in Washington; the Coeur D'Alene Tribe of the Coeur D'Alene Reservation in Idaho; the Nez Perce Tribe of Idaho; the Kootenai Tribe of Idaho; the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana; the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana; the Bureau of Indian Affairs; the U.S. Forest Service; and the National Park Service.

The Programmatic Agreement was initiated as mitigation for potential effects of firm marketing transactions. It will, however, satisfy BPA's responsibilities under section 106 of the National Historic Preservation Act (16 U.S.C. 470, *et seq.*) for all Federal actions taken with respect to operation of the five major Federal storage reservoirs mentioned above. Terms of the Agreement may include provisions for further identification and evaluation of potentially affected cultural resources.

The Programmatic Agreement also is being designed to ensure consistency with the American Indian Religious Freedom Act (42 U.S.C. 1996). It provides for BPA participation in the relocation of Native American burials when such sites are discovered through the resource survey and evaluation that will occur as part of the Agreement.

Issued in Portland, Oregon, on June 15, 1990.

Edward W. Sienkiewicz,

Senior Assistant Administrator.

[FR Doc. 90–16170 Filed 7–9–90; 10:25 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 et. seq.) The listing does not include a collection of information contained in a new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed by August 10, 1990. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC. 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards (EI–73) Forrestal Building, U.S. Department of Energy, Washington, DC. 20585. Mr. Casselberry may be telephoned at (202) 586–2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration.
2. EIA–800–804, 806, 810–814, 816–818, 820, and #825.
3. 1905–0165.
4. Petroleum Supply Reporting System.
5. Revision—The purpose of this request is to obtain OMB approval of the EIA–807, "Propane Telephone Survey Form," which will be used to collect monthly ending stocks of propane in an expeditious manner. Form EIA–807 information will be collected during the heating season from a sample of refineries, bulk terminals, petroleum product pipelines, petroleum product importers, and natural gas processing plants located in or importing propane into PAD Districts I, II, or III. The form

also contains items on propane production and imports. If a situation occurs where there is a potential propane supply problem, EIA will request OMB approval to collect all the information contained in the EIA-807 on a weekly basis. (No changes are being proposed to the other forms in this program nor is any request being proposed at this time to extend any of these forms beyond the currently approved date of April 30, 1992.)

6. Triennially, annually, monthly, and weekly reporting.

7. Mandatory.

8. Businesses or other for profit.

9. 3,339 respondents.

10. 41, 961 responses.

11. 1.33 hours per response.

12. 55,857 hours.

13. The Petroleum Supply Reporting System collects information needed for determining the supply and disposition of crude petroleum, petroleum products, and natural gas liquids. These data are published by the EIA. Respondents are operators of petroleum refining facilities, blending plants bulk terminals crude oil and product pipelines, natural gas plant facilities, tankers barges, and oil importers.

Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. §§ 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, July 6, 1990.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 90-16171 Filed 7-10-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. G-3894-040, et al.]

ARCO Oil and Gas Co., Division of Atlantic Richfield Company, et al.; Applications for Termination or Amendment of Certificates [1]

July 5, 1990.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to terminate or amend certificates as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make protest with reference to said applications should on or before July 24, 1990, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordnace with the Commission's rules.

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

Linwood A. Watson, Jr.,

Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and Date filed	Applicant	Purchaser and location	Description
G-3894-040 D—5-24-90	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, TX 75221.	El Paso Natural Gas Company, New Mexico Federal Unit Leases, Lea County, New Mexico.	Assigned 9-1-89 to Elk Energy Corporation.
CI63-215-000 D—6-22-90	Union Oil Company of California, P.O. Box 7600, Los Angeles, CA 90051.	Arkla Energy Resources, a division of Arkla, Inc., Arkoma Area, Sequoyah County, Oklahoma.	Assigned 6-1-88 to Daniel-Price Exploration Company.
CI87-916-002 D—6-25-90	Texaco Inc. P.O. Box 52332, Houston, TX 77052.	Texaco Gas Marketing Inc., Bridgeline Gas Distribution Co., and Neches Gas Distribution Co., Fouke Field, Miller County, Arkansas.	Assigned 10-1-88 to Long Brothers Oil Company
CI90-119-000 (CI73-265) D—6-4-90	Texaco Producing Inc., P.O. Box 52332, Houston, TX 77052.	Texas Gas Transmission Corporation, Calhoun Field, Lincoln Parish, Louisiana.	Assigned 10-1-88 to Kaiser-Francis Oil Company.
CI90-125-000 (CI73-537) D—6-18-90	Texaco Inc	Transcontinental Gas Pipe Line Corporation, Vinton Field, Calcasieu Parish, Louisiana.	Assigned 10-1-88 to Fina Oil and Chemical Company.
CI90-130-000 (CI76-309) D—6-25-90	Oryx Energy Company, P.O. Box 2880, Dallas, TX 75221-2880.	Colorado Interstate Gas Company, Patrick Draw Field, Sweetwater County, Wyoming.	Assigned 10-1-89 to Headington Minerals, Inc.
CI90-131-000 (CI72-41) D—6-25-90	Oryx Energy Company	United Gas Pipe Line Company, Van Field, Van Zandt County, Texas.	Assigned 10-1-89 to Union Exploration Partners, Ltd.
CI90-132-000 (CI76-310) D—6-25-90	Oryx Energy Company	Colorado Interstate Gas Company, Patrick Draw Field, Sweetwater County, Wyoming.	Assigned 10-1-89 to Headington Minerals, Inc.
CI90-133-000 (CI71-825) D—6-25-90	Oryx Energy Company	Arkla Energy Resources, a division of Arkla, Inc., Witcherville Field, Sebastian County, Arkansas.	Assigned 7-1-89 to ESCO Exploration, Inc.
CI90-134-000 (G-5182) D—6-25-90	Oryx Energy Company	Colorado Interstate Gas Company, Keys Gas Area Fields, Cimarron County, Oklahoma.	Assigned 10-1-89 to OXY USA Inc.
CI90-135-000 (CI75-265) D—6-25-90	Oryx Energy Company	Northern Natural Gas Company, a Division of Enron Corp., Camrick Gas Area, Beaver County, Oklahoma.	Assigned 10-1-89 to Headington Minerals, Inc.
CI90-136-000 (CI75-754) D—6-25-90	Oryx Energy Company	Colorado Interstate Gas Company, Patrick Draw Field, Sweetwater County, Wyoming.	Assigned 10-1-89 to Headington Minerals, Inc.
CI90-137-000 (CI65-936) D—6-25-90	Oryx Energy Company	Natural Gas Pipeline Company of America, Cedardale N.E. Field Woodward County, Oklahoma.	Assigned 10-1-89 to Amerox Acquisition Corp.

Docket No. and Date filed	Applicant	Purchaser and location	Description
CI90-138-000 (CI72-41) D—6-25-90	Oryx Energy Company	Arkla Energy Resources, a division of Arkla, Inc., Sooner Trend Field, Blaine County, Oklahoma.	Assigned 10-1-89 to Amerox Acquisition Corp.

Filing Code
A—Initial service
B—Abandonment
C—Amendment to add acreage
D—Assignment of acreage
E—Succession
F—Partial succession

[FR Doc. 90-16081 Filed 7-10-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. ST90-2792-000 through ST90-3250-000]

Natural Gas Pipeline Co. of America; Self-Implementing Transactions

July 5, 1990.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and section 5 of the Outer Continental Shelf Lands Act.[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "part 284 subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G-S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G-LT" or "G-LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "G-HT" or "G-HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's regulations.

A "K-S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the Commission's regulations.

Linwood A. Waston, Jr.,
Acting Secretary.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

Docket No. * Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity **
ST90-2792 Natural Gas Pipeline Co. of America	NGC Intrastate Pipeline Co.	05-01-90	B	100,000
ST90-2793 Natural Gas Pipeline Co. of America	Bishop Pipeline Corp.	05-01-90	B	15,000
ST90-2794 Columbia Gas Transmission Corp.	North Carolina Natural Gas Corp.	05-01-90	B	40,000
ST90-2795 K N Energy, Inc.	Phibro Distributors Corp.	05-01-90	G-S	150,000
ST90-2796 K N Energy, Inc.	Llano, Inc.	05-01-90	B	500
ST90-2797 K N Energy, Inc.	Williston Basin Interstate P/L Co.	05-01-90	G	10,000
ST90-2798 K N Energy, Inc.	Hastings Utilities	05-01-90	G-S	18,431
ST90-2799 Tennessee Gas Pipeline Co.	Texas Gas Transmission Corp.	05-01-90	G	150,000
ST90-2800 Tennessee Gas Pipeline Co.	Midwestern Gas Transmission Co.	05-01-90	G	100,000
ST90-2801 Transcontinental Gas Pipe Line Corp.	Public Service Electric and Gas Co.	05-01-90	B	343,193
ST90-2802 Transcontinental Gas Pipe Line Corp.	Union Gas Co.	05-01-90	B	5,852
ST90-2803 Transcontinental Gas Pipe Line Corp.	City of Lexington	05-01-90	B	6,052
ST90-2804 Transcontinental Gas Pipe Line Corp.	Long Island Lighting Co.	05-01-90	B	71,878
ST90-2805 Transcontinental Gas Pipe Line Corp.	Consolidated Edison Co. of NY, Inc.	05-01-90	B	142,842
ST90-2806 Transcontinental Gas Pipe Line Corp.	Brooklyn Union Gas Co.	05-01-90	B	167,000
ST90-2807 Transcontinental Gas Pipe Line Corp.	Consolidated Edison Co. of NY, Inc.	05-01-90	B	181,680
ST90-2808 Transcontinental Gas Pipe Line Corp.	City of Richmond	05-01-90	B	9,693
ST90-2809 Transcontinental Gas Pipe Line Corp.	Delmarva Power and Light Co.	05-01-90	B	35,620

Docket No. * Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quanti-ty **
ST90-2810 Transcontinental Gas Pipe Line Corp.	North Carolina Gas Service Co.	05-01-90	B	8,795
ST90-2811 Transcontinental Gas Pipe Line Corp.	Long Island Lighting Co.	05-01-90	B	206,925
ST90-2812 Transcontinental Gas Pipe Line Corp.	City of Kings Mountain	05-01-90	B	2,296
ST90-2813 Transcontinental Gas Pipe Line Corp.	North Carolina Gas Service Co.	05-01-90	B	1,605
ST90-2814 Transcontinental Gas Pipe Line Corp.	Atlanta Gas Light Co.	05-01-90	B	53,800
ST90-2815 Transcontinental Gas Pipe Line Corp.	Consolidated Edison Co. of NY, Inc.	05-01-90	B	382,908
ST90-2816 Transcontinental Gas Pipe Line Corp.	Virginia Natural Gas Co.	05-01-90	B	10,000
ST90-2817 Transcontinental Gas Pipe Line Corp.	Blacksburg Natural Gas System	05-01-90	B	4,522
ST90-2818 Transcontinental Gas Pipe Line Corp.	Commission of Public Works, Laurens	05-01-90	B	5,331
ST90-2819 Transcontinental Gas Pipe Line Corp.	City of Lexington	05-01-90	B	2,848
ST90-2820 Transcontinental Gas Pipe Line Corp.	Fort Hill Natural Gas Authority	05-01-90	B	5,948
ST90-2821 Transcontinental Gas Pipe Line Corp.	City of Shelby	05-01-90	B	7,888
ST90-2822 Transcontinental Gas Pipe Line Corp.	Eastern Shore Natural Gas Co.	05-01-90	G	14,076
ST90-2823 Transcontinental Gas Pipe Line Corp.	Virginia Natural Gas, Inc.	05-01-90	B	24,715
ST90-2824 Transcontinental Gas Pipe Line Corp.	Commonwealth Gas Services	05-01-90	B	3,424
ST90-2825 Transcontinental Gas Pipe Line Corp.	Greer Commission of Public Works	05-01-90	B	2,800
ST90-2826 Transcontinental Gas Pipe Line Corp.	Atlanta Gas Light Co.	05-01-90	B	144,219
ST90-2827 Transcontinental Gas Pipe Line Corp.	Blacksburg Natural Gas System	05-01-90	B	723
ST90-2828 Transcontinental Gas Pipe Line Corp.	Fountain Inn Natural Gas Authority	05-01-90	B	1,208
ST90-2829 Transcontinental Gas Pipe Line Corp.	Commonwealth Gas Services	05-01-90	B	1,277
ST90-2830 Transcontinental Gas Pipe Line Corp.	Atlanta Gas Light Co.	05-01-90	B	53,800
ST90-2831 Transcontinental Gas Pipe Line Corp.	City of Shelby	05-01-90	B	3,712
ST90-2832 Transcontinental Gas Pipe Line Corp.	Union Gas Co.	05-01-90	B	15,688
ST90-2833 Transcontinental Gas Pipe Line Corp.	Long Island Lighting Co.	05-01-90	B	77,192
ST90-2834 Transcontinental Gas Pipe Line Corp.	North Carolina Natural Gas Corp.	05-01-90	B	69,565
ST90-2835 Transcontinental Gas Pipe Line Corp.	City of Union	05-01-90	B	8,407
ST90-2836 Transcontinental Gas Pipe Line Corp.	City of Union	05-01-90	B	2,464
ST90-2837 Transcontinental Gas Pipe Line Corp.	Lynchburg Gas Co.	05-01-90	B	2,400
ST90-2838 Transcontinental Gas Pipe Line Corp.	Virginia Natural Gas Co.	05-01-90	B	66,253
ST90-2839 Transcontinental Gas Pipe Line Corp.	Piedmont Natural Gas Co.	05-01-90	B	121,560
ST90-2840 Transcontinental Gas Pipe Line Corp.	Blacksburg Natural Gas System	05-01-90	B	1,687
ST90-2841 Transcontinental Gas Pipe Line Corp.	Piedmont Natural Gas Co.	05-01-90	B	83,640
ST90-2842 Transcontinental Gas Pipe Line Corp.	Delmarva Power and Light Co.	05-01-90	B	19,180
ST90-2843 Transcontinental Gas Pipe Line Corp.	Fort Hill Natural Gas Authority	05-01-90	B	15,945
ST90-2844 Transcontinental Gas Pipe Line Corp.	North Carolina Natural Gas Corp.	05-01-90	B	71,435
ST90-2845 Transcontinental Gas Pipe Line Corp.	Superior Natural Gas Corp.	05-01-90	G-S	120,000
ST90-2846 Transcontinental Gas Pipe Line Corp.	Union Pacific Fuels, Inc.	05-01-90	G-S	50,000
ST90-2847 Transcontinental Gas Pipe Line Corp.	North Carolina Gas Service Co.	05-01-90	B	23,577
ST90-2848 Transcontinental Gas Pipe Line Corp.	North Carolina Natural Gas Corp.	05-01-90	B	191,492
ST90-2849 Transcontinental Gas Pipe Line Corp.	City of Shelby	05-01-90	B	21,145
ST90-2850 Transcontinental Gas Pipe Line Corp.	City of Laurens	05-01-90	B	2,509
ST90-2851 Transcontinental Gas Pipe Line Corp.	Lynchburg Gas Co.	05-01-90	B	9,600
ST90-2852 Transcontinental Gas Pipe Line Corp.	Washington Gas Light Co.	05-01-90	B	22,000
ST90-2853 Transcontinental Gas Pipe Line Corp.	Eastern Shore Natural Gas Co.	05-02-90	G	23,655
ST90-2854 Transcontinental Gas Pipe Line Corp.	Lynchburg Gas Co.	05-02-90	B	6,433
ST90-2855 Transcontinental Gas Pipe Line Corp.	Frederick Gas Co.	05-02-90	B	9,384
ST90-2856 Transcontinental Gas Pipe Line Corp.	Commission of Public Works, Laurens	05-02-90	B	14,292
ST90-2857 Midwestern Gas Transmission Co.	PSI, Inc.	05-02-90	B	100,000
ST90-2858 Delhi Gas Pipeline Corp.	Panhandle Eastern Pipe Line Co.	05-01-90	C	15,000
ST90-2859 ANR Pipeline Co.	Tex/Con Gas Pipeline Co.	05-01-90	B	339,416
ST90-2860 ANR Pipeline Co.	Panhandle Eastern Pipe Line Co.	05-01-90	G	30,000
ST90-2861 ANR Pipeline Co.	Panhandle Eastern Pipe Line Co.	05-01-90	G	50,000
ST90-2862 ANR Pipeline Co.	Wisconsin Gas Co.	05-01-90	B	101,825
ST90-2863 Williams Natural Gas Co.	Vesta Energy Co.	05-01-90	G-S	30,000
ST90-2864 Williams Natural Gas Co.	Phibro Distributors Corp.	05-01-90	G-S	50,000
ST90-2865 Williams Natural Gas Co.	Prairie Gas Transportation Co.	05-01-90	B	950
ST90-2866 Exxon Gas System, Inc.	Sabine Pipe Line Co.	05-01-90	C	50,000
ST90-2867 Exxon Gas System, Inc.	Sabine Pipe Line Co.	05-01-90	C	15,000
ST90-2868 Exxon Gas System, Inc.	Transcontinental Gas P/L Corp., et al.	05-01-90	C	50,000
ST90-2869 Exxon Gas System, Inc.	Corpus Christi Industrial Pipeline Co.	05-01-90	C	20,000
ST90-2870 Exxon Gas System, Inc.	THC Pipeline Co.	05-01-90	C	25,000
ST90-2871 Exxon Gas System, Inc.	Northern Natural Gas Co.	05-01-90	C	50,000
ST90-2872 ANR Pipeline Co.	Longhorn Pipeline Co.	05-02-90	B	1,000
ST90-2873 Transcontinental Gas Pipe Line Corp.	Greer Commission of Public Works	05-02-90	B	7,506
ST90-2874 Transcontinental Gas Pipe Line Corp.	Fountain Inn Natural Gas Authority	05-02-90	B	3,239
ST90-2875 Transcontinental Gas Pipe Line Corp.	Piedmont Natural Gas Co.	05-02-90	B	224,210
ST90-2876 Transcontinental Gas Pipe Line Corp.	Philadelphia Gas Works	05-02-90	B	272,497
ST90-2877 Transcontinental Gas Pipe Line Corp.	City of Lexington	05-02-90	B	16,224
ST90-2878 Transcontinental Gas Pipe Line Corp.	Public Service Electric and Gas Co.	05-02-90	B	183,182
ST90-2879 Transcontinental Gas Pipe Line Corp.	Washington Gas Light Co.	05-02-90	B	33,000
ST90-2880 Transcontinental Gas Pipe Line Corp.	Brooklyn Union Gas Co.	05-02-90	B	189,355
ST90-2881 Transcontinental Gas Pipe Line Corp.	City of Kings Mountain	05-02-90	B	1,804
ST90-2882 Transcontinental Gas Pipe Line Corp.	Washington Gas Light Co.	05-02-90	B	58,974
ST90-2883 Transcontinental Gas Pipe Line Corp.	City of Greer	05-02-90	B	2,200
ST90-2884 Transcontinental Gas Pipe Line Corp.	City of Union	05-02-90	B	3,136
ST90-2885 Transcontinental Gas Pipe Line Corp.	Public Service Electric and Gas Co.	05-02-90	B	68,334
ST90-2886 Transcontinental Gas Pipe Line Corp.	City of Kings Mountain	05-02-90	B	6,154
ST90-2887 Transcontinental Gas Pipe Line Corp.	Philadelphia Gas Works	05-02-90	B	57,972
ST90-2888 Transcontinental Gas Pipe Line Corp.	Philadelphia Gas Works	05-02-90	B	101,653

Docket No. * Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quanti-ty **
ST90-2889 Transcontinental Gas Pipe Line Corp.	Brooklyn Union Gas Co.	05-02-90	B	70,635
ST90-2890 Transcontinental Gas Pipe Line Corp.	Delmarva Power and Light Co.	05-02-90	B	51,414
ST90-2891 CNG Transmission Corp.	Louis Dreyfus Energy Corp.	05-03-90	G-S	30,000
ST90-2892 CNG Transmission Corp.	Hope Gas, Inc.	05-03-90	B	500
ST90-2893 Maple Gathering Corp. (The)	Natural Gas Pipeline Co. of America	05-03-90	C	10,000
ST90-2894 Valero Transmission, L.P.	Valero Interstate Transmission Co.	05-03-90	C	3,000
ST90-2895 Williston Basin Interstate P/L Co.	Northern Gas Co.	05-03-90	B	17,000
ST90-2896 Panhandle Eastern Pipe Line Co.	Southeastern Michigan Gas Co.	05-03-90	B	50,000
ST90-2897 Transcontinental Gas Pipe Line Corp.	Columbia Gas Transmission Corp.	05-03-90	G	13,715
ST90-2898 Transcontinental Gas Pipe Line Corp.	Commonwealth Gas Services	05-03-90	B	5,100
ST90-2899 ANR Pipeline Co.	Consumers Power Co.	05-03-90	B	43,838
ST90-2900 Northern Natural Gas Co.	Northern Border Pipeline Co.	05-04-90	G	547,600
ST90-2901 Superior Offshore Pipeline Co.	Riverside Pipeline Co.	05-04-90	B	14,000
ST90-2902 Columbia Gulf Transmission Co.	Enserch Gas Co.	05-04-90	G-S	200,000
ST90-2903 Williston Basin Interstate P/L Co.	Coastal States Gas Transmission Co.	05-04-90	B	2,750
ST90-2904 TEX/CON Gas Pipeline Co.	ANR Pipeline Co., et al.	05-04-90	C	10,000
ST90-2905 TEX/CON Gas Pipeline Co.	ANR Pipeline Co., et al.	05-04-90	C	10,000
ST90-2906 ANR Pipeline Co.	Indiana Gas Co.	05-04-90	B	15,000
ST90-2907 ANR Pipeline Co.	Midwest Gas Co.	05-04-90	B	2,400
ST90-2908 Trunkline Gas Co.	Texas Eastern Transmission Corp.	05-04-90	G	60,000
ST90-2909 Panhandle Eastern Pipeline Co.	Northern Indiana Fuel & Light Co., Inc.	05-04-90	B	3,207
ST90-2910 Stingray Pipeline Co.	Marathon Oil Co.	05-04-90	K-S	16,000
ST90-2911 Stingray Pipeline Co.	Louisiana Resources Co.	05-04-90	B	30,000
ST90-2912 Enogex Inc.	Panhandle Eastern Pipe Line Co.	05-04-90	C	50,000
ST90-2913 Enogex Inc.	Williams Natural Gas Co.	05-04-90	C	5,300
ST90-2914 Enogex Inc.	El Paso Natural Gas Co.	05-04-90	C	100,000
ST90-2915 Enogex Inc.	Arkla Energy Resources	05-04-90	C	50,000
ST90-2916 Tennessee Gas Pipeline Co.	Quivira Gas Co.	05-04-90	B	42,000
ST90-2917 Tennessee Gas Pipeline Co.	Columbia Gas Development Corp.	05-04-90	B	50,000
ST90-2918 Northern Border Pipeline Co.	Northern Indiana Public Service Co.	05-07-90	B	80,000
ST90-2919 Channel Industries Gas Co.	Tennessee Gas Pipeline Co.	05-07-90	C	50,000
ST90-2920 Channel Industries Gas Co.	Transcontinental Gas Pipe Line Corp.	05-07-90	C	20,000
ST90-2921 Texas Gas Transmission Corp.	Amoco Production Co.	05-07-90	G-S	200,000
ST90-2922 Texas Gas Transmission Corp.	Amoco Production Co.	05-07-90	G-S	400,000
ST90-2923 Texas Gas Transmission Corp.	Amoco Production Co.	05-07-90	G-S	200,000
ST90-2924 Valero Transmission, P.L.	United Gas Pipe Line Co.	05-07-90	C	1,000
ST90-2925 Natural Gas Pipeline Co. of America	Texas Hydorcarbons Co.	05-07-90	G-S	65,000
ST90-2926 Transcontinental Gas Pipe Line Corp.	Centran Corp.	05-07-90	G-S	90,000
ST90-2927 Columbia Gulf Transmission Co.	Yuma Gas Corp.	05-07-90	G-S	30,000
ST90-2928 Columbia Gulf Transmission Co.	Yuma Gas Corp.	05-07-90	G-S	30,000
ST90-2929 Colorado Interstate Gas Co.	Vesgas Co.	05-07-90	B	10,000
ST90-2930 Colorado Interstate Gas Co.	Northern Indiana Fuel & Light Co., Inc.	05-07-90	B	75,000
ST90-2931 Northern Natural Gas Co.	Centran Corp.	05-07-90	G-S	50,000
ST90-2932 Alabama-Tennessee Natural Gas Co.	Tenngasco Corp.	05-08-90	G-S	295,000
ST90-2933 Alabama-Tennessee Natural Gas Co.	Tenngasco, Inc.	05-08-90	G-S	295,000
ST90-2934 Alabama-Tennessee Natural Gas Co.	Centran Corp.	05-08-90	G-S	50,000
ST90-2935 Tennessee Gas Pipeline Co.	Pennsylvania Gas and Water Co.	05-08-90	B	12,000
ST90-2936 Trunkline Gas Co.	Peoples Natural Gas Co.	05-08-90	B	30,000
ST90-2937 Trunkline Gas Co.	PSI, Inc.	05-08-90	G-S	100,000
ST90-2938 Trunkline Gas Co.	Bethlehem Steep Corp.	05-08-90	G-S	12,921
ST90-2939 Transcontinental Gas Pipe Line Corp.	South Jersey Gas Co.	05-08-90	B	1,000
ST90-2940 Transcontinental Gas Pipe Line Corp.	Alabama Gas Corp.	05-08-90	B	100,000
ST90-2941 Northern Natural Gas Co.	Continental Natural Gas, Inc.	05-08-90	G-S	100,000
ST90-2942 Valero Transmission, L.P.	El Paso Natural Gas Co.	05-09-90	C	5,000
ST90-2943 Sea Robin Pipeline Co.	Hadson Gas Systems, Inc.	05-09-90	G-S	5,150
ST90-2944 United Gas Pipe Line Co.	Fina Oil and Chemical Co.	05-09-90	G-S	20,600
ST90-2945 United Gas Pipe Line Co.	International Paper Co.	05-09-90	G-S	6,180
ST90-2946 United Gas Pipe Line Co.	Shell Gas Trading Co.	05-09-90	G-S	206,000
ST90-2947 Texas Gas Transmission Corp.	Memphis Light, Gas and Water Division	05-09-90	B	1,200
ST90-2948 Texas Gas Transmission Corp.	Centran Corp.	05-09-90	G-S	30,000
ST90-2949 Texas Gas Transmission Corp.	Coastal Gas Marketing Co.	05-09-90	G-S	200,000
ST90-2950 Texas Gas Transmission Corp.	United Cities Gas Co.	05-09-90	B	80,000
ST90-2951 Texas Gas Transmission Corp.	Entrade Corp.	05-09-90	G-S	100,000
ST90-2952 Williston Basin Interstate P/L Co.	Montana-Dakota Utilities Co.	05-09-90	B	28,179
ST90-2953 Columbia Gulf Transmission Co.	Rangeline Corp.	05-09-90	G-S	30,000
ST90-2954 Alabama-Tennessee Natural Gas Co.	Monsanto Co.	05-09-90	G-S	6,000
ST90-2955 Alabama-Tennessee Natural Gas Co.	NGC Transportation, Inc.	05-09-90	G-S	200,000
ST90-2956 Alabama-Tennessee Natural Gas Co.	Wolverine Tube, Inc.	05-09-90	G-S	2,200
ST90-2957 Alabama-Tennessee Natural Gas Co.	Bunge Corp.	05-09-90	G-S	2,820
ST90-2958 Texas Eastern Transmission Corp.	Gulf States Gas Corp.	05-03-90	G-S	100,000
ST90-2959 High Island Offshore System	Texaco Gas Marketing, Inc.	05-10-90	K-S	1,740,000
ST90-2960 Trunkline Gas Co.	Access Energy Pipeline Corp.	05-10-90	B	10,000
ST90-2961 Delhi Gas Pipeline Corp.	Northern Indiana Public Service Co.	05-10-90	D	6,000
ST90-2962 Trailblazer Pipeline Co.	Enron Industrial Natural Gas Co.	05-10-90	B	353,000
ST90-2963 Pelican Interstate Gas System	Natual Gas Pipeline Co. of Americaa	05-10-90	K	75,000
ST90-2964 ANR Pipeline Co.	City Gas of Antigo	05-10-90	B	67,884
ST90-2965 ANR Pipeline Co.	Entrade Corp.	05-10-90	G-S	100,000
ST90-2966 ANR Pipeline Co.	Wisconsin Power and Light Co.	05-10-90	B	40,000
ST90-2967 ANR Pipeline Co.	Texas Industrial Energy Co.	05-10-90	B	200,000

Docket No. * Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quanti-ty **
ST90-2968 ANR Pipeline Co	Iowa-Illinois Gas & Electric Co.	05-10-90	B	14,739
ST90-2969 ANR Pipeline Co	Fina Oil and Chemical Co	05-10-90	G-S	25,000
ST90-2970 ANR Pipeline Co	Baltimore Gas and Electric Co	05-10-90	B	15,058
ST90-2971 ANR Pipeline Co	Shell Gas Trading Co.	05-10-90	G-S	30,000
ST90-2972 Transcontinental Gas Pipe Line Corp	Chevron U.S.A., Inc.	05-10-90	G-S	50,000
ST90-2973 United Gas Pipe Line Co	Gulf South Pipeline Co.	05-10-90	G-S	309,000
ST90-2974 United Gas Pipe Line Co	Exxon Corp.	05-10-90	G-S	103,000
ST90-2975 United Gas Pipe Line Co	Texaco Gas Marketing, Inc.	05-10-90	G-S	51,500
ST90-2976 United Gas Pipe Line Co	Laser Marketing Co.	05-10-90	G-S	618,000
ST90-2977 CNG Transmission Corp	Niagara Mohawk Power Corp.	05-11-90	B	300
ST90-2978 CNG Transmission Corp	Niagara Mohawk Power Corp.	05-11-90	B	120
ST90-2979 CNG Transmission Corp	New York State Electric and Gas Co.	05-11-90	B	51
ST90-2980 CNG Transmission Corp	Peoples Natural Gas Co.	05-11-90	B	325,500
ST90-2981 CNG Transmission Corp	National Fuel Gas Supply Corp.	05-11-90	G	40,976
ST90-2982 CNG Transmission Corp	New Jersey Natural Gas Co.	05-11-90	B	3,333
ST90-2983 CNG Transmission Corp	Equitrans, Inc.	05-11-90	G	20,000
ST90-2984 CNG Transmission Corp	New York State Electric and Gas Co.	05-11-90	B	45,320
ST90-2985 CNG Transmission Corp	River Gas Co.	05-11-90	B	4,500
ST90-2986 CNG Transmission Corp	Niagara Mohawk Power Corp.	05-11-90	B	174,158
ST90-2987 CNG Transmission Corp	Hope Gas, Inc.	05-11-90	B	10,000
ST90-2988 CNG Transmission Corp	Brooklyn Union Gas Co.	05-11-90	B	6,689
ST90-2989 CNG Transmission Corp	Hanley and Bird	05-11-90	B	1,923
ST90-2990 CNG Transmission Corp	Public Service Electric and Gas Co.	05-11-90	B	11,943
ST90-2991 CNG Transmission Corp	Peoples Natural Gas Co.	05-11-90	B	439
ST90-2992 CNG Transmission Corp	Cincinnati Gas and Electric Co.	05-11-90	B	20,500
ST90-2993 CNG Transmission Corp	Hope Gas, Inc.	05-11-90	B	1,000
ST90-2994 CNG Transmission Corp	Cranberry Pipeline Corp.	05-11-90	B	5,000
ST90-2995 CNG Transmission Corp	Washington Gas Light Co.	05-11-90	B	30,000
ST90-2996 CNG Transmission Corp	Rochester Gas & Electric Corp.	05-11-90	B	84,307
ST90-2997 CNG Transmission Corp	River Gas Co.	05-11-90	B	12,750
ST90-2998 CNG Transmission Corp	East Ohio Gas Co.	05-11-90	B	736,500
ST90-2999 CNG Transmission Corp	East Ohio Gas Co.	05-11-90	B	763,500
ST90-3000 CNG Transmission Corp	Peoples Natural Gas Co.	05-11-90	B	1,760
ST90-3001 CNG Transmission Corp	Rochester Gas & Electric Corp.	05-11-90	B	2,300
ST90-3002 CNG Transmission Corp	Hope Gas, Inc.	05-11-90	B	2,000
ST90-3003 CNG Transmission Corp	Columbia Gas of Ohio, Inc.	05-11-90	B	135,000
ST90-3004 CNG Transmission Corp	Corning Natural Gas Corp.	05-11-90	B	9,013
ST90-3005 CNG Transmission Corp	Hope Gas, Inc.	05-11-90	B	53,164
ST90-3006 CNG Transmission Corp	New Jersey Natural Gas Co.	05-11-90	B	5,224
ST90-3007 CNG Transmission Corp	South Jersey Gas Co.	05-11-90	B	5,500
ST90-3008 CNG Transmission Corp	Rochester Gas & Electric Corp.	05-11-90	B	100
ST90-3009 Columbia Gulf Transmission Co.	Union Exploration Partners, Ltd.	05-11-90	G-S	30,000
ST90-3010 Columbia Gulf Transmission Co.	Union Texas Petroleum Corp.	05-11-90	G-S	100,000
ST90-3011 Columbia Gulf Transmission Co.	Louisiana Natural Gas Pipeline, Inc.	05-11-90	B	50,000
ST90-3012 Transcontinental Gas Pipe Line Corp.	Coastal States Gas Transmission Co.	05-11-90	B	100,000
ST90-3013 Transcontinental Gas Pipe Line Corp.	South Jersey Energy Co.	05-11-90	B	5,000
ST90-3014 Enserch Gas Transmission Co.	El Paso Natural Gas Co., et al.	05-11-90	C	100,000
ST90-3015 Lone Star Gas Co.	El Paso Natural Gas Co., et al.	05-11-90	C	100,000
ST90-3016 Trailblazer Pipeline Co.	Northern Indiana Fuel & Light Co., Inc.	05-11-90	B	353,000
ST90-3017 Trailblazer Pipeline Co.	Northern Illinois Gas Co.	05-11-90	B	30,000
ST90-3018 United Gas Pipe Line Co.	Phibro Distributors Corp.	05-11-90	G-S	309,000
ST90-3019 Southern Natural Gas Co.	Phibro Energy, Inc.	05-11-90	G-S	100,000
ST90-3020 Southern Natural Gas Co.	Texas Power Corp.	05-11-90	G-S	30,000
ST90-3021 Southern Natural Gas Co.	End Users Supply System	05-11-90	G-S	30,000
ST90-3022 Southern Natural Gas Co.	NGC Transportation, Inc.	05-11-90	G-S	100,000
ST90-3023 Southern Natural Gas Co.	Brooklyn Interstate Natural Gas Corp.	05-11-90	G-S	30,000
ST90-3024 Southern Natural Gas Co.	Louis Dreyfus Energy Corp.	05-11-90	G-S	100,000
ST90-3025 Williston Basin Interstate P/L Co.	Wyoming Gas Co.	05-11-90	B	2,395
ST90-3026 Northern Natural Gas Co.	Enron Gas Marketing	05-14-90	G-S	100,000
ST90-3027 Northern Natural Gas Co.	Vengas Marketing Co.	05-14-90	G-S	10,000
ST90-3028 Northern Natural Gas Co.	Vengas Marketing Co.	05-14-90	G-S	10,000
ST90-3029 Northern Natural Gas Co.	Sunrise Energy Co.	05-14-90	G-S	4,427
ST90-3030 Northern Natural Gas Co.	Helmerich & Payne, Inc.	05-14-90	G-S	5,000
ST90-3031 Northern Natural Gas Co.	Vengas Marketing Co.	05-14-90	G-S	10,000
ST90-3032 Northern Natural Gas Co.	Conoco, Inc.	05-14-90	G-S	5,000
ST90-3033 Northern Natural Gas Co.	Helmerich & Payne, Inc.	05-14-90	G-S	10,000
ST90-3034 Northern Natural Gas Co.	Houston Gas Exchange Corp.	05-14-90	G-S	25,000
ST90-3035 Green Canyon Pipe Line Co.	Mobil Natural Gas, Inc.	05-14-90	G-S	70,000
ST90-3036 Green Canyon Pipe Line Co.	Mobil Vanderbilt-Beaumont Pipeline Co.	05-14-90	B	40,000
ST90-3037 Green Canyon Pipe Line Co.	BHP Gas Marketing Co.	05-14-90	G-S	30,000
ST90-3038 Green Canyon Pipe Line Co.	Texican Natural Gas Co.	05-14-90	G-S	25,000
ST90-3039 Stingray Pipeline Co.	Continental Natural Gas, Inc.	05-14-90	K-S	50,000
ST90-3040 Northern Border Pipeline Co.	Northern Natural Gas Co.	05-15-90	G	30,000
ST90-3041 Northern Border Pipeline Co.	Access Energy Corp.	05-15-90	B	150,000
ST90-3042 Northern Border Pipeline Co.	Northern Natural Gas Co.	05-15-90	G	50,000
ST90-3043 Northern Border Pipeline Co.	Northern Natural Gas Co.	05-15-90	G	20,000
ST90-3044 Northern Border Pipeline Co.	Northern Natural Gas Co.	05-15-90	G	245,000
ST90-3045 Northern Border Pipeline Co.	Northern Natural Gas Co.	05-15-90	G	10,000
ST90-3046 Northern Border Pipeline Co.	Northern Natural Gas Co.	05-15-90	G	100,000

Docket No. * Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity **
ST90-3047 Northern Border Pipeline Co	Colony Pipeline Corp.	05-15-90	B	60,000
ST90-3048 Northern Border Pipeline Co	Niagara Mohawk Power Corp.	05-15-90	B	200,000
ST90-3049 Northern Border Pipeline Co	Northern Natural Gas Co.	05-15-90	G	40,000
ST90-3050 Northern Border Pipeline Co	American Natural Gas Corp	05-15-90	G	215,300
ST90-3052 Williston Basin Interstate P/L Co	Quivira Gas Co	05-15-90	B	186,812
ST90-3053 Northern Natural Gas Co	Phillips 66 Natural Gas Co	05-16-90	G-S	1,500
ST90-3054 Northern Natural Gas Co	Natural Gas Pipeline Co. of America	05-16-90	G	100,000
ST90-3055 Westar Transmission Co	Southern California Gas Co	05-17-90	C	100,000
ST90-3056 Delhi Gas Pipeline Corp	El Paco Natural Gas Co	05-17-90	C	50,000
ST90-3057 High Island Offshore System	Western Methane Co	05-17-90	K-S	900,000
ST90-3058 High Island Offshore System	Continental Natural Gas, Inc	05-17-90	K-C	100,000
ST90-3059 High Island Offshore System	Mobil Natural Gas, Inc	05-17-90	K-S	30,000
ST90-3060 High Island Offshore System	Phibro Distributors Corp	05-17-90	K-S	435,000
ST90-3061 High Island Offshore System	Santa Fe International Corp	05-17-90	K-S	135,000
ST90-3062 High Island Offshore System	Seagull Marketing Service, Inc	05-17-90	K-S	100,000
ST90-3063 United Gas Pipe Line Co	V.H.C. Gas System, L.P.	05-17-90	G-S	206,000
ST90-3064 United Gas Pipe Line Co	Oxy U.S.A., Inc	05-17-90	G-S	30,900
ST90-3065 United Gas Pipe Line Co	Tennessee Gas Pipeline Co	05-17-90	G	51,500
ST90-3066 Tennessee Gas Pipeline Co	Nortech Energy Corp	05-17-90	G-S	25,000
ST90-3067 Tennessee Gas Pipeline Co	United Texas Transmission Co	05-17-90	B	225,000
ST90-3068 Tennessee Gas Pipeline Co	Jaywell Energy Crop	05-17-90	G-S	50,000
ST90-3069 Midwestern Gas Transmission Co	Northern Illinois Gas Co	05-17-90	B	150,000
ST90-3070 Sea Robin Pipeline Co	Oxy U.S.A., Inc	05-17-90	G-S	5,150
ST90-3071 Nuces Co	Colorado Interstate Gas Co	05-18-90	C	7,705
ST90-3072 Transcontinental Gas Pipe Line Corp	Fountain Inn Natural Gas Authority	05-18-90	B	302
ST90-3073 Green Canyon Pipe Line Co	NGC Intrastate Pipeline Co	05-18-90	B	200,000
ST90-3074 Transcontinental Gas Pipe Line Corp	Union Gas Co	05-18-90	B	4,498
ST90-3075 Transcontinental Gas Pipe Line Corp	City of Richmond	05-18-90	B	50,000
ST90-3076 Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	05-18-90	B	1,000
ST90-3077 Natural Gas Pipeline Co. of America	Continental Natural Gas, Inc	05-18-90	B	150,000
ST90-3078 El Paso Natural Gas Co	Meridian Oil Hydrocarbons, Inc	05-18-90	B	360,500
ST90-3079 El Paso Natural Gas Co	Gulf Gas Utilities Co	05-18-90	G-S	1.030
ST90-3080 Delhi Gas Pipeline Corp	Transcontinental Gas Pipe Line Corp	05-18-90	C	45,000
ST90-3081 Delhi Gas Pipeline Corp	United Gas Pipe Line Co	05-18-90	C	75,000
ST90-3082 K N Energy, Inc	Kimball Energy Corp	05-18-90	G-S	25,000
ST90-3083 K N Energy, Inc	Omni Gas, Inc	05-18-90	G-S	20,000
ST90-3084 K N Energy, Inc	Prairie Gas Transportation Co	05-18-90	B	20,000
ST90-3085 K N Energy, Inc	B & A Pipeline Co	05-18-90	B	195,000
ST90-3086 United Gas Pipe Line Co	Transcontinental Gas Pipe Line Corp	05-18-90	G	103,000
ST90-3087 United Gas Pipe Line Co	NGC Transportation, Inc	05-18-90	G-S	30,900
ST90-3088 Transwestern Pipeline Co	Vesta Energy Co	05-18-90	G-S	50,000
ST90-3089 Acadian Gas Pipeline System	Transcontinental Gas Pipe Line Corp	05-18-90	C	20,000
ST90-3090 Williston Basin Interstate P/L Co	Montana-Utilities Co	05-18-90	B	115,734
ST90-3091 Williston Basin Interstate P/L Co	Montana-Utilities Co	05-18-90	B	4,250
ST90-3092 Louisiana Resources Co	Louisiana Gas Marketing Co	05-18-90	C	40,000
ST90-3093 Louisiana Resources Co	Bridgeline Gas Distribution Co	05-18-90	C	50,000
ST90-3094 El Paso Natural Gas Co	Cmex Energy, Inc	05-21-90	G-S	20.600
ST90-3095 Arkla Energy Resources	Entrade Corp	05-21-90	G-S	50,000
ST90-3096 Colorado Interstate Gas Co	Enron Industrial Natural Gas Co	05-21-90	B	11,800
ST90-3097 Colorado Interstate Gas Co	Enron Gas Marketing, Inc	05-21-90	G-S	50,000
ST90-3098 Colorado Interstate Gas Co	Associated Intrastate Pipeline Co	05-21-90	B	30,000
ST90-3099 Colorado Interstate Gas Co	Neches Gas Distribution Co	05-21-90	B	300
ST90-31100 Colorado Interestate Gas Co	Northern Illinois Gas Co	05-21-90	B	25,000
ST90-3101 Oasis Pipe Line Co	Southwest Gas Crop	05-21-90	C	75,000
ST90-3102 Acadian Gas Pipeline System	Natural Gas Pipeline Co. of America	05-21-90	C	50,000
ST90-3103 Panhandle Eastern Pipe Line Co	Northern Indiana Fuel & Light Co., Inc	05-21-90	G-S	5,612
ST90-3104 Panhandle Eastern Pipe Line Co	Bethlehem Steel Corp	05-21-90	G-S	13,109
ST90-3105 Panhandle Eastern Pipe Line Co	PSI, Inc	05-21-90	G-S	100,000
ST90-3106 Panhandle Eastern Pipe Line Co	Ohio Gas Co	05-21-90	B	19,927
ST90-3107 Panhandle Eastern Pipe Line Co	Continental Energy	05-21-90	G-S	200
ST90-3108 Panhandle Eastern Pipe Line Co	Continental Natural Gas, Inc	05-21-90	G-S	50,000
ST90-3109 Houston Pipe Line Co	Northern Natural Gas Co	05-21-90	C	50,000
ST90-3110 Houston Pipe Line Co	Northern Natural Gas Co	05-21-90	C	10,000
ST90-3111 Houston Pipe Line Co	Natural Gas Pipeline Co. of America	05-21-90	C	10,000
ST90-3112 Northwest Pipeline Corp	Conoco, Inc	05-21-90	G-S	500
ST90-3113 Columbia Gulf Transmission Co	Centran Corp	05-21-90	G-S	20,000
ST90-3114 Columbia Gulf Transmission Co	Elf Exploration, Inc	05-21-90	G-S	12,000
ST90-3115 Columbia Gulf Transmission Co	Shell Offshore Inc	05-21-90	G-S	50,000
ST90-3116 Columbia Gulf Transmission Co	Kentucky Electric Steel Corp	05-21-90	G-S	3,000
ST90-3117 Columbia Gulf Transmission Co	Shell Gas Trading Co	05-21-90	G-S	57,000
ST90-3118 Columbia Gulf Transmission Co	Diamond Shamrock Offshore Partners Ltd	05-21-90	G-S	23,000
ST90-3119 Columbia Gulf Transmission Co	Hadson Gas Systems, Inc	05-21-90	G-S	2,000
ST90-3120 Columbia Gulf Transmission Co	American Central Gas Marketing Co	05-21-90	G-S	40,000
ST90-3121 Columbia Gulf Transmission Co	Conoco, Inc	05-21-90	G-S	75,000
ST90-3122 Columbia Gulf Transmission Co	Louis Dreyfus Energy Corp	05-21-90	G-S	50,000
ST90-3123 Columbia Gulf Transmission Co	Coastal Gas Marketing Co	05-21-90	G-S	25,000
ST90-3124 Columbia Gulf Transmission Co	Elf Aquitaine, Inc	05-21-90	G-S	30,000
ST90-3125 Columbia Gulf Transmission Co	NGC Transportation, Inc	05-22-90	G-S	200,000
ST90-3126 Columbia Gulf Transmission Co	Nortech Energy Corp	05-22-90	G-S	25,000

Docket No. * Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity **
ST90-3127 Columbia Gas Transmission Corp	CNG Trading Co	05-22-90	G-S	700
ST90-3128 Tennessee Gas Pipeline Co	Midcon Marketing Corp	05-22-90	G-S	400,000
ST90-3129 Llano, Inc	El Paso Natural Gas Co., et al	05-22-90	C	5,000
ST90-3130 Llano, Inc	El Paso Natural Gas Co	05-22-90	C	7,000
ST90-3131 Llano, Inc	El Paso Natural Gas Co., et al	05-22-90	C	2,500
ST90-3132 Llano, Inc	El Paso Natural Gas Co., et al	05-22-90	C	12,500
ST90-3133 Llano, Inc	El Paso Natural Gas Co	05-22-90	C	2,000
ST90-3134 Northern Natural Gas Co	Panda Resources, Inc	05-22-90	G-S	300,000
ST90-3135 Equitrans, Inc	Transport Gas Corp	05-22-90	G-S	294
ST90-3136 Trunkline Gas Co	Borden Chem. & Plastics Operating, L.P	05-22-90	G-S	5,500
ST190-3137 Trunkline Gas Co.	Bishop Pipeline Corp.	05-22-90	B	20,000
ST190-3138 Trunkline Gas Co.	Peoples Natural Gas Co.	05-22-90	B	100,000
ST190-3139 Panhandle Eastern Pipe Line Co.	Bishop Pipeline Corp.	05-23-90	B	20,000
ST190-3140 Panhandle Eastern Pipe Line Co.	Indiana Gas Co.	05-23-90	B	700
ST190-3141 Panhandle Eastern Pipe Line Co.	BP Oil Co.	05-23-90	G-S	20,000
ST190-3142 ANR Pipeline Co.	Santanna Natural Gas Corp.	05-23-90	G-S	150,000
ST190-3143 ANR Pipeline Co.	Union Gas Limited	05-23-90	B	6,727
ST190-3144 ANR Pipeline Co.	Phelps Dodge Magnet Wire Co.	05-23-90	G-S	700
ST190-3145 ANR Pipeline Co.	Schreier Malting Co.	05-23-90	G-S	500
ST190-3146 ANR Pipeline Co.	Union Gas Limited	05-23-90	B	13,455
ST190-3147 ANR Pipeline Co.	Northern Illinois Gas Co.	05-23-90	B	100,000
ST190-3148 ANR Pipeline Co.	Gulf Ohio Corp.	05-23-90	G-S	5,000
ST190-3149 ANR Pipeline Co.	Panhandle Eastern Pipe Line Co.	05-23-90	G	30,530
ST190-3150 ANR Pipeline Co.	Steel Case, Inc.	05-23-90	G-S	8,486
ST190-3151 ANR Pipeline Co.	Michigan Gas Co.	05-23-90	B	33,942
ST190-3152 ANR Pipeline Co.	Dayton Power and Light Co.	05-23-90	B	5,000
ST190-3153 SEA Robin Pipeline Co.	Adobe Gas Marketing Co.	05-23-90	G-S	25,750
ST190-3154 SEA Robin Pipeline Co.	Crescent Gas Corp.	05-23-90	G-S	10,300
ST190-3155 Sea Robin Pipeline Co.	Continental Natural Gas, Inc.	05-23-90	G	51,500
ST190-3156 Michigan Gas Storage Co.	Ohio Gas Co.	05-23-90	B	19,927
ST190-3157 United Gas Pipe Line Co.	Pennzoil Gas Marketing Corp.	05-23-90	G-S	3,605
ST190-3158 Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	05-23-90	B	60,000
ST190-3159 Northwest Pipeline Corp.	Meridian Oil Trading, Inc.	05-23-90	G-S	15,000
ST190-3160 Natural Gas Pipeline Co. of America	LL&E Gas Marketing, Inc.	05-24-90	G-S	575,000
ST190-3161 Natural Gas Pipeline Co. of America	Texarkoma Transportation Co.	05-24-90	G-S	3,500
ST190-3162 Northern Natural Gas Co.	Wisconsin Natural Gas Co.	05-24-90	B	50,000
ST190-3163 Northern Natural Gas Co.	Minnegasco, Inc.	05-24-90	B	100,000
ST190-3164 Transcontinental Gas Pipe Line Corp.	Corpus Christi Transmission Co.	05-24-90	B	210,000
ST190-3165 Trunkline Gas Co.	Unicorp Energy, Inc.	05-24-90	G-S	50,000
ST190-3166 Trunkline Gas Co.	BP Oil Co.	05-24-90	G-S	20,000
ST190-3167 Trunkline Gas Co.	NGC Transportation, Inc.	05-24-90	G-S	50,000
ST190-3168 Trunkline Gas Co.	Amoco Production Co.	05-24-90	G-S	30,000
ST190-3169 Trunkline Gas Co.	Semco Energy Services, Inc.	05-24-90	G-S	20,000
ST190-3170 Trunkline Gas Co.	Texaco, Inc.	05-24-90	G-S	20,000
ST190-3171 Panhandle Eastern Pipe Line Co.	Vesta Energy Co.	05-24-90	G-S	50,000
ST190-3172 Panhandle Eastern Pipe Line Co.	Tri-Power Fuels, Inc.	05-24-90	G-S	20,000
ST190-3173 Delhi Gas Pipeline Co.	Natural Gas Pipeline Co. of America	05-25-90	C	20,000
ST190-3174 Delhi Gas Pipeline Co.	Natural Gas Pipeline Co. of America	05-25-90	C	10,000
ST190-3175 Texas Gas Transmission Corp.	PSI, Inc.	05-25-90	G-S	150,000
ST190-3176 Texas Gas Transmission Corp.	Centran Corp.	05-25-90	G-S	30,000
ST190-3177 Texas Gas Transmission Corp.	Midcon Marketing Corp.	05-25-90	G-S	200,000
ST190-3178 Tennessee Natural Gas	Brooklyn Union Gas Co.	05-25-90	B	133,500
ST190-3179 Natural Gas Pipeline Co. of America	Equitable Resources Marketing Co.	05-25-90	G-S	200,000
ST190-3180 Natural Gas Pipeline Co. of America	Phillips 66 Natural Gas Co.	05-25-90	G-S	50,000
ST190-3181 Natural Gas Pipeline Co. of America	Phillips Petroleum Co.	05-25-90	G-S	50,000
ST190-3182 Natural Gas Pipeline Co. of America	Gasmark Inc.	05-25-90	G-S	75,000
ST190-3183 Transtexas Pipeline	Northern Natural Gas Co.	05-25-90	C	4,680
ST190-3184 Valero Transmission, L.P.	Northern Natural Gas Co.	05-25-90	C	4,680
ST190-3185 Columbia Gas Transmission Corp.	CNG Trading Co.	05-25-90	G-S	60,000
ST190-3186 Texas Eastern Transmission Corp.	Louis Dreyfus Energy Corp.	05-25-90	G-S	263,000
ST190-3187 Northern Border Pipeline Co.	Northern Natural Gas Co.	05-25-90	G	100,000
ST190-3188 Northern Border Pipeline Co.	Midwest Gas Co.	05-25-90	B	100,000
ST190-3189 Northern Border Pipeline Co.	Exxon Corp.	05-25-90	G-S	150,000
ST190-3190 Northern Border Pipeline Co.	Northern Natural Gas Co.	05-25-90	G	150,000
ST190-3191 Northern Border Pipeline Co.	Southern California Gas Co.	05-25-90	G	200,000
ST190-3192 Northern Border Pipeline Co.	Energy Dynamics, Inc.	05-25-90	G-S	60,000
ST190-3193 Northern Border Pipeline Co.	Mock Resources, Inc.	05-25-90	G-S	500,000
ST190-3194 Northern Border Pipeline Co.	Mobil Natural Gas, Inc.	05-25-90	G-S	30,000
ST190-3195 Northern Border Pipeline Co.	Northern Natural Gas Co.	05-25-90	G	75,000
ST190-3196 Northern Border Pipeline Co.	Northern Illinois Gas Co.	05-25-90	B	100,000
ST190-3197 Delhi Gas Pipeline Corp.	Natural Gas Pipeline Co. of America	05-29-90	C	10,000
ST190-3198 Transok, Inc.	Phillips Gas Pipeline Co.	05-29-90	C	26,500
ST190-3199 Transok, Inc.	Arkla Energy Resources	05-29-90	C	10,000
ST190-3200 Transok, Inc.	Natural Gas Pipeline Co. of America	05-29-90	C	26,500
ST190-3201 Louisiana Intrastate Gas Corp.	ANR Pipeline Co. et al.	05-29-90	C	25,000
ST190-3202 Seagull Shoreline System	Providence Gas Co.	05-29-90	C	10,000
ST190-3203 Questar Pipeline Co.	Amoco Production Co.	05-29-90	G-S	80,000
ST190-3204 El Paso Natural Gas Co.	Phillips Natural Gas Co.	05-29-90	B	250
ST190-3205 El Paso Natural Gas Co.	Meridian Oil Hydrocarbons, Inc.	05-29-90	B	154,500

Docket No. * Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity **
ST190-3206 Columbia Gulf Transmission Co.	NGC Transportation, Inc.	05-29-90	G-S	100,000
ST190-3207 Columbia Gas Transmission Corp.	East Oil Gas Co.	05-29-90	G-S	100
ST190-3208 Columbia Gas Transmission Corp.	Texas Oil Gas, Inc.	05-29-90	G-S	1,000
ST190-3209 Equitrans, Inc.	Equitable Gas Co.	05-29-90	G-S	50,000
ST190-3210 Tennessee Gas Pipeline Co.	Harbert Oil & Gas Corp.	05-29-90	G-S	37,512
ST190-3211 Tennessee Gas Pipeline Co.	Bridgeline Gas Distribution Co.	05-29-90	B	1,200
ST190-3212 Blue Dolphin Pipe Line Co.	Chevron U.S.A., Inc.	05-29-90	G-S	20,000
ST190-3213 Panhandle Eastern Pipe Line Co.	PSI Gas Systems, Inc.	05-29-90	B	100,000
ST190-3214 Panhandle Eastern Pipe Line Co.	Miami Pipeline Co.	05-29-90	B	1,000
ST190-3215 Texas Gas Transmission Corp.	Amoco Production Co.	05-29-90	G-S	400,000
ST190-3216 Texas Gas Transmission Corp.	Ladd Gas Marketing	05-29-90	B	50,000
ST190-3217 Texas Gas Transmission Corp.	Terre Haute Gas Corp.	05-29-90	G-S	1,531
ST190-3218 Arkla Energy Resources	Greeley Gas Co.	05-29-90	B	1,200
ST190-3219 Texas Sea Rim Pipeline, Inc.	Texas Sea Rim Pipeline, Inc.	05-30-90	C	10,000
ST190-3220 Enserch Gas Transmission Co.	Trunkline Gas Co.	05-30-90	C	50,000
ST190-3221 Enserch Gas Transmission Co.	Tennessee Gas Pipeline Co., et al.	05-30-90	C	20,000
ST190-3222 Northern Natural Gas Co.	NGC Transportation, Inc.	05-30-90	G-S	25,000
ST190-3223 ANR Pipeline Co.	Santanna Natural Gas Corp.	05-30-90	G-S	50,000
ST190-3224 ANR Pipeline Co.	Santanna Natural Gas Corp.	05-30-90	G-S	100,000
ST190-3225 ANR Pipeline Co.	Columbia Gas Transmission Corp.	05-30-90	G	300,000
ST190-3226 ANR Pipeline Co.	Santanna Natural Gas Corp.	05-30-90	G-S	150,000
ST190-3227 ANR Pipeline Co.	Kaztex Energy Management, Inc.	05-30-90	G-S	32,584
ST190-3228 Gulf States Pipeline Corp.	Southern Natural Gas Co. et al.	05-31-90	C	20,000
ST190-3229 Natural Gas Pipeline Co. of America	PSI, Inc.	05-31-90	G-S	50,000
ST190-3230 Channel Industries Gas Co.	El Paso Natural Gas Co.	05-31-90	C	200,000
ST190-3231 Midwestern Gas Transmission Co.	Superior Natural Gas Corp.	05-31-90	G-S	25,000
ST190-3232 Midwestern Gas Transmission Co.	Coastal Gas Marketing Co.	05-31-90	G-S	50,000
ST190-3233 Midwestern Gas Transmission Co.	Rangeline Corp.	05-31-90	G-S	50,000
ST190-3234 Midwestern Gas Transmission Co.	Southern Indiana Gas & Electric Co.	05-31-90	B	50,000
ST190-3235 Midwestern Gas Transmission Co.	Northern Illinois Gas Co.	05-31-90	B	50,000
ST190-3236 Sonat Intrastate-Alabama Inc.	Tennessee Gas Pipeline Co.	05-31-90	C	10,000
ST190-3237 ANR Pipeline Co.	ICG Utilities (Manitoba) Ltd.	05-31-90	B	80,000
ST190-3238 ANR Pipeline Co.	Trinity Pipeline, Inc.	05-31-90	G-S	10,000
ST190-3239 Tennessee Gas Pipeline Co.	Kentucky Electric Steel Corp.	05-30-90	G-S	1,800
ST190-3240 Tennessee Gas Pipeline Co.	Rochester Gas & Electric Corp.	05-30-90	B	500,000
ST190-3241 Tennessee Gas Pipeline Co.	Honda of North America Manufact., Inc.	05-30-90	G-S	2,000
ST190-3242 Texas Eastern Transmission Corp.	Coastal Gas Marketing Co.	05-31-90	G-S	400,000
ST190-3243 Texas Eastern Transmission Corp.	Southern Illinois Hospital Services	05-31-90	G-S	268
ST190-3244 Mississippi River Transmission Corp.	Big River Zinc Corp.	05-31-90	G-S	714
ST190-3245 Mississippi River Transmission Corp.	Mountain Iron & Supply Co.	05-31-90	G-S	20,000
ST190-3246 Mississippi River Transmission Corp.	Access Energy Pipeline Corp.	05-31-90	B	10,000
ST190-3247 Williams Natural Gas Co.	United Cities Gas Co.	05-31-90	B	1,300
ST190-3248 Williams Natural Gas Co.	Peoples Natural Gas Co.	05-31-90	B	260,000
ST190-3249 Williams Natural Gas Co.	Kansas Power and Light Co.	05-31-90	B	680
ST90-3250 Tennessee Gas Pipeline Co.	Bay State Gas Co.	05-31-91	B	144,640

* Notice of transactions does not constitute a determination that filings comply with commission regulations in accordance with order no. 436 final rule and notice requesting supplemental comments, 50 FR 42,372, 10/10/85.

** Estimated maximum daily volumes includes volumes reported by the filing company in lieu MMBTU, MCF and DT.

[FR Doc. 90-16082 Filed 7-10-90; 8:45 am]

BILLING CODE 6717-01-M

Equitrans, Inc.; Proposed Changes in FERC Gas Tariff

[Docket No. TA90-1-24-000]

July 5, 1990.

Take notice that on July 2, 1990, Equitrans, Inc. ("Equitrans"), pursuant to section 4 of the Natural Gas Act, part 154 of the Commissions Regulations (18 CFR part 154) and section 19 of the General Terms and Conditions of Original Volume No. 1 of Equitrans' tariff, filed its second Annual Purchased Gas Adjustment, containing the following revised tariff Original Volume No. 1 of its FERC Gas Tariff to be effective September 1, 1990.

Sixteenth Revised Sheet No. 10
Eighth Revised Sheet No. 34
Second Revised Sheet No. 174
Second Revised Sheet No. 176
Second Revised Sheet No. 177
Fourth Revised Sheet No. 177c

The changes proposed in this filing consist of current adjustments for the components of Equitrans' sales rates representing the change in Equitrans' motion filing effective July 1, 1990 in Docket No. RP90-70-000, et al. The current adjustment to the demand cost represents a decrease of $0.0041 per dekatherm (dth). The commodity adjustment is an increase of $0.4267 per dth.

Equitrans requests a waiver of § 154.305 (b)(1) of the Regulations to permit it to flow through certain producer purchases on an "as-billed" demand—commodity basis. It also requests authority to collect in the demand component of its PGA rates, charges collected by Texas Eastern Transmission Corporation under its demand—based Gas Supply Inventory Reservation Charge. Equitrans also has made an adjustment to its jurisdictional rates to reflect an allocation of costs for a nonjurisdictional sale to commence on November 1, 1990.

Equitrans states that copies of the filing were served upon Equitrans' sales customers as well as interested state commissions.

Any person desiring to be heard to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commissions Rules of Practice and Procedure (18 CFR, §§ 385.214 and 385.211). All motions or protests should be filed on or before July 25, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-16083 Filed 7-10-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-140-000; RP88-94-029]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

July 5, 1990.

Take notice that on July 2, 1990, Natural Gas Pipeline Company of America (Natural) submitted for filing Tenth Revised Sheet Nos. 169 and 170 to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective August 1, 1990.

Natural states that the purpose of this filing is: (1) To reflect additional take-or-pay buyout, buydown and other contract reformation costs (transition costs) incurred prior to Natural's acceptance of its Interim Gas Inventory Charge certificate at Docket No. CP89-1282-001 on January 26, 1990; (2) to reflect costs associated with resolving contracts in litigation; (3) to reinstate certain previously filed for transition costs that were eliminated in Natural's compliance filing dated March 26, 1990; (4) to make adjustments to amounts previously filed for at Docket Nos. RP88-94-000, *et al.*; and (5) to reflect revised accrued interest for the period of May 1988 to July 1990.

Natural respectfully requests waiver of the thirty-day filing requirement and any additional waivers of the Commission's Regulations which may be necessary to allow the tariff sheets to become effective August 1, 1990. Natural states that a copy of the filing were mailed to Natural's jurisdictional sales customers, interested state regulatory agencies, and all parties set out on the official service list in Docket Nos. RP88-94-000, *et al.*

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 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 12, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-16084 Filed 7-10-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-116-001]

Northwest Alaskan Pipeline Co.; Tariff Changes

July 5, 1990.

Take notice that on June 29, 1990, Northwest Alaskan Pipeline Company ("Northwest Alaskan"), 295 Chipeta Way, Salt Lake City, Utah 84158-0900, tendered for filing in Docket No. RP90-116- Substitute Twenty-Sixth Revised Sheet No. 5 to its FERC Gas Tariff Original Volume No. 2.

Northwest Alaskan states that it is amending its application in Docket No. RP90-116-000 in order to reflect an increase in demand charges for the period July-December 1990 from its Canadian supplier, Pan-Alberta Gas Ltd. ("Pan-Alberta"), as the result of an increase in demand charges by Nova Corporation of Alberta ("Nova") effective July 1, 1990. Consequently, Northwest Alaskan withdraws Twenty-Sixth Revised Sheet No. 5 and replaces it with Substitute Twenty-Sixth Revised Sheet No. 5. Furthermore, Northwest Alaskan requests that the Commission, pursuant to § 154.51 of its regulations, provide any waivers necessary so that Substitute Twenty-Sixth Revised Sheet No. 5 will become effective July 1, 1990.

Northwest Alaskan's original demand charge filing was made May 16, 1990, and the tariff sheet, Twenty-Sixth Revised Sheet No. 5, was accepted by the Commission June 8, 1990, conditioned upon approval of the National Energy Board of Canada ("NEB") of the Canadian costs. The NEB has not yet approved those costs, and Pan-Alberta has submitted revised costs to the NEB to reflect the change in the costs from Nova.

Along with the substitute tariff sheet, Northwest Alaskan states that it is submitting revised supporting schedules as well as all supporting schedules from the original filing which have not changed.

Northwest Alaskan states that a copy of this filing, including the tariff sheet and attached schedules, has been served on Northwest Alaskan's customers and all parties on the official service list.

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 July 12, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-16085 Filed 7-10-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-177-086]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 5, 1990.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on June 29, 1990 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheet:

Fifth Revised Sheet No. 807

Texas Eastern states that the purpose of this filing is to update the Index of Purchasers for Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1 to reflect the execution of Rate Schedules CD-1 and FT-1 Service Agreements for Long Island Lighting Company as reflected in a companion filing dated June 29, 1990 in Docket Nos. RP85-177-066, *et al.*

The proposed effective date of the tariff sheet listed above is June 29, 1990.

Texas Eastern states that copies were served on Texas Eastern's jurisdictional customers and interested state commissions.

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 July 12, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-16086 Filed 7-10-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-30-002]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 5, 1990.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on June 29, 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 October 16, 1989

Sub Fifth Revised Sheet No. 53
Sub Fifth Revised Sheet No. 61
Sub Seventh Revised Sheet No. 65
Sub Eighth Revised Sheet No. 69
Second Sub Eighth Revised Sheet No. 73
Sub Eighth Revised Sheet No. 77
Sub Ninth Revised Sheet No. 81

Proposed to be Effective February 1, 1990

Sub Ninth Revised Sheet No. 77

Proposed to be Effective March 1, 1990

Sub Ninth Revised Sheet No. 69
Sub Ninth Revised Sheet No. 73

Proposed to be Effective April 1, 1990

Second Sub Sixth Revised Sheet No. 53

Proposed to be Effective May 1, 1990

Seventh Revised Sheet No. 52
Seventh Revised Sheet No. 53
Sixth Revised Sheet No. 54
Seventh Revised Sheet No. 55
Sub Tenth Revised Sheet No. 73

Texas Eastern states that the purpose of this filing is to file revised tariff sheets to reflect the billing of take-or-pay amounts in accordance with paragraph 3 of the Assignment, Assumption and Settlement Agreement (Agreement) executed by Texas Eastern, Equitable Gas Company (Equitable), and Equitrans, Inc. (Equitrans).

Texas Eastern states that on October 31, 1989, Texas Eastern filed revised tariff sheets in Docket No. RP90-30 updating its FERC Gas Tariff, Fifth Revised Volume No. 1 to reflect the execution of new service agreements under Rate Schedules CD-1, CD-2, FT-1 and I. Equitrans, Inc. filed a protest claiming, *inter alia*, that Texas Eastern's name change from Equitable Gas Company to Equitrans, Inc. shifted the liability for take-or-pay payment from Equitable to Equitrans. Technical conferences were held on March 15 and May 15, 1990 to discuss Equitrans' protest. Comments and reply comments were filed. Texas Eastern and Equitrans agreed to resolve the protest and executed the Agreement. Pursuant to the Agreement Texas Eastern is filing the above listed tariff sheets reflecting the billing of take-or-pay amounts to Equitable. Acceptance of this filing will moot Equitrans' protest and it shall be deemed withdrawn. Counsel for Equitrans has authorized Texas Eastern to make the foregoing statement.

The proposed effective dates of the above tariff sheets are as stated herein.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers, interested state commission and all parties in Docket No. RP90-30.

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 July 12, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-16087 Filed 7-10-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-30-000

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

July 5, 1990.

Take notice that Trunkline Gas Company (Trunkline) on July 2, 1990, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Seventy-Seventh Revised Sheet No. 3-A

The proposed effective date of this revised tariff sheet is September 1, 1990.

Trunkline states that the revised tariff sheet reflects a commodity rate increase of 7.99¢ per Dt. This increase includes:

(1) A 7.01¢ per Dt increase in the projected purchased gas cost component; and

(2) A 0.98¢ per Dt increase in the surcharge to recover the Current Deferred Account Balance at April 30, 1990 and related carrying charges.

Trunkline states that this filing is made in accordance with § 154.305 (Annual PGA filing) of the Commission's Regulations and pursuant to section 18 (Purchased Gas Adjustment Clause) of Trunkline's FERC Gas Tariff, Original Volume No. 1 to reflect the changes in Trunkline's jurisdictional rates effective September 1, 1990.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicables 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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 25, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-16088 Filed 7-10-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-30-NG]

Nortech Energy Corp. Application for Blanket Authorization To Import and Export Natural Gas, Including LNG

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import and export Natural Gas, Including LNG.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on April 19, 1990, of an application filed by Nortech Energy Corporation (Nortech) for a blanket authorization to import and export up to 80 Bcf of natural gas, including liquefied natural gas (LNG), from and to Canada and Mexico as well as other similarly situated countries, for a two year period beginning on the date of first import or export. Nortech intends to utilize existing pipeline and LNG facilities for the processing and transportation of the volumes to be

imported or exported and to submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.d.t., August 10, 1990.

ADDRESS: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:
Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, Fe–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9394.
Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–32, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Nortech, a Texas corporation with its principal place of business in Houston, Texas, is jointly owned by Northridge U.S. Inc., a subsidiary of Northridge Canada and North American Resources Company, a subsidiary of Entech, Inc. an energy subsidiary of Montana Power Company. Nortech requests authority to import natural gas for short-term sales for its own account as well as for the accounts of others. Nortech states that the imported gas would make alternative supplies of gas available to a wide range of markets in the United States, including pipelines, local distribution companies and commercial and industrial end-users. In regard to its request for the export authority, Nortech proposes to export natural gas obtained from fields in various gas producing states or, via the import/export transactions involving non-domestic supplies.

Nortech is requesting the flexibility to enter into agreements for the importation and exportation of natural gas and LNG with Canada and Mexico, as well as other unspecified but similarly situated countries. The specific terms of each import and export arrangement would be negotiated on an individual basis at market responsive prices.

Nortech requests that an authorization be granted on an expedited basis. Except in emergency circumstances, 10 CFR 590.205(a) of FE's administrative procedures provides for a public comment period of not less than 30 days. Nortech does not identify any emergency circumstances that would justify expedited consideration. Accordingly, a decision on the application will not be made until all responses to this notice have been received and evaluated.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, the domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on these regulatory and policy considerations. The applicant asserts that the proposed imports will make competitively priced gas available to U.S. markets while the short-term nature of the transactions will minimize the potential for undue long-term nature of the transactions will minimize the potential for undue long-term dependence on foreign sources of energy. Nortech also asserts that the proposed export volumes would result in a reduction of the current excess domestic natural gas supply, generate income and tax revenues, and reduce the U.S. trade deficit. Parties opposing the arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Nortech's application is available for inspection and copying in the Office of Rules Programs Docket Room, 3F–056, at the above address, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30

p.m., Monday through Friday, except Federal holidays.

Issed in Washington, DC, July 3, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–16169 Filed 7–10–90; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3808–7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before August 10, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Compliance Requirement for the Child-Resistant Packaging Act. (EPA ICR #0616.04; OMB #2070–0052). This request extends the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Abstract: Section 25(c)(3) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) authorizes child-resistant packaging standards to protect the public from injuries resulting from accidental ingestion or contact with residential use pesticides. Manufacturers of residential use chemicals must determine whether their products meet toxicity criteria requiring special packaging. Respondents may choose to comply with federal packaging laws in a number of ways, including: Sending to EPA a signed letter certifying product compliance with child-resistant packaging standards; submitting toxicity data indicating the product's toxicity; requesting an exemption based on the fact that the product poses minimal risk to humans or that child-resistant packaging seems inappropriate; or proving exemption based on package size. Registrants also maintain records which include a copy of the product's certification statement, a description of the package, and verification of product/package compatibility and child-resistant packaging. EPA uses this information to identify residentially used pesticides, and to ensure conformity with federal laws mandating child-resistant packaging standards.

Burden Statement: The public reporting burden for this collection of information is estimated to average 1 hour and 30 minutes per respondent; the recordkeeping burden is 30 minutes per respondent. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing a reviewing the collection of information.

Respondents: Residential Use Pesticide Manufacturers.

Estimated Number of Respondents: 6,320.

Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 12,000 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspects of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street SW., Washington, DC 20460

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20530

OMB Responses to Agency PRA Clearance Requests

EPA ICR #1081.03; NESHAP for Limiting Inorganic Arsenic Emissions from Glass Manufacturing Facilities (R&RR); was approved 06/14/90; OMB #2060–0043; expires 06/30/93.

EPA ICR #0113.04; NESHAP for Mercury (Subpart E)—Reporting and Recordkeeping Requirements; was approved 06/14/90; OMB #2060–0097; expires 06/30/93.

EPA ICR #1550.01; Conflicts of Interest in Environmental Protection Agency Acquisition Regulations (EPAAR); was disapproved 06/18/90.

Dated: July 5, 1990.

David Schwarz,

Acting Director Regulatory Management Division.

[FR Doc. 90–16149 Filed 7–10–90; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3809–3]

Health Assessment Document for Diesel Emissions, Workshop Review Draft

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Public Meeting.

SUMMARY: This notice announces an expert, peer-review workshop to be held by the Environmental Criteria and Assessment Office (ECAO) of EPA's Office of Health and Environmental Assessment to facilitate preparation of a draft document titled, "Health Assessment Document for Diesel Emissions." The workshop site is the Omni Europa, One (1) Europa Drive, Chapel Hill, North Carolina 27709, Tel: 919/968–4900.

DATES: The workshop will be held July 18–19, 1990, from approximately 9:00 a.m. to 5:00 p.m. Members of the public are invited to attend.

FOR FURTHER INFORMATION CONTACT: William G. Ewald, U.S. Environmental Protection Agency, Office of Health and Environmental Assessment, Environmental Criteria and Assessment Office, MD–52, Research Triangle Park, North Carolina 27711, Tel: 919/541–4164 or FTS/629–4164; or William Pepelko, Human Health Assessment Group, Office of Health and Environmental Assessment, Washington, DC 20460, Tel: 202/382–5898 or FTS/382–5898.

SUPPLEMENTARY INFORMATION: The "Health Assessment Document for Diesel Emissions," Workshop Review Draft, summarizes scientific issues and identifies research activities and assessments needed to improve the scientific understanding and quantitative estimation of the health risks attendant to the use of diesel fuels. Among the scientific issues and research needs examined by the document are: mobile source emissions and their transformation and fate in the atmosphere; human exposure; health effects, including pharmacokinetics, animal inhalation toxicology, human clinical studies, epidemiology, and cancer and non-cancer health effects; and technologies which reduce or control risk. This document will be used by EPA in the decisionmaking process for the possible regulation of diesel-powered vehicles.

It is expected that the workshop will address the issues in the health assessment document relating to: (1) Emissions, atmospheric processes,

exposure, and risk-reduction/risk-control technology; (2) human non-cancer health effects; and (3) cancer risk to humans. Only limited time will be available for observers to comment. Because one purpose of this health assessment document is to provide guidance for non-EPA as well as EPA research in the area of diesel emissions, organizations with research interests related to diesel combustion emissions are encouraged to communicate their interests to EPA. Members of the public wishing to attend the meeting should contact William Ewald or William Pepelko in advance at the addresses noted above and indicate whether they wish to make a statement at the workshop.

Copies of the workshop draft will be made available to the public at the meeting. A limited number of copies of the draft also will be available on or about July 18, 1990 from the ORD Center for Environmental Research Information (CERI) in Cincinnati, Ohio. Those persons interested in obtaining a single copy of the workship draft should contact CERI at the following address: CERI (FRN), US EPA, 26 W. Martin Luther King Drive, Cincinnati, OH 45268, Tel: 513/569-7562 or FTS/684-7562. Requesters should ask for the document by the EPA number: EPA/600/8-90/057A.

Following the workshop, the document will be revised and an external review draft released for public comment and EPA Science Advisory Board (SAB) review. Ample opportunity will be provided for public review and submission of written comments upon release of the external review draft. The public comment period for the external review draft and the dates of the SAB meeting will be announced in subsequent Federal Register notices.

Dated: July 5, 1990.

Courtney Riordan,

Acting Assistant Administrator for Research and Development.

[FR Doc. 90-16297 Filed 7-10-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 3, 1990.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: None.

Title: Section 1.65(c), Report of Adverse Finding Regarding Licensee's Character Qualifications (Docket No. 90-195).

Action: New collection.

Respondents: Individuals or households, businesses or other for-profit (including small businesses), and non-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 20 Responses; 20 Hours.

Needs and Uses: The policy statement and order will help to determine whether there has been an adverse adjudication of non-FCC misconduct that would reflect on the licensee's or permittee's basic qualifications to hold the broadcast permit or license.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-16102 Filed 7-10-90; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1821]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

July 5, 1990.

Petitions for reconsideration have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contracted International Transcription Service (202-857-3800). Oppositions to these petitions must be filed July 27, 1990. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Establishment of a Fee Collection Program to Implement the Provisions of the Omnibus Budget Reconciliation Act of 1989. (General Docket No. 86-285).

Number of Petitions Received: 21.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-16103 Filed 7-10-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Banc One Financial Corp.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 3, 1990.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Banc One Financial Corporation, Jennings, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Jeff Davis Bank and Trust Company, Jennings, Louisiana.

2. Consorcio Inversionista BanCaracas Cibanca, C.A., Caracas, Venezuela, *Banco Caracas, S.A.C.A.,* Carcas, Venezuela, *Banco Caracas, N.V.,* Netherlands Antilles, and *Seguros Avila, C.A.,* Caracas, Venezuela; to become bank holding companies by acquiring 100 percent of the voting shares of Eagle National Bank of Miami, Miami, Florida.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Chalybeate Springs Corporation, Hughes Springs, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of 1st National Bank of Hughes Springs, Hughes Springs, Texas.

Board of Governors of the Federal Reserve System, July 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–16121 Filed 7–10–90; 8:45 am]

BILLING CODE 6210–01–M

CS Holding; Acquisition of Company Engaged in Permissible Nonbanking Activities

July 5, 1990.

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 2, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. CS Holding, Zurich, Switzerland, and its subsidiary, *Credit Suisse,* Zurich, Switzerland; to retain Winter Partners, Inc., New York, New York, and thereby engage in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–16122 Filed 7–10–90; 8:45 am]

BILLING CODE 6210–01–M

Omega Employee Stock Ownership Plan Trust; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than July 25, 1990.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President), 100 North Sixth Street, Philadelphia, Pennsylvania 19105:

1. Omega Employee Stock Ownership Plan Trust, State College, Pennsylvania; to acquire an additional 15.2 percent for a total of 24.9 percent of the voting shares of Omega Financial Corporation, State College, Pennsylvania, and thereby indirectly acquire Peoples National Bank of Central Pennsylvania, State College, Pennsylvania, and Russell National Bank, Lewistown, Pennsylvania.

Board of Governors of the Federal Reserve System, July 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–16123 Filed 7–10–90; 8:45 am]

BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

[Wildlife Order 172; 7–D–MO–0607–D]

Portion, Harry S. Truman Dam and Reservoir, MO , Conveyance of Property

Pursuant to section 2 of Public Law 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By transfer letter from the General Services Administration dated February 8, 1990, the property, consisting of 557.66 acres of unimproved land, known as a Portion, Harry S. Truman Dam and Reservoir, Missouri, has been transferred to the U.S. Fish and Wildlife Service, Department of the Interior.

2. The above described property was conveyed for wildlife conservation in accordance with the provisions of section 1 of said Public Law 80–537 (16 U.S.C. 667b), as amended by Public Law 92–432.

Dated: May 23, 1990.

Earl E. Jones,

Commissioner, Federal Property Resources Service.

[FR Doc. 90–16111 Filed 7–10–90; 8:45 am]

BILLING CODE 6820–96–M

[Wildlife Order 173; 7–D–KS–0430–LLL]

Tuttle Creek Lake, KS; Transfer of Property

Pursuant to section 2 of Public Law 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the General Services Administration dated March 23, 1990, the property, consisting of 40.36 acres of unimproved land, known as a Tuttle Creek Lake, Kansas, has been transferred to the State of Kansas.

2. The above described property was conveyed for wildlife conservation in accordance with the provisions of section 1 of said Public Law 80–537 (16 U.S.C. 667b), as amended by Public Law 92–432.

Dated: May 23, 1990.

Earl E. Jones,

Commissioner, Federal Property Resources Service.

[FR Doc. 90–16110 Filed 7–10–90; 8:45 am]

BILLING CODE 6820–96–M

DEPARTMENT OF HEALTH AND HUMAN SERVICE

Centers for Disease Control

Advisory Committee on Childhood Lead Poisoning Prevention: Change in Meeting

This notice announce a change in the place of a previously announced meeting.

Federal Register Citation of Previous Announcement: June 28, 1990, 55 FR 26512.

Previously Announced Place: Centers for Disease Control, Center for Environmental Health and Injury Control, 4770 Buford Highway, Building 32 Conference Room, Chamblee, Georgia 30341.

Change in the Meeting: The Committee will meet at the Sheraton Century Center Hotel, Century Ballroom, 2000 Century Boulevard (off I–85 and Clairmont Road), Atlanta, Georgia 30345.

Dated: July 6, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90–16254 Filed 7–10–90; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89D–0140]

Guideline for Residual Moisture Testing for Biological Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guideline summarizing the technical considerations and applicability of analytical methods acceptable to FDA for quantitating residual moisture in dried (e.g., lyophilized) biological products. The guideline was prepared by the Center for Biologics Evaluation and Research of FDA. Elsewhere in this issue of the Federal Register, FDA is issuing a final rule amending the biologics regulations (21 CFR 610.13(a)) to which the above guideline pertains.

ADDRESSES: Submit written requests for single copies of the guideline for residual moisture testing in dried biological products to the Congressional, International, and Consumer Affairs Branch (HFB–142), Park Bldg., rm. 158, 5600 Fishers Lane, Rockville, MD 20857, 301–443–7532. Send two self-addressed, adhesive labels to assist that office in processing your requests. Submit written comments on the guideline to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. Copies of the guidelines and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Joan C. May, Center for Biologics Evaluation and Research (HFB–740), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–496–4570.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 29, 1989 (54 FR 27428), FDA announced the availability of, and invited public comment on, a draft guideline for residual moisture testing in dried (e.g., lyophilized) biological products. The draft guideline summarized the technical considerations and applicability of analytical methods acceptable to FDA for quantitating residual moisture. FDA is announcing the availability of a guideline, based on the draft guideline and revised by FDA to incorporate minor changes suggested by interested parties.

This notice of availability of a residual moisture testing guideline is annonced under 21 CFR 10.90(b), which provides for use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to FDA. Reliance upon the guidelines assures that conduct will be acceptable to FDA. Alternative procedures or standards may be considered even though they are not provided for in the guideline. Use of alternative procedures or standards may be discussed with FDA to prevent expenditure of money and effort for work that FDA may later determine to be unacceptable. Under 21 CFR 601.12, however, use of alternative procedures or standards requires that such changes be reported to and approved by FDA.

Elsewhere in this issue of the Federal Register, FDA is issuing a final rule amending the biologics regulations in § 610.13, to which the above guideline pertains. The amendment reflects the availability of alternative analytical methods, in addition to the method cited in the existing regulation, for quantitating residual moisture. This amendment permits manufacturers to select the most appropriate analytical method for residual moisture testing on a product-by-product basis. The amendment recognizes the fact that different, yet still acceptable, analytical methods may yield different residual moisture results, due to differences in methodological specificity and sensitivity. The amendment accommodates such differences in residual moisture results by allowing the analytical method and the correspondingly appropriate residual moisture limit for a given product to be specified by the manufacturer in the product license application.

Interested persons may submit written comments on the guideline to the Dockets Management Branch (address above). Such comments will be considered in determining whether further amendments to, or revisions of, the guidelines are warranted. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Dated: June 20, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–16117 Filed 7–10–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 89P–0222]

Liquid Eggs Deviating From the Standard of Identity; Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is amending a temporary permit, issued to Crystal Foods, Inc., to market test experimental packs of liquid eggs, designated as "ultrapasteurized liquid whole eggs" and "ultrapasteurized liquid whole eggs with citric acid," to provide for package sizes larger than the designated 2.27 kilograms (kg) (5 pounds (lb)). This amendment will provide the permit holder with a broader base for the collection of data on consumer acceptance of the test product.

FOR FURTHER INFORMATION CONTACT: Joanne Travers, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0106.

SUPPLEMENTARY INFORMATION: FDA issued a temporary permit under the provisions of 21 CFR 130.17 to Crystal Foods, Inc., 6465 Wayzata Blvd.,

Minneapolis, MN 55426, to market test experimental packs of liquid eggs designated as "ultrapasteurized liquid whole eggs" and "ultrapasteurized liquid whole eggs with citric acid." These products are not provided for in the U.S. standard of identity for liquid eggs in 21 CFR 160.115 because they are processed by a special procedure that involves increased heat treatment combined with aseptic processing and packing. The purpose of the special process is to (1) Render the egg product free of *Salmonella* and *Listeria monocytogenes*, (2) substantially reduce the number of spoilage bacteria in the liquid whole eggs with citric acid, (3) prevent postprocess contamination of the products, and (4) obtain a shelf-life greater than 4 weeks under refrigeration. Citric acid is added at a level of 0.15 percent to preserve color. The purpose of the temporary permit is to measure consumer acceptance of this new method of processing liquid eggs.

The agency issued the permit to facilitate market testing of a food that deviates from the requirements of the standard of identity for liquid eggs (21 CFR 160.115) promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of issuance of the temporary permit to Crystal Foods, Inc., was published in the **Federal Register** of July 21, 1989 (54 FR 30612).

Crystal Foods, Inc., has requested that FDA amend its temporary permit to allow the test product to be packaged in larger aseptic bags ranging from 6.82 kg (15 lb) to 1,290 kg (2,838 lb) (tote size) aseptic bags. The company states that these changes in package size are necessary, based on preliminary acceptance of the product in its current package size and commercial feasibility, to collect additional data to complete the market test.

Accordingly, under the provisions of 21 CFR 130.17(f), FDA is amending the permit to provide marketing of the test product in 6.82 kg (15 lb) to 1,290 kg (2,838 lb) aseptic bags as well as in 1 kg (2.2 lb) and 2.27 kg (5 lb) packages. All other terms and conditions of this permit remain unchanged.

Dated: June 25, 1990

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-16178 Filed 7-10-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90N-0226]

Parke-Davis Co., et al.; Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) withdraws approval of 16 new drug applications (NDA's). The action is based on the written requests of the applicants because the products are no longer marketed.

EFFECTIVE DATE: August 10, 1990.

FOR FURTHER INFORMATION CONTACT: Ron Lyles, Center for Drug Evaluation and Research, Document Management and Reporting Branch (HFD-53), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4320.

SUPPLEMENTARY INFORMATION: The holders of the NDA's listed below have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by request, waived their opportunity for a hearing.

NDA No.	Drug name	Applicant name and address
4-154	Sulfadiazine Tablets	Park-Davis, Division of Warner-Lambert Co., 201 Tabor Rd., Morris Plains, NJ 07950.
4-232	Phemerol Tincture	Do.
6-580	0.9% Ammonium Chloride and 0.9% Sodium Chloride Injection	Kendall McGraw Laboratories, Inc., 2525 McGraw Ave., Irvine, CA 92714-5895.
6-905	Norisodrine Sulfate Aerohaler	Abbott Laboratories, Pharmaceutical Products Division, Abbott Park, IL 60064.
7-530	Heparin Injection	Lederle Laboratories, Division of American Cyanamid Co., Pearl River, NY 10965.
8-545	Covicone Cream	Abbott Laboratories.
11-276	Compazine Concentrate	Smith Kline & French Labs., 1500 Spring Garden St., Philadelphia, PA 19101.
13-117	Somnafac Capsules	Cooper Vision Inc., P.O. Box 367, San German, PR 00753.
14-601	Meprobamate Tablets, 400 mg	Private Formulations, Inc., 460 Plainfield Ave., Edison, NJ 08818-1904.
16-150	Index Disposable Enema	Pharmacia Laboratories, Division of Pharmacia Inc., 800 Centennial Ave., Piscataway, NJ 08854-1327.
16-350-5%	Dextrose Injection in Plastic Container	Baxter Healthcare Corp., Route 120 & Wilson Rd., Round Lake, IL 60073.
16-352	5% Dextrose Injection Modified in Plastic Container	Do.
16-357	0.9% Sodium Chloride Injection, Modified, in Pastic Container	Do.
18-320	Tenucap 25 mg Capsules	Merrell Dow Pharmaceuticals, Inc., 2110 E. Galbraith Rd., P.O. Box 156300, Cincinnati, OH 45215-6300.
18-512	3% Sorbitol Irrigating Solution in plastic container	Baxter Healthcare Corp.
18-758	20% Travamulsion Intravenous Emulsion	Do.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the NDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective August 10, 1990.

Dated: July 4, 1990.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 90-16119 Filed 7-10-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90M-0210]

Eye Technology, Inc.; Premarket Approval of Models 14760-5 and 14760-6 Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses

AGENCY: Food and Drug Administration; HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Eye Technology, Inc., Saint Paul, MN, for premarket approval, under the Medical Devices Amendments of 1976, of the Models 14760–5 and 14760–6 Ultraviolet—Absorbing Posterior Chamber Intraocular Lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of June 13, 1990, of the approval of the application.

DATES: Petitions for administrative review by August 10, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1212.

SUPPLEMENTARY INFORMATION: On December 27, 1988, Eye Technology, Inc., Saint Paul, MN 55117, submitted to CDRH an application for premarket approval of the Models 14760–5 and 14760–6 Ultraviolet—Absorbing Posterior Chamber Intraocular Lenses. The devices are intended to be used for primary implantation for the visual correction of aphakia in patients 60 years of age and older where a cataractous lens has been removed by extracapsular extraction methods. These lenses are intended to be placed in the capsular bag. The devices are available in a range of powers from 8 diopters (D) through 30 D in 0.5D increments.

On October 19, 1989, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On June 13, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH. Under the amendments, intraocular lenses are regulated as class III devices (premarket approval).

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Managment Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ–460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent asdvisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 10, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: July 2, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90–16120 Filed 7–10–90; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HEALTH AND NUMAN SERVICES

Advisory Committee; Meeting

AGENCY: Food and Drug Administration, HH5.

ACTION: Notice.

SUMMARY: This notice annouces a rescheduled meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting replaces one originally scheduled for Friday, June 29, 1990, by a notice published in the **Federal Register** of June 22, 1990 (55 FR 25719). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Blood Products Advisory Committee

Date, time, and place. July 18, 1990, 8:30 a.m., Holiday Inn Crowne Plaza, Regency Room, 1750 Rockville Pike, Rockville, MD.

Type of meeting and contact person. Open public heaing, July 18, 8:30 a.m. to 9:30 a.m. unless public participation does not last that long; open committee discussion, 9:30 a.m. to 10:30 a.m.; closed committee deliberations, 11 a.m. to 12 p.m.; open committee discussion, 1 p.m. to 3:30 p.m., Linda A. Smallwood, Division of Blood and Blood Products (HFB–400), Center for Biologics Evaluation and Research, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–496–4396.

General function of the committee. The committee reviews and evaluates available data on the safety, effectiveness, and appropriate use of blood-based biological products and devices intended for use in the diagnosis, prevention, or treatment of human diseases.

Open public hearing. Interested persons who wish to present data, information, or views, orally or in writing, on issues pending before the committee should inform the contact person.

Agenda—Open committee discussion. On the morning of July 18, 1990, the committee will sit as a medical device panel in accordance with the requirements of 21 CFR 814.40 and 814.44. The committee will review and discuss data presented by University Hospital Laboratories Corp. relevant to the premarket approval application (PMA) for a blood collection kit for human immunodeficiency virus type 1

(HIV-1) antibodies testing which involves over-the-counter sale of a home blood sample collection kit, mailing the blood sample to a testing facility, and counseling/education concerning the test results by telephone. Discussion will concern safety and effectiveness issues including risks and benefits of the testing system.

Closed committee discussion. The committee will discuss trade secret or confidential commercial information relevant to the cited PMA application. These portions will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

FDA is given less than 15 days' public notice of the committee meeting because of the need to complete the advisory committee review of this PMA within limited time period. A meeting held on short notice is necessary for the committee to be able to make its recommendation to FDA on this matter within the time restrictions applicable to this particular PMA review.

Each public advisory committee meeting listed above may have as many as four separate portions: (1) An open public hearing (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee 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. The dates and times reserved for the separate 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.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meeting so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

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: July 5, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90-16179 Filed 7-10-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Renewal

Pursuant to the Federal Advisory Committee Act, Public Law 92-463 (5

U.S.C. appendix II), the Health Resources and Service Administration announces the renewal the Secretary, HHS, with concurrence by the General Services Administration, of the following advisory committee.

Council	Termination date
Maternal and Child Health Research Grants Review Committee.	June 30, 1992

Dated: July 5, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90-16045 Filed 7-10-90; 8:45 am]

BILLING CODE 4160-15-M

Office of Human Development Services

[Program Announcement No. 13551-901]

Abandoned Infants Assistance Program

AGENCY: Administration for Children, Youth and Families, Office of Human Development Services, HHS.

ACTION: Correction by publication of omitted certification forms to a program announcement on the availability of financial assistance and requests for applications to carry out demonstration projects to provide comprehensive services to abandoned infants and their families.

SUMMARY: In this notice, we are publishing three certification forms which were inadvertently omitted from a program announcement published by the Office of Human Development Services on June 22, 1990 (55 FR 25788). That notice announced the availability of funds to carry out demonstration projects to prevent the abandonment in hospitals of infants and young children, specifically drug exposed children, and those with acquired immune deficiency syndrome (AIDS); and to develop, implement, and operate a comprehensive services program to address the needs of these children and their families. The certification regarding lobbying must be returned with the applications.

DATES: The closing date by which applications must be submitted remains the same, August 21, 1990.

FOR FURTHER INFORMATION CONTACT: Cecelia E. Sudia, (202) 245-0764.

SUPPLEMENTARY INFORMATION: On June 22, the Office of Human Development Services published a notice (55 FR 25788) which announced the availability of fiscal year 1990 funds to carry out demonstration projects to prevent the abandonment in hospitals of infants and young children, specifically drug-exposed children and those with acquired immune deficiency syndrome (AIDS); and to develop, implement and operate a comprehensive services program to address the needs of these children and their families.

Three certifications which were to have been included at the end of Appendix III of the announcement were inadvertently omitted. They are: the Certification Regarding Drug-Free Workplace Requirements; the Certification Regarding Debarment, Suspension, and Other Responsibility Matters; and the Certification Regarding Lobbying, all of which are included in Appendix I of this notice.

Please note that the Certification Regarding Lobbying requires a signature and must be returned with application. The other two certifications on a drug-free workplace and debarment provide that the potential grantee, by submitting the application, certifies to the requirements in each certification.

(Catalog of Federal Domestic Assistance Number 13.551: Abandoned Infants Assistance Program)

Approved: July 6, 1990.

Donna N. Givens,

Deputy Assistant Secretary for Human Development Services.

Appendix A—U.S. Department of Health and Human Services Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, CFR part 76, subpart F. The regulations, published in the January 31, 1989 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set our below is a material representation of fact upon which reliance will be placed when HHS 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 government-wide suspension or debarment.

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 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).

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and believe 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 3-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 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 3-year period preceding this application/proposal had one or more public transaction (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessariuly result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) 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.

The prospective primary participant agrees that by submitting this proposal, it will include the entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction." provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, 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 participation in this transaction by any federal department or agency.

(b) Where the propsective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "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.

Certification Regarding Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Organization

Authorized Signature

Title

Date

Note: If Disclosure Forms are required, please contact: Mr. Willian Sexton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200 Independence Avenue, SW., Washington, DC 20201–000.

[FR Doc. 90–16143 Filed 7–10–90; 8:45 am]
BILLING CODE 4130–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–060–4410–08]

Environmental Statements; Availability, etc.: San Juan, UT

AGENCY: Bureau of Land Management (BLM), Utah, Interior.

ACTION: This Notice of Availability is to advise the public that the Proposed Planning Amendment for the Federal Aviation Administration (FAA) Airport Grant to San Juan County, Utah, is available for distribution to the public.

The lands being considered as suitable for the FAA Grant in the planning amendment are described as follows:

Salt Lake Meridian

T. 38 S., R. 12 E., Sec. 34, Tract 37; T. 39 S., R. 12 E., Sec. 3, Tract 37.

The area described contains 370.42 acres in San Juan County.

The existing plan does not identify these lands as suitable for an airport. However, because of the resource values, public values, and objectives involved, the public interest may be well served by providing these lands to the County.

The Final Environmental Impact Statement was prepared by the FAA with BLM as a cooperator. This EIS will be the National Environmental Policy Act compliance document for this planning amendment.

A 30-day protest period for the planning amendment will commence with publication of this Notice of Availability.

FOR FURTHER INFORMATION CONTACT: Daryl Trotter, Planning and

Environmental Coordinator, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532; (801) 259–6111.

SUPPLEMENTAL INFORMATION: This action is announced pursuant to section 202(a) of the Federal Land Policy and Management Act of 1976, and 43 CFR part 1610. The proposed planning amendment is subject to protest from any adversely affected party who participated in the planning process. Protests must be made in accordance with the provisions of 43 CFR 1610.5–2. Protests must be received by the Director of the BLM, 18th and C Streets, NW., Washington, DC 20240, within 30 days after the date of publication of this Notice of Availability for the proposed planning amendment.

Dated: July 5, 1990.

James M. Parker,

State Director.

[FR Doc. 90–16114 Filed 7–10–90; 8:45 am]

BILLING CODE 4310–DQ–M

[CA–010–00–7122–14–BO47–CACA–24896]

Realty Action: Correction to Proposed Land Exchange in Monterey, Fresno, and San Benito Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of notice of realty action, exchange of public and private lands in Monterey, Fresno, and San Benito Counties, California (CACA–24896).

SUMMARY: This document corrects the Notice of Realty Action (CACA–24896) published in Vol. 55, pages 12060–12063, March 30, 1990. The above notice included several typographical errors. The above referenced notice should have included the following Selected Public Lands being considered for exchange.

T. 16 S., R. 4 E., M.D. M., CA.,
Sec. 7, Lot 1.
T. 16 S., R. 9 E., M.D.M., CA.,
Sec. 13, SW¼ NE¼.
T. 17 S., R. 10 E., M.D.M., CA.,
Sec. 2, Lot 8.
Sec. 3, Lot 7.
T. 21 S., R. 7 E., M.D.M., CA.,
Sec. 28, N½ NE¼.
T. 21 S., R. 8 E., M.D.M., CA.,
Sec. 35, E½ SE¼.
T. 22 S., R. 12 E., M.D.M., CA.,
Sec. 5, SW¼.
Sec. 18, Lot 1.

The above referenced notice should not have included the following lands as Selected Public Lands. The following lands are not being considered for exchange:

T. 14 S., R. 5 E., M.D.M., CA.
Sec. 18, SE¼ SE¼, Lots 1, 2, 3.
T. 15 S., R. 10 E., M.D.M., CA.
Sec. 21, NW¼ NW¼.
T. 16 S., R. 4 E., M.D.M., CA.
Sec. 18, Lot 1.
T. 16 S., R. 9 E., M.D.M., CA.
Sec. 9, NW¼ SW¼;
Sec. 11, SW¼ NW¼.
T. 18 S., R. 9 E., M.D.M., CA.
Sec. 13, Lot 12.
T. 19 S., R. 6 E., M.D.M., CA.
Sec. 23, NE¼ SE¼.

The above referenced notice should have included the following Offered Private Lands:

T. 16 S., R. 10 E., M.D.M., CA.,
Sec. 12, Lot 4, N½ of Lot 5.

SUPPLEMENTARY INFORMATION: The above described lands were inadvertently erroneously described in the land description in the above notice which is hereby corrected. Additional selected lands described above are contiguous to lands identified in the original notice as being considered for exchange.

For a period of 45 days from publication of this notice in the Federal Register, interested parties may submit comments to the Area Manager, Federal Register, interested parties may submit comments to the Area Manager, Hollister Resource Area Office, P.O. Box 365, Hollister, CA 95024–0365.

FOR FURTHER INFORMATION CONTACT: Ron Smith, Hollister Resource Area Office (408) 637–8183, or at the above address.

Dated: June 29, 1990.

Robert E. Beehler,

Area Manager.

[FR Doc. 90–16042 Filed 7–10–90; 8:45 am]

BILLING CODE 4310–40–M

[O–00160]

Realty Actions; Sales, leases, etc.: California

AGENCY: Bureau of Land Management, Interior.

ACTION: CACA 26193, Notice of realty action, acquisition of lands in Lassen County, California through exchange.

SUMMARY: The following described private lands in Lessen County, California, have been found suitable for acquisition by the United States by way of a land exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

T.33N., R.11E., Mt. Diablo Meridian, California
Section 10, Lot 1;
Section 15, Lots 1, 2 and 3.

Excepting therefrom all that portion lying southerly of the northerly line of Stones Eagle Lake Subdivision No. 2 as shown on the map thereof filed July 29, 1963 in the office of the Lassen County Recorder, in Book 5 of maps at page 6.

Also excepting therefrom all that portion lying within a strip of land 80 feet in width as described in the deed to the County of Lassen recorded January 30, 1963 in Book 177 of official records at page 1311.

Also excepting therefrom all that portion lying within the parcels described in the deed to the County of Lassen recorded October 27, 1970 in Book 239 of official records at page 547.

Also excepting therefrom all that portion lying within Parcel 2 as described in the deed to Theodore C. Huber, etux., recorded October 29, 1970 in book 239 of official records at page 580.

These lands are shown on the Lassen County Assessor's plats as the following Assessor's Parcel Numbers: A.P. No. 65–040–12, 65–040–14, 65–040–15, 65–080–07, 65–080–14, 65–080–15, and 65–080–16.

All minerals will be included in the acquisition. Title to these lands will be subject to those exceptions and exclusions of record that are common to lakeshore properties at Eagle Lake, concerning avulsive movements of the lake, accretion, artifically caused reliction and any future court determination of the mean high water mark. The deed will also be subject to the right of the people to fish thereon under the California Constitution, and an easement for various utilities.

These private lands will be acquired from the Trust for Public Lands, 116 New Montgomery State, San Francisco, CA 94105.

The private lands will be acquired in exchange for an equal value of public lands to be identified in the future, under the Cooperative Land Exchange Agreement between Bureau of Land Management (BLM) and the Trust for Public Land (TPL) for the state of California, dated February 15, 1990. Under that agreement, the BLM and TPL will "pool" offered private lands and selected public lands throughout California, and convey said lands through exchange between the two parties. Values of the offered private lands and selected public lands conveyed from the pool shall be balanced on a statewide basis at least every two years.

Under this notice, TPL will convey private lands to the BLM. This notice deals exclusively with the private lands listed above. In the future, public lands will be conveyed to TPL to ensure an equal value balance in the pooling agreement. A separate notice of realty

action will address the public lands that may be selected for later conveyance to TPL. Public lands to be conveyed will be those that have been identified for disposal in the BLM's planning system.

The publication of this notice is for the purpose of soliciting comments on the offered private land listed above.

The purpose for acquiring the private lands listed above is to improve the Bureau's management of adjoining public land, and to provide public benefits within the Eagle Lake Basin in Lassen County. Acquisition of this land will enhance public recreation, wildlife and riparian (lakeshore) habitat, endangered species habitat and cultural resource values. Acquisition of this private land will provide public access from the BLM's North Eagle Lake Campground to the shore of Eagle Lake. This exchange acquisition will meet the goals and objectives of the Bureau's Willow Creek Management Framework Plan and the Eagle Lake Basin Plan.

Detailed information concerning the exchange, including the environmental assessment, is available for review at the address given below, or by calling (916) 257–5381.

DATES: The publication date of this notice in the **Federal Register** will start the 45 day comment period. Within that 45 day time period, interested parties may submit comments to the Susanville District Manager.

ADDRESSES: Comments and questions should be sent to the Susanville District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California 96130.

Harrick E. Hanks,

District Manager.

[FR Doc. 90–16041 Filed 7–10–90; 8:45 am]

BILLING CODE 4310–40–M

[UT–020–90–4212–14; U–65687 & U–65688]

Salt Lake District; Sale of Public Lands in Rich County, Utah; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—Noncompetitive sale of Public Lands U–65687 and U–65688.

SUMMARY: The following lands have been found suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at the fair market values cited below. The lands will not be offered for sale until at least 60 days after the date of this notice.

The following land will be offered by direct sale to Mr. Joseph Weston of Laketown, Utah at the fair market value of $1,500:

Legal description	Acreage	Value
Salt Lake Meridian: T. 13 N., R. 7 E.	10	$1,500

Section 15, S½S½NW¼SE¼

The following land will be offered by direct sale to Mr. Terry Willis of Laketown, Utah at the fair market value of $750:

Legal description	Acreage	Value
Salt Lake Meridian: T. 13 N., R. 7 E.	5	$750

Section 22, SW¼NW¼SW¼SE¼SE¼, SW¼SW¼SE¼SE¼, W½SE¼SW¼SE¼SE¼, SE¼SE¼SW¼SE¼SE¼

The lands described in both parcels are hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this notice or 270 days from the date of this notice, whichever occurs first.

The patents, when issued, will contain ditches and canals and mineral reservations to the United States and will be subject to valid existing rights. Detailed information concerning these reservations and specific conditions of the sales are available for review at the Salt Lake District Office, 2370 South, 2300 West, Salt Lake City, Utah 84119.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Salt Lake District, at the address cited above. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Deane H. Zeller,

Salt Lake District Manager.

[FR Doc. 90–16115 Filed 7–10–90 8:45 am]

BILLING CODE 4310–DQ–M

Fish and Wildlife Service

Receipt of Application for Permit

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR part 18).

File No. PRT–750916

Applicant

Name: Alaska Fish and Wildlife Research Center, U.S. Fish and Wildlife Service, Anchorage, AK

Type of Permit: Scientific Research

Name of Animals:

Phase 1—160 Alaska sea otters

Phase 2—240 Alaska sea otters

Summary of Activity to be Authorized: Allow take (capture, drug, tag, transponder chip, electro-ejaculation, extract premolar, blood sample, testicular aspiration, and oral lesion biopsy) of sea otters (*Enhydra lutris*) for a study assessing physiological and genetic damage from chronic exposure to oil in the environment. The study is planned in two phases and, in order to minimize the impact of the study on sea otter populations, the second phase will be conducted only if significant and meaningful differences in bioindicators of damage are detected between otters living in oiled and non-oiled areas during the first phase. Areas of capture include western and eastern Prince William Sound for Phase 1, and the Kenai Peninsula in the Kodiak Archipelago, and Sitka, in southeastern Alaska for Phase 2. Eastern Prince William Sound is the control (non-oiled) area for Phase 1, and if the study continues to Phase 2, otters from southeastern Alaska are included to provide a second control group. The objectives of the proposed study are: (1) To measure bioindicators reflecting physiological and genetic changes in male sea otters exposed to petroleum hydrocarbons from the Exxon Valdez oil spill; (2) to determine the geographic extent of any physiological or genetic changes that are observed (Phase 2), and (3) to compare the utility and sensitivity of various bioindicators of physiological and genetic damage resulting from exposure of sea otters to petroleum hydrocarbons. Tests on the samples will include analysis of sperm DNA structural stability, analysis of sperm morphology, spermatogenesis analysis of testicular cells, blood protein analysis, blood panels, toxicology assays for hydrocarbons and virology studies.

Period of Activity: Phase 1 is planned for late summer of 1990 and Phase 2 in the fall of 1990.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application must be received by the Director, Office of Management Authority (OMA), 4401 N. Fairfax Dr., Room 432, Arlington, VA 22203, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connection with the above application are available for review during normal business hours (7:45 am to 4:15 pm) at 4401 N. Fairfax Drive, Room 430, Arlington, VA 22203.

Dated: July 5, 1990.

R.K. Robinson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 90-16080 Filed 7-10-90; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-462-463 (Preliminary)]

Benzyl Paraben From Japan and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-462-463 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan and/or the United Kindgom of benzyl p-hydroxybenzoate (benzyl paraben), provided for in subheading 2918.29.50 of the Harmonized Tariff Schedule of the United States (previously reported under item 404.47 of the former Tariff Schedules of the United Sates), that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by August 13, 1990.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: June 29, 1990.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202-252-1185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contracting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on June 29, 1990, by ChemDesign Corp., Fitchburg, MA.

Participation in the investigations.—Persons wishing to participate in these investigatons as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in these preliminary investigations to authorize applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations fro 9:30 a.m. on July 20, 1990, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202-252-1185) not later than July 18, 1990, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigatons and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before July 24, 1990, a written brief containing information and arguments pertinent to the subject matter of the investigations, as provided in section 207.15 of the Commission's rules (19 CFR 207.15). If briefs contain business proprietary information, a nonbusiness proprietary version is due July 25, 1990. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled. "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requiremetns of sections 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a))

may comment on such information in their written brief, and may also file additional written comments on such information no later than July 27, 1990. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs. A nonbusiness proprietary version of such additional comments is due July 30, 1990.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: July 5, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-16153 Filed 7-10-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-300]

Commission Decision To Review an Initial Determination of no Violation

In the Matter of Certain Doxorubicin and Preparations Containing Same.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in its entirety an initial determination (ID) issued by the presiding administrative law judge (ALJ) finding no violation of section 337 (19 U.S.C. 1337) in the above-captioned investigation. The Commission has also determined not to request further briefing at the present time.

ADDRESSES: Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1092.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On May 21, 1990, the presiding ALJ issued an ID finding no violation of section 337 in the subject investigation. Petitions for review of the ID were filed by the complainant Erbamont, Inc., and the Commission investigative attorney.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.54-.55 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.54-.55(1989)).

By order of the Commission.

Dated: Issued: July 5, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-16154 Filed 7-10-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-461 (Preliminary)]

Gray Portland Cement and Cement Clinker From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured [3] or threatened with material injury [4] by reason of imports from Japan of gray portland cement and cement clinker, provided for in subheadings 2523.10.00, 2523.29.00, and 2523.90.00 of the harmonized Tariff Schedule of the United States (previously in item 511.14 of the former Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On May 18, 1990, a petition was filed with the Commission and the Department of Commerce by the Ad Hoc Committee of Southern California Producers of Gray Portland Cement, of Washington, DC, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of gray portland cement and cement clinker from Japan. Accordingly, effective May 18, 1990, the Commission instituted preliminary antidumping investigation No. 731-TA-461 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of May 25, 1990 (55 FR 21662). The conference was held in Washington, DC, on June 8, 1990, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 2, 1990. The views of the Commission are contained in USITC Publication 2297 (July 1990), entitled "Gray Portland Cement and Cement Clinker from Japan: Determination of the Commission in Investigation No. 731-TA-461 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By order of the Commission.

Issued: July 3, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-16155 Filed 7-10-90; 8:45 am]

BILLING CODE 7020-02-M

[Inv. No. 337-TA-303]

Notice of Commission Decision Not To Review an Initial Determination Designating the Investigation More Complicated

In the Matter of Certain Polymer Geogrid Products and Processes Therefor.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 24) issued by the presiding administrative law judge (ALJ) designating the above-captioned investigation "more complicated" and extending the administrative deadline for issuance of the final ID by three months, *i.e.*, from June 20, 1990, to September 20, 1990. The Commission has also extended the deadline for completion of the investigation by four months, *i.e.*, from September 20, 1990, to January 22, 1991.

[1] The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] Commissioner Eckes dissenting.

[3] Acting Chairman Brunsdale and Commissioner Lodwick determine that there is a reasonable indication that a domestic industry is materially injured by reason of the subject imports.

[4] Commissioner Rohr and Commissioner Newquist determine that there is a reasonable indication that a domestic industry is threatened with material injury by reason of the subject imports.

ADDRESSES: Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1000.

FOR FURTHER INFORMATION CONTACT: Frances Marshall, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1089.

Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202–252–1810.

SUPPLEMENTARY INFORMATION: On June 11, 1990, the presiding ALJ issued an ID designating the subject investigation "more complicated" because of reassignment of the investigation to the currently presiding ALJ five months into the investigation, the complexity of the technology underlying the investigation, and the complex legal issue involved. No petitions for review of the ID or government comments concerning the ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.53(h) and 210.59(a) of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.53(h), 210.59(a) (1989)).

By order of the Commission.

Issued: July 3, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–16156 Filed 7–10–90; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–464 (Preliminary)]

Sparklers From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731–TA–464 (Prelimimary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of sparklers,[1] provided for in subheading 3604.10.00 of the Harmonized Tariff Schedule of the United States (previously under item 572.30 of the former Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by August 16, 1990.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT: Rebecca Woodings (202–252–1192), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted in response to a petition filed on July 2, 1990, by Elkton Sparkler Co., North East, MD and Diamond Sparkler Co., Youngstown, OH.

Participation in the investigation. Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list. Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list. Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this preliminary investigation to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference. The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on July 24, 1990, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Rebecca Woodings (202–252–1192) not later than July 20, 1990, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions. Any person may submit to the Commission on or before July 26, 1990, a written brief containing information and arguments pertinent to the subject matter of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). If briefs contain business proprietary information, a nonbusiness proprietary version is due July 27, 1990. A signed original and fourteen (14) copies of each

[1] Sparklers are fireworks, each comprising a cut-to-length wire, one end of which is coated with a chemical mix that emits bright sparks while burning. HTS subheading 3604.10.00 covers all imported fireworks.

submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than July 30, 1990. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs. A nonbusiness proprietary version of such additional comments is due July 31, 1990.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: July 6, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-16161 Filed 7-10-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. TA-131(b)-15]

Probable Economic Effect of Multilateral Removal of Trade Barriers on Imports of Sugar, Meat, Peanuts, Cotton, and Dairy Products

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation; notice of hearing.

SUMMARY: Following receipt on June 13, 1990, of a request from the United States Trade Representative (USTR) pursuant to authority delegated by the President, the Commission instituted investigation No. TA-131(b)-15 under section 131(b) of the Trade Act of 1974, as amended (19 U.S.C. 2151(b)) for the purpose of advising the President of its judgement as to the probable economic effect on domestic industries producing like or directly competitive articles, on consumers, and where relevant, the suppliers of primary materials to these industries, of the staged removal of the tariff equivalents of nontariff trade barriers for sugar, meat, peanuts, cotton, and dairy products, resulting ultimately in zero tariffs at the end of a ten-year period. The U.S. tariff equivalents to examined are those calculated in an earlier Commission investigation (Inv. No. 332-281) and reported in *Estimated Tariff Equivalents of U.S. Quotas on Agricultural Imports and Analysis of Competitive Conditions in U.S. and Foreign Markets for Sugar, Meat, Peanuts, Cotton, and Dairy Products.* The multilateral removal of the tariff equivalents is to be assumed to take place "as part of a broad commitment undertaken by all governments participating in the Uruguay Round agricultural negotiations to substantially and progressively reduce levels of support and protection for all agricultural commodities." (USTR letter of request).

The USTR requested that the Commission furnish the report on this investigation not later than September 30, 1990.

EFFECTIVE DATE: June 29, 1990.

FOR FURTHER INFO RMATION CONTACT: Roger Corey (202-252-1327) or David Ingersoll (202-252-1309), Agriculture Division, Office of Industries, U.S. International Trade Commission. Hearing-impaired persons can obtain information on this study by contacting our TDD terminal on (202) 252-1810.

Public Hearing: A public hearing in connection with this investigation will be held in the Commission Hearing room, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on August 8, 1990. All persons shall have the right to appear in person or by counsel, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC, 20436, not later than noon, August 1, 1990. Prehearing briefs (original plus 14 copies) should by filed not later than noon, August 1, 1990. Posthearing briefs (original plus 14 copies) are due by the close of business (5:15 p.m.), August 17, 1990.

Written Submissions

Interested persons may submit written statements concerning the investigation. To be assured of consideration, written statements (original plus 14 copies) must be received by the close of business on August 17, 1990. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform to the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

By order of the Commission.

Issued: July 3, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-16157 Filed 7-10-90; 8:45 am]

BILLING CODE 7020-02-M

Notice of Appointment of Individuals To Serve as Members of Performance Review Boards

AGENCY: United States International Trade Commission.

ACTION: Appointment of individuals to serve as members of performance review boards.

EFFECTIVE DATE: July 11, 1990.

FOR FURTHER INFORMATION CONTACT: Terry P. McGowan, Director of Personnel, U.S. International Trade Commission, (202) 252-1651.

SUPPLEMENTARY INFORMATION: The Acting Chairman of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB).

Chairman of PRB
Vice Chairman Anne E. Brunsdale
Members
Commissioner Seeley G. Lodwick
Commissioner David B. Rohr
Charles W. Ervin
W. Lynn Featherstone
Lorin L. Goodrich
Lynn I. Levine
Robert A. Rogowsky
Eugene A. Rosengarden
Lyn M. Schlitt
John W. Suomela

Notice of these appointment is being published in the **Federal Register** pursuant to the requirement of 5 USC 4314(c)(4).

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 252-1810.

By order of the Acting Chairman.

Issued: July 2, 1990.
Kenneth R. Mason,
Secretary.
[FR Doc. 90-16158 Filed 7-10-90; 8:45 am]
BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-196] [1]

Investigation of Motor Carrier Collective Ratemaking and Related Procedures and Practices

AGENCY: Interstate Commerce Commission.

ACTION: Institution of investigation and notice of oral hearing.

SUMMARY: The Commission is initiating a consolidated proceeding to conduct a review of the motor carrier ratemaking process, rate bureau activities, and discounting and their relationship to the MC-82 process (as set forth at 49 CFR part 1139), and other related motor carrier issues of importance to both shippers and carriers. This proceeding consolidates for consideration all collective motor carrier general rate increases proposed for application in 1990 for which the Commission had ordered investigations prior to the date on which it approved this notice. This proceeding will be designed as a fact-finding proceeding to assist the Commission in reaching a better understanding of current pricing practices in all sectors (truckload (TL), less-than-truckload (LTL), and household goods (HHG)) of the motor carrier industry. It is designed as a two stage process: (1) The initial phase will be devoted to development of a factual record concerning coincident pricing practices; and (2) the second phase will be devoted to development of evaluative findings and conclusions as well as consideration of appropriate remedies and/or sanctions, if any are warranted in the embraced cases.

DATES: Comments are due by August 10, 1990. An oral hearing will be held on September 5, 1990, for participants to further express their views. Requests to appear and be heard at the hearing shall be submitted to the Commission by August 15, 1990.

ADDRESSES: Send comments and/or requests to appear at the oral hearing (an original and 10 copies) referring to Ex Parte No. MC-196 to: Interstate Commerce Commission, Office of the Secretary, Case Control Branch, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 275-7691 [TDD for hearing impaired: (202) 275-1721]

SUPPLEMENTARY INFORMATION:

Statement of Purpose

This consolidated proceeding stems from and embraces the investigations of a number of collective motor carrier general rate increases proposed for application in 1990 and listed in footnote 1. In each, the Commission allowed the proposed increases to take effect, but ordered further investigation.

These general rate increases illustrate a growing phenomenon in the ratemaking practices of the motor carrier industry. Primarily, the general freight LTL sectors of the motor carrier industry, as well as HHG carriers, continue to use collective ratemaking through rate bureaus to propose general rate increases (GRIs), based upon cost studies of the major carriers within the bureaus. At the same time, rate bureau members are using their right of independent action (IA) to establish individually the same or similar rate increases.[2]

Concurrently, carriers also are continuing to offer deep discounts from their established rates to many shippers and customers, thereby effectively offsetting the general increases in whole or part. Because shippers and consumers have presumably benefited from this discounting, the Commission does not desire to end discounts. Rather, the Commission wants to examine the apparent paradox in the current ratemaking process that calls into question the efficacy of Commission review of collectively set, "revenue-need"-based general rate increases in relation to independent actions and substantial discounting.

Many studies of the motor carrier industry have been conducted in recent years to assess the impacts of the Motor Carrier Act of 1980, Pub. L. 96-296, 94 Stat. 794. Although the conclusions of these studies are not unanimous, many have found that economic deregulation has generally been successful, and that, specifically, low overhead costs and easy entry and exit, at least in the TL sector of the industry, ensure that shippers will not be hurt by competitive adjustments, but will continue to obtain quality service at efficient rates. Similarly, many of the studies have concluded that ample competition prevents unreasonable discrimination among shippers by moving all rates to levels reflective of the cost of service. Nevertheless, questions have been raised about the current ratemaking practices and their possible impact on these conclusions, as well as their effect on the health of the motor carrier industry, particularly the LTL sector.

Therefore, we are initiating this consolidated investigation to conduct a defined and focused review of the ratemaking process, rate bureau activities, and discounting and its relationship to the MC-82 process.[3] Our focus here is on rate bureaus and the ratemaking process.[4] After we complete

[1] Embraces No. 40372, General Increase, Middlewest Motor Freight Bureau, January 1, 1990; No. 40373, General Increase, Southern Motor Carrier Rate Conference, January 1, 1990; No. 40374, General Increase, Rocky Mountain Motor Tariff Bureau, January 1, 1990; No. 40375, General Increase, Eastern Central Motor Carrier Association, January 1, 1990; No. 40376, General Increase, Central States Motor Freight Bureau, January 1, 1990; No. 40401, General Increase, Middle Atlantic Conference, March 5, 1990; No. 40421, General Increase, Niagara Frontier Tariff Bureau, April 2, 1990; and No. 40395, General Increase, Household Goods Carriers Bureau, February 14, 1990; No. 40446, Structured General Increase, Middle West Motor Freight Bureau, June 4, 1990; No. 40447, Structured General Increase, Rocky Mountain Motor Tariff Bureau, June 4, 1990; No. 40448, Structured General Increase, Southern Motor Carrier Rate Conference, June 4, 1990; No. 40449, Structured General Increase, Eastern Central Motor Carrier Association, June 4, 1990; and No. 40458, General Increase, PITB, July 1, 1990. New England Motor Rate Bureau is also named a respondent in this proceeding.

[2] It may be that the IAs are undertaken in anticipation of potential Commission suspension and/or investigation of the collectively set GRIs, since the timing of the IA filings is often identical or similar to that proposed for the GRIs.

[3] Ex Parte No. MC-82, *New Procedures in Motor Carrier Revenue Proceedings*, codified at 49 CFR part 1139, subpart A (Common Carriers of General Commodities), governs the filing and content of applications for general rate increases and general adjustment and the required supporting evidence.

[4] On December 19, 1989, the Commission received for filing in Docket Section 5a App. No. 60, the *Petition of the United States Department of Justice for An Order Requiring the Members of the Rocky Mountain Motor Tariff Bureau To Show Cause Why Their Antitrust Immunity To Discuss and Agree on General Rate Increases Should Not Be Withdrawn.* This petition is based on the Department's (DOJ) allegation that "[t]he conduct of RMMTB members in collectively agreeing on GRIs and then almost simultaneously adopting identical or virtually identical rate increases as 'independent actions' is directly contrary to the purposes of the MCA [Motor Carrier Act of 1980] and the National Transportation Policy." Petition at 19. In voting to initiate this proceeding at a conference on February 20, 1990, the Commission decided to postpone consideration of DOJ's petition, pending completion of this investigation. Several Commissioners explained the need for the Commission to examine first the current workings of the motor carrier ratemaking process, rate bureau activities, and discounting, before considering the specific enforcement issues raised by DOJ's petition. Accordingly, the Commission will determine how to proceed with respect to DOJ's petition after completing this proceeding.

development of the factual record concerning these processes, we will then examine and evaluate the facts to determine whether such activities are consistent with the Motor Carrier Act of 1980 and if remedies or sanctions are appropriate. We also intend to initiate this fall, by publication of appropriate notice, another, more broadly based proceeding focusing on the state of the motor carrier industry 10 years after enactment of the Motor Carrier Act of 1980.

After completing our assessment in this proceeding of rate bureaus and the ratemaking process, and again after completing our review of the state of the motor carrier industry, we will consider whether any modifications of our regulations may have utility in encouraging a more efficient and competitive motor carrier industry. By initiating the instant investigation, the Commission intends neither to attempt to re-institute motor carrier regulation nor to disregard our statutory obligations regarding the review of ratemaking and rate bureau activities.

Questions To Be Explored

In order to provide scope and definition to these proceedings the foregoing are identified as specific issues to be addressed in this investigation. They are not intended to be exclusive or to exclude presentations on related subjects that could help to clarify and explain the circumstances surrounding the coincidence of collective GRIs, IAs, and discounting practicies in the embraced cases.

1. Do coincident GRIs and IAs defeat meaningful ICC review of the proposed rate changes?

a. In the current regulatory and competitive environment, what purposes should be served by Commission review and investigation of rate bureau general rate increases?

b. With respect to the purposes identified, is there a need to change the present Commission approach and methodology for handling rate bureau general increase requests?

2. What is the relationship between GRIs and IAs?

a. What is the relationship between filing independent action rate increases coincident with collective general rate increases, and meaningful review of collectively proposed rate bureau general increases?

b. Are these independent actions, when taken in connection with a proposed general rate increases, a form of permissible ratemaking, *e.g.* price leadership, or are they contrary to the Congressional intent in permitting certain forms of collective ratemaking to continue? Are individual actions taken in connection with general increases truly "independent"?

c. If the independent actions constitute price leadership, would the same results occur in the absence of collective ratemaking?

3. What is the relationship between carriers' claims of revenue need in their rate bureau proposals and their subsequent discounting practices after general increases are granted?

a. What, if any, is the correlations between discounting practices and the evidence of revenue need submitted in compliance with MC–82?

b. What information, if any, should be provided regarding motor carrier discount levels in relation to collectively established general rate increases filed by rate bureaus?

c. Should collectively established general rate increases be evaluated with reference to discounting practices and resultant price levels, and if so, how should the consequential effects be measured and what should be the impact on the general rate increase?

4. Does discounting establish a differential pricing system, which, over time, potentially could lead to discriminatory pricing practices?

a. Are the conclusions of previous studies that destructive competition, unreasonable price and service discrimination, and predatory pricing are unlikely to occur in the motor carrier industry correct? Do they apply to all sectors of the trucking industry?

b. Are these conclusions altered in any way by the present pricing practices?

Procedures

1. This is not an adversary proceeding. It is solely a fact-finding proceeding to assist the Commission in reaching a better understanding of current pricing practices in the motor carrier industry. We have conducted such proceedings in the past,[5] and have found them to be useful in informing the Commission.

2. Written comments, studies, *etc.*, are solicited and may be filed by anyone wishing to do so. Any such submissions should be filed with the Commission by August 10, 1990. Copies of submissions will be available for review at the Commission.

3. An oral hearing will be held on September 5, 1990, for participants to further express their views. We invite all interested parties to participate. In particular, we invite the appearance and participation of the following:

a. Rate bureaus (and their carrier members) named in the embraced proceedings (see note 1, *supra*);

b. Protestants in the embraced proceedings;

c. Representatives of LTL and HHG carriers;

d. Representatives of TL carriers, small carriers, and owner operators;

e. Representatives of shipper groups;

f. Representatives of small shippers;

g. The Office of Compliance and Consumer Assistance (OCA); and

h. The United States Department of Justice, the United States Department of Transportation, and the Federal Trade Commission.

Requests to be heard at the hearing shall be submitted to the Commission by August 15, 1990, and shall include: The name of the party or parties that the speaker will represent; the types of business that the party conducts; and the general thrust of the information that the speaker wishes to present. After the oral hearing, additional procedural schedules will be issued if necessary.

Decided: June 25, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Noreta McGee,

Secretary.

[FR Doc. 90–16224 Filed 7–10–90; 8:45 am]

BILLING CODE 7035–01–M

[5] *E.g.*, Ex Parte No. 456, *The Staggers Rail Act of 1980—Conference of Interested Parties* (not printed), served September 14, 1984.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Dance Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance Company Grants Section) to the National Council on the Arts will be held on July 23–26, 1990, from 9 a.m.–9 p.m. and on July 27 from 9 a.m.–6 p.m. in room M14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on July 27 from 2 p.m.–6 p.m. The topic will be policy issues.

The remaining portions of this meeting on July 23–26 from 9 a.m.–9 p.m. and on July 27 from 9 a.m.–2 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 subsections (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: June 28, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

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BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–461]

Environmental Assessment and Finding of No Significant Impact; Illinois Power Company, et al.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to the Illinois Power Company (IP) and Soyland Power Cooperative, Inc. (the licensees), for operation of Clinton Power Station, Unit 1, located in DeWitt County, Illinois.

Environmental Assessment

Identification of Proposed Action

The licensees have requested a license amendment that would revise the Technical Specifications (TS) to clarify the capabilities of certain reactor coolant system leakage detection systems. This proposed change would modify Technical Specification Surveillance Requirement 4.4.3.2.1 to indicate that the drywell floor and equipment drain sump leak detection system instrumentation does not include direct quantitative indication of sump level and that the drywell atmospheric radioactivity leak detection system instrumentation does not quantify leakage.

This revision to the Clinton Power Station TS would be made in response to the licensees' application for amendment dated October 30, 1987.

The Need for the Proposed Action

IP, *et al.*, have proposed an amendment to Facility Operating License No. NFP–62 which consists of changes to the TS. Surveillance Requirement 4.4.3.2.1 lists the methods to be used to identify/quantify reactor coolant system leakage. As currently worded the TS implies that the drywell atmospheric particulate and gaseous radioactivity monitoring system is capable of quantifying leakage. However, industry experience has demonstrated that the uncertainties associated with the relationship between a radioactive count and a leakage rate make such a relationship unusable. Therefore, the licensee proposes to add a note indicating that the drywell radiological monitoring is not a means of quantifying leakage. The TS also lists drywell floor and equipment drain sump level as a monitored variable. However, the facility only identifies leakage by monitoring sump flow rate. Therefore, the licensee proposes to delete the reference to monitoring sump level.

Environmenal Impacts of the Proposed Action

The proposed changes clarify the surveillance to make the TS consistent with system design. Both the drywell radiological monitoring and the drywell sump monitoring will continue to provide a means for detecting a source of reactor coolant system leakage in accordance with NRC General Design Criterion 30. No changes to plant design are proposed.

The Commission has concluded that these changes do not significantly increase the probability or consequences of any accident and that potential radiological releases during normal operations or transients would not be increased. With regard to nonradiological impacts, the proposed amendment involves systems located with the restricted area as defined in 10 CFR part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the staff also concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Accordingly, the Commission findings in the "Final Environmental Statement related to the operation of Clinton Power Station, Unit No. 1" dated May 1982 regarding radiological environmental impacts from the plant during normal operation or after accident conditions, are not adversely altered by this action. IP is committed to operate Clinton, Unit 1, in accordance with standards and regulations to maintain occupational exposure levels "as low as reasonably achievable."

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on February 18, 1988 (53 FR 4917). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

The principal alternative would be to deny the requested amendment. This alternative, in effect, would be the same as a "no action" alternative. Since the Commission has concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Clinton Station, Unit 1, dated May 1982.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request of October 30, 1987 and did not consult other agencies or persons.

Finding of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon this environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendment dated October 30, 1987 and the Final Environmental Statement for the Clinton Power Station dated May 1982, which are available for public inspection at the Commission's Public Document room, 2120 L Street, NW., Washington, DC and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 2nd day of July 1990.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III–3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–16127 Filed 7–10–90; 8:45 am]

BILLING CODE 7590-01-M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 15, 1990 through June 27, 1990. The last biweekly notice was published on June 27, 1990.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following 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 basis for this proposed determination for each amendment request is shown below.

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, 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 August 10, 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 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 for the particular facility involved. 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 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 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 a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment 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 the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. 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 Services 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 (*Project Director*): 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 the 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 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 which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: June 12, 1990

Description of amendments request: The proposed amendments redefine the fully withdrawn position of all rod cluster control assembly (RCCA) banks to minimize localized RCCA wear. The fully withdrawn position is currently defined as 228 steps above rod bottom. The proposed changes will allow the RCCA banks to be designated as fully withdrawn between steps 225 and 231, inclusive. This allows repositioning of RCCAs to distribute the wear that may be caused by core flow induced vibration.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if 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.

Alabama Power Company (the licensee) has reviewed the proposed changes and has determined that the requested amendments do not involve a significant hazards consideration for the following reasons:

(1) The proposed change will not increase the probability or consequences of an accident previously evaluated because RCCA repositioning will not result in any design or regulatory limits being exceeded with respect to the safety analyses documented in the Farley Final Safety Analysis Report (FSAR). The assumed control rod drop time and reload safety analysis parameters remain bounding. In addition, since the change does not impact any conditions that would initiate a transient, the probability of previously analyzed events is not increased. Also, RCCA repositioning will reduce the possibility of rod cladding failure, thereby minimizing the chance of absorber material being introduced into the reactor coolant system. Expected life of the RCCAs will also be extended.

(2) The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated because the RCCAs will continue to meet their functional requirements. The RCCA will remain inserted in the guide thimbles of the fuel assemblies during operation with the proposed withdrawal limits; therefore, the performance of the CRDMs is unaffected by this change. The effect of periodically repositioning the RCCAs is bounded by the Farley safety analysis and therefore will not propagate to a new or different accident.

(3) The proposed change will not involve a significant reduction in a margin of safety because RCCA repositioning has an insignificant effect on control rod drop time. Therefore, rod drop time will continue to be bounded by that assumed in the Farley safety analysis. There will also be minimal impact on core physics characteristics. Key safety parameters considered in reactor reloads such as those used in the calculation performed to verify shutdown margin and peaking factors were evaluated and shown not to violate any safety analysis assumptions. The effect is negligible since the top region of the core has such low worth, consequently, the resultant power distribution perturbations are minimal and can be accommodated with available margin. Also, by keeping the tip-to-tip distance during overlap operation the same for the proposed definition of fully withdrawn, axial power behavior as a function power level will be maintained.

The licensee has concluded that the proposed amendments meet the three standards in 10 CFR 50.92 and, therefore, involve no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendments do not involve a significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Dothan, Alabama 36302

Attorney for licensee: Ernest L. Blake, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Elinor G. Adensam

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: June 15, 1990

Description of amendments request: The proposed amendment revises Technical Specifications 4.8.2.3.2.c.5 and 4.8.2.5.2.c.5 to delete the equivalent load profiles provided in table form that are associated with the battery service test. The tables would be replaced with a statement requiring that the batteries be tested by subjecting them to an equivalent load profile based on anticipated breaker operations required during loss-of-offsite power and loss-of-coolant accident conditions.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if 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.

Alabama Power Company (the licensee) has reviewed the proposed changes and has determined that the requested amendments do not involve a significant hazards consideration for the following reasons:

1. The proposed change will not increase the probability or consequences of an accident previously evaluated. The change is administrative in nature in that Technical Specifications will still require testing of the batteries based on expected loads during LOSP and LOCA conditions. Since it is still required that the batteries demonstrate the ability to carry the design basis emergency loads, the response of the plant to previously evaluated accidents will not be affected.

2. The proposed change does not create the possibility of a new or different kind of accident than any accident previously evaluated. Since no change is being made to the design, operation, maintenance or testing of the plant, a new mode of failure is not created. A new or different kind of accident could, therefore, not result.

3. The proposed change does not reduce a margin of safety. Surveillance requirements for demonstrating the operability of the station batteries are still based on the recommendations of IEEE Standard 450-1980, "IEEE Recommended Practice for Maintenance, Testing and Replacement of Large Lead Storage Batteries for Generating Stations and Substations." The batteries are still required to demonstrate the ability to carry loads required under design basis emergency conditions. Consequently, margins of safety are not reduced.

The licensee has concluded that the proposed amendments meet the three standards in 10 CFR 50.92 and, therefore, involve no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendments do not involve a significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Dothan, Alabama 36302

Attorney for licensee: Ernest L. Blake, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments: April 25, 1990

Description of amendments request: The proposed amendments would correct inconsistencies in the Reactor Vessel Toughness Tables (Tables 3.3.2-1 and 3.3.2-2) in the Technical Specifications for Zion, Units 1 and 2. These inconsistencies consist of the omission of three weld materials from the Unit 1 and 2 Reactor Vessel Toughness Tables, and the interchange of the lower and intermediate shell materials in the Unit 2 data table. These changes are considered to be administrative in nature and do not alter current operating limitations.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a 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 licensee has provided the following analysis of no significant hazards consideration using the Commission's standards.

The proposed change does not result in a significant increase in the probability or consequences of accidents previously evaluated. Commonwealth Edison has conducted an extensive review of the documentation related to the integrity of the Zion Station's Unit 1 and 2 Reactor Vessels. These reviews included the following documents; Reactor Vessel Surveillance Capsules, Heatup and Cooldown Curves, Neutron Fluence Analysis, Reactor Vessel Pressurized Thermal Shock, Fracture Mechanics Analysis, and the Final Safety Analysis Report. The results of these reviews concluded that the most limiting weld neutron fluence has remained unchanged. For both Reactor Vessels, the most limiting weld is WF 70. This weld has been used in all appropriate calculations. As such, this change is considered to be administrative since it is merely correcting three errors of omission and a transposition error that has been shown to have no impact on plant operation or safety.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change is correcting errors that existed due to a document inconsistency. This omission does not alter plant configuration, or operating practices. The most limiting weld has been used in all necessary calculation. These changes are being made to correct administrative errors. As such the possibility for a new or different type of accident is not being introduced.

The proposed change does not involve a significant reduction in a margin of safety. Based on the document review conducted, it has been concluded that the margin of safety will remain unchanged. This conclusion is based on the fact that the limiting weld location used in the calculation of operational limitations, such as the Heatup and Cooldown Curves and Pressurized Thermal Shock, has remained the same.

Based on the above discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's

request does not involve a significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments: April 27, 1990

Description of amendments request: The proposed amendments would add a specific Technical Specification to address the containment spray recirculation function in the Technical Specifications for Zion, Units 1 and 2. This will provide new Limiting Conditions for Operation (LCO) to address the functional requirements of the containment spray system during the recirculation phase of operation.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a 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 licensee has provided the following analysis of no significant hazards consideration using the Commission's standards.

This proposed change does not result in a significant increase in the probability or consequences of accidents previously evaluated. The probability for an accident is independent of the changes being proposed. The Containment Spray Recirculation Phase System function is not a precursor to any accident assumed in the Final Safety Analysis Report. The function of the Containment Spray Recirculation Phase System is to mitigate the consequences of an accident. Therefore, through the establishment of a Limiting Condition For Operation, the consequences of an accident will remain the same. The proposed change involves the development of a new specification defining the requirements of the Containment Spray System during the recirculation phase of operation. This Limiting Condition For Operation has been established to assure that the lowest level of functional capability and performance required for safe operation of the facility is met. Remedial actions have been specified to require a plant shutdown when a Limiting Condition for Operation is not met. Through these actions, the consequences for an accident would remain within the limits established in the Final Safety Analysis Report. The remedial actions specify an allowable outage time period not to exceed 7 days. This time period is acceptable based on the philosophy of allowing a single level of degradation without total loss of functional capability. This level of degradation is conservative based on the safety function of the system, and the allowable outage time period specified for other Engineered Safety Features of similar safety significance. Surveillance requirements have been specified to assure that the system and components are tested routinely. These tests will assure that facility operation will be maintained within the Limiting Conditions For Operations. This specification has been derived using the analyses and evaluations included in the Final Safety Analysis Report.

This proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. It does not involve the addition of any new or different type of equipment, nor does this change involve the operation of equipment required for safe operation of the facility in a manner different from those addressed in the Final Safety Analyses Report.

The proposed change does not involve a significant reduction in a margin of safety. This change is being proposed to provide a clearly defined Limiting Condition For Operation for the Containment Spray System during the recirculation phase of a Loss-of-Coolant-Accident (LOCA). The allowable outage time periods are consistent with those used for systems of similar safety significance at Zion Station. In the recirculation mode of operation, the Residual Heat Removal (RHR) Pump System, a part of the Emergency Core Cooling System (ECCS), supplies the recirculation water to the Containment Spray Recirculation Phase System from the containment recirculation sump. Therefore, the allowable outage time periods have been selected to be consistent with the RHR Pump System. The Containment Spray Recirculation Phase System includes a requirement to verify at least 3 RCFCs are operable. Analyses have been performed demonstrating that a total loss of containment spray during the recirculation phase, would not result in a significant increase in containment pressure. The RCFCs can accommodate the assumed post-LOCA heat loads. Loss of containment spray recirculation function does result in an increase in temperature and pressure, but these increases are well within all design limitations and margins.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: June 7, 1990

Description of amendment request: The proposed revision to Technical Specification (TS) 3.7.5b. would change the Standby Nuclear Service Water Pond (SNSWP) average water temperature from 86.5° F to 92° F and the elevation at which it is measured from 540 feet to 563 feet. The associated TS Bases 3/4.7.5 are also revised to reflect this change.

The licensee has determined, based on analysis results, that monitoring for a maximum temperature of 92° F at an elevation of 563 feet in the SNSWP would provide the volume of cooling water, at or below 92° F, which is sufficient to provide an adequate source of cooling water to dissipate the heat generated during a postulated loss-of-coolant accident (LOCA) in one unit and cooldown of the other unit.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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 proposed revision would not involve a significant increase in the probability or consequences of an accident previously evaluated because the SNSWP does not initiate any accident, and the change would ensure that a sufficient volume of water is maintained at or below the required temperature so that the SNSWP can meet its design basis of providing an adequate source of cooling water to dissipate the heat generated during a postulated LOCA in one unit and cooldown of the other unit.

The proposed revision would not create the possibility of a new or different kind of accident from any accident previously evaluated because all essential equipment would function, as needed, and the licensee's analysis would ensure that the design basis of the SNSWP is met assuming a temperature of 92° F at 563 feet. Furthermore, no new modes of operation are introduced.

Finally, the proposed revision would not involve a significant reduction in a margin of safety because the design basis of the SNSWP can still be met and the essential equipment would function, as needed.

Accordingly, the Commission proposes to determine that the amendments do not involve a significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: May 22, 1990

Description of amendment request: The proposed amendment would modify Specification 3.1.2.10 of the Arkansas Nuclear One, Unit 1, Technical Specifications to allow the use of high pressure injection for emergency RCS makeup during decay heat removal operations as recommended by Generic Letter 88-17. This modification would add "emergency RCS makeup" to the list of exceptions that require the high pressure injection motor operated valves to be closed with their opening control circuits for the motor operators disabled.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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 licensee provided an analysis that addressed the above three standards in the amendment application. The licensee stated that the changes do not involve a significant hazards consideration for the following reasons:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The change allows use of the HPI system to mitigate a loss of Decay Heat Removal event without violating Technical Specifications. The Technical Specification [sic] currently require the HPI block valves to be closed during low pressure operation to prevent a low temperature overpressurization event. The proposed change would not significantly increase the probability of a low temperature overpressurization accident because of the availability of the Electromatic Relief Valve, which is reset for a value associated with low pressure operations, and procedural controls which require the throttling of HPI flow consistent with the available vent path. Additionally, once cooled down a pressurizer manway is removed to provide a vent path to preclude RCS pressurization due to a loss of decay heat removal event.

This change would not adversely affect the consequences of accidents which have previously been evaluated. The proposed change makes available, without violation of Technical Specification, the HPI system as a source of makeup for a loss of inventory condition while in Decay Heat Removal Operations, and therefore increases the ability to mitigate the consequences of a loss of Decay Heat Removal event. This change to the Technical Specification will not alter the plant capabilities or protective features, but will remove the operator's reservations about using the HPI system to mitigate a loss of Decay Heat Removal event.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

No new possibility for an accident is introduced by allowing the use of the HPI system as a source of inventory for boil off due to a loss of decay heat removal. The proposed amendment will not change the overall design and system function of the HPI system. This change will allow the use of the HPI pumps and valve(s) as a sources [sic] of water for inventory replenishment in a loss of Decay Heat Removal event. The HPI valve availability is currently allowed as an inventory source during fill and vent of the RCS, which is a normal evolution. Low Temperature Overpressurization was evaluated and a Safety Evaluation Report issued in association with Amendment Number 95 to the ANO-1 Facility Operating License. The procedural controls in place ensure that overpressurization does not occur by using the valve only after all other sources of inventory addition have been exhausted, and, then, with operator attention focused on LTOP considerations.

(3) Involve a significant reduction in the margin of safety.

The proposed change allows use of the HPI pump and associated valve(s) as a source of inventory addition to the RCS in a Loss of Decay Heat Removal event. This change does not involve a significant reduction in the margin of safety and in fact will increase the margin of safety by adding an additional source as recommended in Generic Letter No. 88-17. The HPI valve availability is currently allowed for RCS fill and vent and other evolutions. The procedural controls ensure that overpressurization does not occur by using the valve only after all other sources of inventory addition have been exhausted, and, then, with operator attention focused on LTOP considerations.

The NRC staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with its conclusion. Therefore, the staff proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell, & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Richard F. Dudley, Acting

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: April 24, 1990

Description of amendment request: The proposed amendment would modify the TMI-1 Technical Specification Design Features Section for fuel assemblies. This change would permit the substitution of Zircaloy-4 or stainless steel filler rods for fuel rods in fuel assemblies if justified by cycle-specific reload analyses, in accordance with the guidance contained in NRC Generic Letter 90-02, dated February 1, 1990.

Basis for proposed no significant hazards consideration determination: GPU Nuclear Corporation has determined that this Technical Specification Change Request involves no significant hazards consideration as defined by NRC in 10 CFR 50.92.

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated. The proposed amendment permits the substitution of filler rods for fuel rods in fuel assemblies if justified by cycle-specific reload analyses using an NRC-approved methodology, in accordance with the guidance contained in NRC Generic Letter 90-02. Allowing this substitution for fuel rods that are found to be leaking or are possible sources of future leakage would result in reductions in future occupational radiation exposure and plant radiological releases. Therefore, this change does not increase the probability or occurrence or the consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. Substitution of filler rods is justified by cycle-specific reload analyses using an NRC-approved methodology. This change would provide flexibility for improved fuel performance by permitting timely removal of fuel rods found to be leaking or are determined to be possible sources of future leakage. Solid metal rods have been used in fuel assembly designs in the past. Therefore, this change has no effect on the possibility of creating a new or different kind of accident from any accident previously evaluated.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. Substitution of filler rods will be justified by cycle-specific reload analyses using an NRC-approved methodology and applying the same safety and design criteria used for the initial fuel design. Therefore, it is concluded that operation of the facility in accordance with the proposed amendment does not involve any reduction in a margin of safety.

The NRC staff has reviewed the GPU Nuclear Corporation determination and agrees with their analysis. Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: September 30, 1988 and Supplemented June 6, 1990 (RBG-32951), June 6, 1990 (RBG-32952) and June 26, 1990

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) in accordance with the guidance provided in Generic Letter 87-09, "Sections 3.0 and 4.0 of the Standard Technical Specifications (STS) on the Applicability of Limiting Conditions for Operation and Surveillance Requirements." The general requirements in TS 3.0.4, applicable to each Limiting Condition for Operation (LCO) within Section 3.0, would be changed to allow operational condition changes without meeting the LCO requirements provided the remedial actions in the associated action statements do not require reactor shutdown if the LCO is not met in a specified time. For those TS which presently have an exception to TS 3.0.4, the exception would be deleted because the change in TS 3.0.4 would achieve the same effect by itself. For applicable TS which do not presently have an exception to TS 3.0.4, the change in TS 3.0.4 provides increased operational flexibility. TS 4.0.3 would be changed to clarify that it does not prevent changing operational conditions to comply with action requirements. TS 4.0.4 would be changed to clarify the specification for mode changes as a consequence of Action Requirements. The Bases for TS 3.0 and 4.0 would be changed to reflect the changes in the TS.

The September 30, 1988, letter submitted the proposed TS and Bases changes. The June 6, 1990, letter (RBG-32951) submitted additional information and provided Gulf States Utilities (GSU's) evaluation of the TS action statements for which the proposed change to TS 3.0.4 would provide new operating flexibility allowed by the Generic Letter. The other June 6, 1990, letter (RBG-32952) submitted justifications for preplanned use of the proposed TS 3.0.4 for two TS LCOs.

The September 30, 1988, submittal was previously noticed November 7, 1988 (53 FR 44966). The June 6, 1990, submittal (RBG-32951) contained a revised mark-up of the affected TS pages and supersedes the TS pages submitted in the September 30, 1988 letter. The proposed changes to the TS Bases 3.0.4 and 4.0.4 provided in the September 30, 1988, submittal remain unchanged. In a letter dated June 26, 1990, GSU withdrew the TS Bases 4.0.3 submitted in the September 30, 1988, letter and proposed TS Bases 4.0.3 as presented in the Generic Letter. This supersedes the earlier submitted Bases.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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 licensee provided an analysis and additional information that addressed the above three standards in the amendment application.

In accordance with the requirements of 10CFR50.92, the following discussions are provided in support of the determination that no significant hazards are created or increased by the changes proposed in this amendment request.

1. No significant increase in the probability or the consequences of an accident previously evaluated results from this request because:

GSU has evaluated these proposed changes as they apply to RBS and has concluded that they conform with the guidance provided in Generic Letter 87-09. The proposed changes implement improvements in three problem areas as discussed in the Generic Letter.

Resolution to the first problem area addressed in Generic Letter 87-09 revises Specification 3.0.4 of the Standard Technical Specifications for BWR's which is applicable to RBS. This change will allow placing RBS in a higher Operational Condition when a LCO has not been met *only* when the ACTION requirements being relied upon are being complied with exclusive of the AOT limit and permit continued operation of the facility for an unlimited period of time. Consistent with the guidance provided in the Generic Letter, this is acceptable since compliance with the

applicable ACTION requirements will provide an adequate level of safety and will presently allow continued operation for an unlimited period of time once the higher Operational Condition is obtained. The RBS Technical Specifications have been reviewed and GSU has confirmed that all current remedial ACTION statements do provide an acceptable level of safety for continued plant operation for an unlimited period of time and therefore, no change to the plant response to any event as described in the safety analysis report results.

Resolution to the second problem area addressed in Generic Letter 87-09 revises Specification 4.0.3 by allowing up to a 24 hour time limit to complete a missed surveillance requirement before the unit is required to initiate the requirements of the ACTION statement. Surveillances are required to demonstrate that systems or components are operable. Since the large majority of surveillances are successful, the mere fact that a surveillance is missed does not indicate that a system or component is inoperable. The proposed 24 hour delay is based upon considerations to allow adequate planning, resource (personnel, material) staging and performance of the surveillance or to allow sufficient time for regulatory action (temporary waiver or license amendment) if the surveillance can not be performed. This time limit also allows for completion of surveillances that become applicable as a consequence of Operational Condition changes imposed by ACTION requirements. Consistent with the guidance provided in the Generic Letter, this proposed change is acceptable since it is overly conservative to assume that a system or component is inoperable solely due to a missed surveillance and the proposed change reduces the potential for plant upset when ACTION requirements do not allow adequate time to perform the missed surveillance. The time limits of ACTION requirements would become applicable if it is determined that the affected equipment is inoperable and therefore, the plant will be required to be placed in a condition (configuration) within the current safety analysis as required by the Technical Specifications.

Resolution to the third problem area addressed in Generic Letter 87-09 revises Specification 4.0.4 to address conflicts between Specifications 4.0.3 and 4.0.4. The first area of conflict arises because Specification 4.0.4 does not allow entry into an Operational Condition when the applicable surveillance have not been performed. This requirement can result in a conflict when a mode change is required by ACTION statements and the surveillance requirements that become applicable have not been performed within the required intervals. The proposed change to Specification 4.0.3 states that it shall not prevent passage through or to Operational Conditions required to comply with ACTION statements. A similar provision is already included in Specification 3.0.4. This provision, when coupled with the proposed change to Specification 4.0.3 allowing a delay of up to 24 hours to perform the surveillance before applying the shutdown requirements of the ACTION statement, allows the plant to be placed in the Operational Condition specified by the ACTION requirements while still allowing surveillance to be performed in a timely manner.

Another area of conflict with regard to Specifications 4.0.3 and 4.0.4 is when surveillance requirements can only be completed after entry into the Operational Condition where they apply. These Technical Specifications currently contain an exception to Specification 4.0.4. As identified in the Generic Letter, the proposed change to Specification 4.0.3 will permit a delay of up to 24 hours in the applicability of the ACTION requirements to allow appropriate time for the completion of the surveillance where specific exception to the requirements of 4.0.4 are required.

Consistent with the guidance provided in the Generic Letter, this is acceptable since the change to 4.0.4 resolves conflicts with 4.0.3 and allows the plant to be placed in the Operational Condition prescribed by the Technical Specifications and thereby, maintaining the conditions assumed in the current safety analysis.

The proposed change to Technical Specification Table 3.3.7.1-1, ACTION 72 is editorial only. As such, this proposed change cannot increase the probability or the consequences of any accident previously evaluated. STARTUP is the appropriate defined Operational Condition for RBS.

2. This request would not create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed changes to Specification 3.0.4 are to allow placing RBS in a higher Operational Condition only when continued compliance with the ACTION requirements will maintain the plant within the assumptions of the current safety analysis. Therefore, the proposed changes do not affect the design or configuration of RBS as assumed in the current safety analysis.

The proposed changes to Specification 4.0.3 are to allow sufficient time to complete inadvertently missed surveillances. If the equipment in question is determined to be inoperable, compliance with applicable ACTION requirements must be completed, thereby placing the plant in a condition within the current safety analysis.

The proposed changes to Specification 4.0.4, when coupled with the proposed changes to Specification 4.0.3, will allow a change to the plant Operational Condition when the associated surveillance requirement has not been satisfied within the specified interval provided the requirements of the ACTION statement are initiated if the component is found to be inoperable or within 24 hours if the surveillance has not been completed. As discussed above, compliance with the ACTION requirements will place the plant within the current safety analysis.

The proposed change to Technical Specification Table 3.3.7.1-1, ACTION 73 is editorial only and therefore, does not introduce any new operating or failure modes. STARTUP is the appropriate defined Operational Condition for RBS.

With each of the proposed changes the design and configuration required by the operating license is unchanged and the requirements of the current safety analysis are maintained; therefore, no new events have been introduced by the proposed changes.

3. This request would not involve a significant reduction in the margin of safety because:

The proposed changes to Specification 3.0.4 allow plant startups under conditions in which conformance with the ACTION requirements establishes an acceptable level of safety for continued operation for an unlimited period of time as previously approved. Startup would still be prohibited when the ACTION requirements provide no remedial action for continued plant operation. The proposed change to Specification 4.0.3 allows an appropriate time for performing a missed surveillance before shutdown requirements apply. This proposed time limit is based upon appropriate consideration of plant conditions, adequate planning, availability of personnel, and the time to perform the surveillance. As recognized by the NRC Staff in the Generic Letter, it is overly conservative to assume that systems or components are inoperable solely because a required surveillance has not been performed. Therefore, allowing sufficient time to perform the surveillance reduces the risk of plant upset while performing the missed surveillance and therefore, does not significantly reduce the margin of safety.

The final proposed changes to Specification 4.0.4 are clarification only to permit passage through or to Operational Conditions as required to comply with ACTION requirements even though a surveillance requirement may not have been performed. The proposed revision would also permit mode changes when a surveillance requirement has not been met and can only be completed after entering into the Operational Condition where it is applicable. This proposed change does not significantly reduce the margin of safety, but in fact, potentially increases the margin of safety by permitting entry into lower modes of operation as required to comply with ACTION requirements.

The proposed change to Technical Specification Table 3.3.7.1-1, Action 73 is editorial only and therefore, cannot reduce the margin of safety. STARTUP is the appropriate defined Operational Condition for RBS.

Based upon the above considerations, the proposed changes do not result in a significant increase in the probability or the consequences of any accident previously evaluated, do not create the possibility of a new or different kind of accident than previously evaluated and do not result in a significant reduction in the margin of safety. Therefore, GSU proposes that no significant hazards considerations are involved with approval of the proposed changes.

The staff has reviewed the licensee's no signficant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed

changes do not involve a significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Mark Wetterhahn, Esq., Bishop, Cook, Purcell and Reynolds, 1401 L Street, NW., Washington, DC 20005

NRC Project Director: Christopher I. Grimes

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: November 20, 1989

Description of amendment request: The proposed amendment would add two additional valves to a footnote to Technical Specification Surveillance Requirement 4.6.1.1.b which exempts certain containment isolation blind flanges, valves, and deactivated automatic valves from the requirement that the position of these valves must be verified every 31 days, to ensure that containment integrity is maintained.

This exemption was previously approved to allow blind flanges, valves, and deactivated automatic valves which are locked or sealed and are physically located in areas with high radiation fields, such as the primary containment, drywell or the steam tunnel, to only be verified when the unit is in cold shutdown and radiation fields are greatly reduced due to the absence of radioactive nitrogen.

Containment isolation valves, 1HG016 and 1HG017 are to be added to this exemption. They are locked and administratively controlled as vent and drain valves for hydrogen recombiner return and supply penetrations. They are physically located in the auxiliary building, adjacent to the steam tunnel, where the radiation fields caused by radioactive nitrogen in the main steam lines and reactor water cleanup lines create an environment similar to that inside the steam tunnel, but are not in the tunnel itself.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a 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 licensee has provided its analysis of no significant hazard considerations using the Commission's standards:

(1) Although valves 1HG016 and 1HG017 are assumed to be closed during accident conditions, the proposed change should not increase the possibility of these normally locked closed valves being left or found in the open position due to administrative controls employed over these valves and the fact that they are only opened to perform leak rate testing of their containment penetration. Therefore, this proposed change will not significantly increase the probability or consequences of any accident previously evaluated.

(2) Modification of the surveillance interval for valves 1HG016 and 1HG017 from every 31 days to every 92 days, during cold shutdown, does not affect the design or operation of any component, system, or structure and therefore will not create the possibility of any new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not affect the containment leakage rate or its measurement. Since the same valve locking program and administrative controls will continue to be utilized, the probability of the test connection valves being open remains a constant. Therefore, no reduction in the margin to safety of containment integrity or leakage rate should occur.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated, does not create the possibility of a new or different kind of accident from any accident previously evaluated, and does not involve a reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: April 17, 1990

Description of amendment request: The proposed amendment would change the Susquehanna Steam Electric Station Unit 1 Technical Specifications by adding several new containment isolation valves to Table 3.6.3-1 related to "Primary Containment Isolation Valves". The new valves are being added to an existing penetration to permit separation of the containment radiation monitors from the hydrogen/oxygen analyzers and from post-accident sampling system. All three monitoring systems presently share a common containment penetration.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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; (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 staff has reviewed the licensee's request and concurs with the following basis and conclusion provided by the licensee in its April 17, 1990 submittal.

The proposed changes do not:

I. Involve a significant increase in the probability or consequence of an accident previously evaluated.

This modification installs piping into penetrations similar or identical to designs already in place in the plant. It is designed to requirements enveloping all design basis accidents and malfunctions for the SSES containment. While in an absolute sense, the addition of any amount of additional equipment can be said to increase the probability of occurrence of an accident, the addition of this equipment does not increase the probability of an accident by an amount greater than the uncertainty in the original accident probability analyses and thus no significant licensing-basis change in probability can be said to have occurred due to this modification.

There is no specific condition of this modification or its location on containment that would affect any accident analysis evaluated in the FSAR and the small size (1") line is represented by numerous other cases in the containment design that have been thoroughly evaluated previously.

The Technical Specification change itself simply lists the new isolation valves. No change in operational requirements ar(e) proposed for the new valves.

Based on the above, no significant increase in the probability or consequences of an accident previously evaluated will occur due to the proposed change.

II. Create the possibility of a new or different kind of accident from any accident previously evaluated.

As discussed in I above, nothing in the design of this modification is different from existing Susquehanna containment design or design practice. No features of the design or the locations for installation have been identified by any design criterion that would indicate the existence of any mechanism for creation of an accident or malfunction of a different type than previously analyzed in the FSAR.

III. Involve a significant reduction in a margin of safety.

As specified in I above, the new design will meet all applicable design standards and is therefore consistent with the established margin of safety that is defined by containment integrity requirements.

The Technical Specifications directly affected by this modification, 3.6.1.1 "Primary Containment Integrity," 3.6.1.2 "Primary Containment Leakage," and 3.6.3 "Primary Containment Isolation Valves," will be satisfied by having the isolation valves meet all applicable surveillance requirements. Meeting these requirements will show that the modification has no significant adverse impact on any margin of safety.

Based on the above considerations, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: June 22, 1990

Description of amendment request: Technical Specification (TS) changes are proposed for the refueling platform main hoist Surveillance Requirements (SRs) and the auxiliary hoist SRs to more accurately reflect their actual use. The following provides a general description of the refueling platform and associated hoists and the proposed changes for the SRs.

The refueling platform is used to transport fuel and reactor core components to and from the refuel floor pools and cavities, and as a work platform from which underwater activities can be conducted. The refueling platform has three hoists through which many of these activities are accomplished. The main hoist assembly is suspended from a trolley system on the forward side of the platform and is used for transporting and orientating fuel assemblies and control rod guides for reactor, storage rack, and shipping cask (fuel assemblies only) placement. Two auxiliary hoists, each with a 1000 pound operating capacity are provided on either side of the platform. These hoists are used to perform non-fuel core component activities involving core power monitors, control rods, control rod guide tubes, fuel support casting, neutron source holders, and general servicing aids.

Procedurally, the main hoist is required to be used for the handling of fuel assemblies or control rod guide tubes. During the transfer of fuel assemblies and double control rod guide tubes between the reactor vessel and the spent fuel pool, a potential currently exists for component contact with pool/cavity structures (e.g., portable refueling shield) due to lack of clearance. This could cause equipment and/or carried component damage.

Therefore, the licensee proposes to change the SRs for the main hoist to allow the normal up stop limit switch to be repositioned to provide more clearance between a main hoist grapple-carried component and pool/cavity structures. This will maintain not less than 8 feet 0 inches of water over the top of active fuel with the pools at normal water level, which will correspond to approximately 6 feet 6 inches of water above the top of the carried fuel assembly. Also, the licensee proposes to clarify the main hoist SRs to remove the reference to control rods, since the main hoist is not used for handling of control rods and add the phrase "not less than" before the uptravel stop distance.

Also, the proposed TS changes will remove the requirement for a fuel loaded auxiliary hoist interlock by prohibiting the lifting of a fuel assembly with the auxiliary hoist, and also permit less water above the top of a carried component. Part of the proposed auxiliary hoist TS change will clarify the requirements by adding the phrase "not less than" before the uptravel stop distance.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if 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; (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 licensee has provided an analysis of no significant hazards consideration with the request for the license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The main hoist normal up stop limit switch is proposed to be relocated on the main hoist grapple mast such that main hoist motion will stop not higher than six (6) inches from its current position. This position is well within the hoist design operating range. No other physical changes will be performed on the main hoist or the refueling platform as a result of this TS change. The main hoist will operate in the exact same manner after the switch relocation as it did prior to the proposed change. Therefore, handling of fuel will not be done any differently than that which is done presently and that which was considered in the fuel handling accident. The main hoist will not be any more likely to drop a carried fuel assembly or the mast assembly after the switch relocation.

The refueling platform main hoist will be allowed to raise a load not more than six (6) inches higher than that which is presently permitted creating a greater possible drop distance for a fuel assembly. This situation will create fuel and grapple mast drop distances of not more than 31 feet 11 inches and 46 feet 6 inches, respectively. However, the fuel handling accident assumes drop distances of 32 feet 0 inches and 47 feet 0 inches, respectively. Therefore, the analysis presented in FSAR Section 15.7.4 will continue to be conservative and bound the condition that would exist after the main hoist normal up stop limit switch is raised.

Restricting refueling platform auxiliary hoist loads to less than that of a fuel assembly will have no effect on the likelihood of the fuel handling accident. The fuel handling accident scenario which produced the greatest fuel damage considered the drop of a fuel assembly and grapple mast assembly from the refueling platform while over the reactor. The fuel assembly is the heaviest component transferred by the refueling platform and the main hoist grapple mast assembly is a significant portion of the total drop mass considered in the accident scenario. By comparison, the auxiliary hoists are procedurally prohibited from handling fuel and they have no mast assembly. Their potential drop mass and any resulting energy would be much less than that for the main hoist. Since the auxiliary hoists play no role in the fuel handling accident analysis, a change to them will not affect the likelihood of the analyzed accident.

Removal of the auxiliary hoist fuel loaded interlock feature through load switch recalibration will not adversely impact the

Refueling Interlocks (RIs). The RIs serve to restrict the movement of the control rods and the operation of the refueling platform to reinforce operational procedures that prevent the reactor from becoming critical during refueling operations. A hoist with a 500 27 50 pounds limit will not be able to handle (i.e., lift or transport) a fuel assembly (682 pounds). Fuel can only be handled with the main hoist and its associated grapple mast assembly which will not be affected by this change. Therefore, the absence of a fuel-loaded interlock on the auxiliary hoists will not increase the likelihood of an inadvertent criticality due to fuel handling errors.

The proposed change will allow the refueling platform auxiliary hoists to raise their loads not more than six (6) inches higher than presently permitted, creating a greater possible drop distance for any carried component. However, since the proposed change restricts the normal load to 500 pounds, half of the current value, the energy available with which to cause fuel damage would be less than the current value. Therefore, the total energy available from an auxiliary hoist dropped component will continue to be less than that produced from the main hoist drop scenario discussed in the FSAR analysis of a fuel handling accident.

Finally, the auxiliary hoists are procedurally prohibited from fuel handling activities and the proposed changes to the auxiliary hoists SRs will reinforce these restrictions. Therefore, an inadvertent criticality event during refueling as discussed in the FSAR will not be affected.

In summary, the proposed changes to the main and auxiliary hoist SRs do not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The main hoist normal up stop limit switch in its proposed location will function in the exact same manner as it does now (i.e., the strike plate on the 10 inch mast section will operate the limit switch lever arm). No other physical changes are to be performed on the refueling platform as a result of this proposed change. The refueling platform control logic circuits will not be altered. The handling of fuel and the performance of underwater activities will not be done any differently from those presently performed.

The proposed TS changes to the SRs for the auxiliary hoists will not modify or result in any hardware changes to the refueling platform or its auxiliary hoists. No refueling platform control logic circuits will be altered. The handling of core components and the performance of underwater activities will not be performed differently from those presently performed.

Therefore, the proposed changes to the SRs of the main and auxiliary hoists do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The TS Bases for the refueling platform state in part that the operability requirements will ensure that a refueling platform hoist has sufficient load capacity for handling fuel assemblies and control rods. The load capacity of the main hoist is not affected by the proposed changes. The potential drop distances and resulting energies for a fuel assembly and the grapple mast assembly during the postulated fuel handling accident would remain bounded by the analysis presented in the FSAR. The potential for radioactive releases following a fuel handling accident would remain bounded by the analysis presented in the FSAR.

Physically, the capacity of each auxiliary hoist is not being altered since no material changes are being undertaken and the hoists will be maintained in the same manner. However, to reinforce administrative controls presently in place to ensure fuel assemblies are handled in a safe and controlled manner utilizing only the main hoist grapple mast assembly; the auxiliary hoist load switches will be reset so that a fuel assembly can not be handled. The potential energy available from a dropped auxiliary hoist carried component would be less than that which is currently available and therefore is bounded by the current FSAR analysis. The potential for radioactive releases following a component drop is also bounded by the current FSAR analysis.

Therefore, the proposed changes to the SRs of the main and auxiliary hoists do not involve a reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination as to whether the proposed amendment involves a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: March 13, 1990

Description of amendment request: The proposed amendment would correct Technical Specification 4.9.F.6 to change the location of the circuit breakers described in the monthly surveillance test for the Low Pressure Coolant Injection (LPCI) System Independent Power Supplies (IPSs). Presently the surveillance test indicates that the battery charger breakers are located at the output of the battery chargers. They are, however, located at the AC input side of the IPS battery chargers.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a 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 licensee has evaluated the proposed amendment against the standards provided above and has supplied the following information:

Operation of the James A. FitzPatrick Nuclear Power Plant in accordance with this proposed amendment would not involve a significant hazards consideration, as defined in 10 CFR 50.92, since the proposed change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change is purely editorial in nature and correctly identifies the circuit breakers used for determining IPS operability. The proposed change does not alter the frequency of inspection; nor does it replace any procedures. The proposed change does not impact nor alter any parameter which is used in determining the likelihood or severity of an accident documented in the FSAR or NRC staff's SER [Final Safety Analysis Report or the Safety Evaluation Report]. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from those previously evaluated. The proposed change clearly identifies the circuit breakers used for determining IPS operability. This change is purely editorial in nature and does not impact operational procedures or maintenance schedules. This change would in no way leave the plant in an unanalyzed condition. The proposed change to the surveillance requirements does not alter any accident analyses nor does it create any new failure modes.

3. Involve a significant reduction in the margin of safety. This change is purely editorial in nature and does not relax any administrative controls or limitations. The change corrects the technical specifications by clearly identifying which circuit breakers are used for meeting the surveillance requirements for the LPCI MOV [motor operated valve] IPS. This change does not alter the intent of the surveillance requirement and therefore has no impact on the margin of safety.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration

determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: June 5, 1990

Description of amendment request: The licensee proposes to revise Section 3.5 (Table 3.5-1 and the Basis) of the Indian Point 3 (IP-3) Technical Specifications. The Technical Specifications are being revised to include up to a six (6) second time delay for safety injection (SI) actuation for the high steam flow signal. Operating experience has demonstrated that this circuit has caused inadvertent actuation of the engineering safeguards due to instrumentation lag in the steam flow and steam pressure signals. The introduction of a time delay will compensate for the instrumentation lag, thus avoiding spurious SI actuations.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a 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 licensee has evaluated the proposed amendment against the standards provided above and has supplied the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The probability of a steam line rupture event is unaffected by adding a six (6) second time delay relay to the high steam flow coincidence logic. The consequences of a steam line rupture event with the time delay have been analyzed. The analysis shows that with regard to core response the minimum DNBR is greater than the applicable DNBR limit. Also, the containment peak accident pressure resulting from the mass and energy releases as a result of a steam line rupture, assuming up to a six (6) second SI time delay is below the design containment pressure (42.42 psig vs 47 psig). Therefore, it can be concluded that there is not a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The addition of redundant time delay relays to the high steam flow coincident logic does not create the possibility of a new or different kind of accident from any accident previously evaluated. The time delay relays, which will be seismically installed, are designed to withstand a single failure. The failure mode for the time delay relays is a short of the relay coil which results in blown fuses for the affected train of Engineered Safeguards (which is the typical consequences of a failed relay in the Engineered Safeguards System). This would prevent the affected train from initiating the Engineered Safeguards System. However, the redundant train would be available to initiate all required equipment to mitigate the steam line rupture event. Therefore, a new of different kind of accident is not created.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed amendment does not involve a significant reduction in a margin of safety. Adding up to a six (6) second time delay to the high steam flow coincident logic has been analyzed from both a core response and containment integrity perspective. The analysis shows that with regard to core response the minimum DNBR is greater than the applicable DNBR limit. Concerning containment integrity, the containment peak accident pressure resulting from a steam line rupture, assuming up to a six (6) second SI time delay is 42.42 psig, which is below the containment design pressure of 47 psig.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: June 8, 1990

Description of amendment request: The licensee proposes to revise Section 3.5 (Table 3.5-3 item 1.e., columns 3 and 4, "SAFETY INJECTION - High Steam Flow in 2/4 Steam Lines Coincident with Low Tavg or Low Steam Line Pressure") of the Indian Point 3 Technical Specifications. The Technical Specifications would be revised to change the minimum number of operable channels of the high steam flow circuitry, from "2 channels in each of 3 steam lines" to "1/steam line in each of 3 steam lines," and the minimum degree of redundancy, from "2" to "1/steam line in each of 3 steam lines." These changes would make this specification consistent with standard methodology which permits the minimum number of operable channels to be one less than the number of installed channels. These changes would make this specification more consistent with Westinghouse Standard Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a 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 licensee has evaluated the proposed amendment against the standards provided above and has supplied the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed amendment does not involve an increase in the probability of consequences of a previously analyzed accident. Neither the probability nor the consequences of a steam line rupture event is affected by reducing the minimum number of operable channels to 1/steam line in each of 3 steam lines and revising the minimum degree of redundancy to 1/steam line in each of 3 steam lines. Current administrative requirements plus the revised minimum degree of redundancy would ensure that the

high steam flow bistables in failed channels are placed in the tripped condition. This action places the circuit in a safe condition since the output of this part of the circuit is satisfied. If a steam line rupture were to occur with the circuit in this configuration a steam line isolation and safety injection signal would be generated as intended.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The reduction of the minimum number of operable channels to 1/steam line in each of 3 steam lines, and revision of the minimum degree of redundancy to 1/steam line in each of 3 steam lines, does not create the possibility of a new or different kind of accident from any accident previously evaluated. This amendment does not involve any change in plant hardware or configuration and the circuitry affected by this change is only used to mitigate the consequences of a steam break event. Therefore, a new and different kind of accident is not created.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed amendment does not involve a significant reduction in a margin of safety. By ensuring the bistables of failed channels are tripped, as required by this amendment, the system will always be configured such that it will mitigate the consequences of any steam line break, even when assuming any single failure. Therefore, this amendment does not involve a significant reduction in safety margin.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: June 11, 1990

Description of amendment request: The proposed amendment would extend the duration of the Indian Point 3 operating license to forty (40) years from the date of issuance of the full power license. The plant is currently licensed for forty (40) years commencing with issuance of its construction permit. The current expiration date of August 13, 2009 would, therefore, be changed to December 12, 2015.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a 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 licensee has evaluated the proposed amendment against the standards provided above and has supplied the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not involve any changes to the design or operation of IP3 which may affect the probability or consequences of an accident evaluated in the FSAR. IP3 was designed and constructed on the basis of a forty (40) year life. The accidents analyzed in the FSAR were postulated on the basis of a 40 year life. No changes will be made that could alter postulated scenarios regarding accident initiation and/or response. Existing surveillance, inspection, testing and maintenance practices and procedures ensure that degradation in plant equipment, structures and components will be identified and corrected throughout the life of the plant. The effect of aging of electrical equipment, in accordance with 10 CFR 50.49 has been incorporated into the plant maintenance and surveillance procedures. Therefore, the probability or consequences of a postulated accident previously evaluated in the FSAR are not increased as a result of the proposed change.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve any changes to the physical structures, components or systems of IP3. Existing surveillance, inspection, testing and maintenance practices and procedures will assure full operability for the plant's design lifetime of 40 years. Continued operation of IP3 in accordance with these approved procedures and practices will not create a new or different kind of accident.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

There are no changes in the design, design basis, or operation of IP3 associated with the proposed change. Existing surveillance, inspection, testing and maintenance practices and procedures provide assurance that any degradation of equipment, structures or components will be identified and corrected throughout the lifetime of the plant. These measures together with the continued operation of IP3 in accordance with the Technical Specifications assure that an adequate margin of safety is preserved on a continuous basis. Therefore, the proposed change does not result in a significant reduction in a margin of safety.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama Unit 1, Limestone County, Alabama

Date of amendment request: May 18, 1990 (TS 242)

Description of amendment requests: The amendment revises Browns Ferry Technical Specification requirements for the Residual Heat Removal Service Water (RHRSW) and Emergency Equipment Cooling Water (EECW) Systems as follows:

1. Limiting condition for operation (LCO) 3.5.C.1 is revised to refer the user to Table 3.5-1 for RHRSW pump operability requirements prior to startup from a cold shutdown condition.

2. Table 3.5-1 is reformatted and revised.

3. Clarifications, corrections, and additions have been made to the bases section 3.5.C for RHRSW and EECW.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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; (2) Create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. In accordance with 10 CFR 50.92, TVA conducted an analysis of their proposed amendment

(paraphrased below) and concluded that it does not involve a significant hazards consideration. This conclusion was based upon a determination that the operation of Browns Ferry in conformance with the proposed amendment:

(1) Would not significantly increase the probability or consequences of an accident previously evaluated because the proposed amendment merely clarifies the RHRSW operability requirements prior to startup from a cold shutdown condition (LCO 3.5.C.1) by referring the user directly to Table 3.5-1. Table 3.5-1 is currently referred to for pump requirements during operation. Revisions to Table 3.5-1 will ensure consistency with the requirements of the RHR system (LCO 3.5.B.1) for operation with only one unit fueled. This change ensures that an adequate supply of RHRSW is available to supply the RHR pumps and to support EECW during startup and operation. The administrative changes to Table 3.5-1 will prevent confusion and clarify for the operators the required number of RHRSW pumps necessary to support plant operations depending upon how many units are fueled. The bases changes will clarify and correct the bases consistent with the arrangement and operation of the system. Present TSs already allow reducing the number of RHRSW pumps required to be operable whenever one or more of the units are defueled. The proposed TS changes merely clarify the arrangement of RHRSW pumps required, without affecting operability or surveillance requirements.

(2) Would not create the possibility of a new or different kind of accident from any accident previously evaluated since the proposed TS changes do not add any new equipment to the plant or require any existing equipment to be operated in a different manner from which it was designed. The requirements for RHRSW pump operability are consistent with the FSAR analysis of design basis accidents (Chapter 14) and the operability requirements for the RHR system. The proposed TS changes will also eliminate a conflict, in certain operational modes, between LCO 3.5.B.1 (RHR system) and Table 3.5-1. TVA's amendment does not intend to introduce any new mode of operation, normal or abnormal, outside the plant's design basis.

(3) Would not involve a significant reduction in a margin of safety because the proposed TS changes are consistent with the existing BFN Safety Analysis Report. No adverse safety impact or reduction in safety margins occurs due to the proposed changes since they do not affect the ability of the RHRSW system to perform its ultimate safety function of removing heat from the primary water of the RHR system. The amendment does not physically modify any equipment or adjust setpoints. The proposed TS changes clarify the number of RHRSW pumps required to be operable, depending upon the number of units fueled, to ensure that an adequate water supply will be available for the RHR systems to perform their intended safety function. As a result of the proposed changes, the number of RHRSW pumps required to be operable when only one unit is fueled will actually increase over existing TS requirements.

The staff reviewed the TVA's application and analysis of no significant hazards consideration. Based upon this review, the staff proposes to determine that the amendments do not involve significant hazards considerations.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2; Surry County, Virginia

Date of amendment requests: May 22, 1990, as supplemented June 15, 1990

Description of amendment requests: Currently, Section 3.1.A.3.a. of the Technical Specifications (TS) requires that at least one pressurizer safety valve be operable whenever the head is on the reactor vessel, except during hydrostatic tests. The TS and their Bases imply that this operability requirement is intended to provide overpressure protection when reactor coolant temperature is less than 350° F, the reactor is subcritical, and the reactor coolant system is connected to the residual heat removal system. Since this TS was written, the Surry plant has had a low temperature overpressure protection system installed, and appropriate TS have been written for this system. The proposed amendments would delete the pressurizer relief valve operability requirements of Section 3.1.A.3.a. on the basis that they are no longer necessary since the low temperature overpressure protection system provides the necessary protection.

The proposed amendments would also correct a typographical error in Section 3.7.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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. In regard to the first criterion, the licensee stated that:

1. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated. The purpose of Technical Specification 3.1.A.3.a is to assure that a relief path exists for the reactor coolant system whenever the head is on the reactor vessel. An operable relief path protects the reactor coolant system from potential failure due to overpressure. Because the relief valve acts in response to an overpressure event, no change in the probability of the overpressure event occurring will result. The consequences of an overpressure event will not be increased because the overpressure protection function has been assumed by the low temperature overpressure protection system. Technical Specifications relevant to the low temperature overpressure protection system are provided by Technical Specification 3.1.G. No physical change or modification is being made to the facility, nor are any operating procedures being revised.

In regards to the second criterion, the licensee stated that:

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated. The change to Technical Specifications does not involve a physical change to the facility or its operating procedures. No accident or malfunction, other than an overpressure event discussed in paragraph 1 above, is relevant.

In regard to the third criterion, the licensee stated that:

3. The proposed change does not involve a significant reduction in a margin of safety. As discussed in Paragraph 1 above, the overpressure protection function for the reactor coolant system (below 350° F) is provided by the low temperature overpressure protection system. Technical Specifications relevant to the low temperature overpressure protection system are provided by Technical Specification 3.1.G. Technical Specification 3.1.G, in effect, supersedes Technical Specification 3.1.A.3.a. Because no changes are proposed for Technical Specification 3.1.G, there is no reduction in the margin of safety for a low temperature overpressure event.

The staff has performed a preliminary review of the licensee's proposed

change and agrees that the criteria of 10 CFR 50.92 are met. The staff also believes that the above 3 criteria are met for the correction of the typographical errors as these are administrative changes. Furthermore, the staff believes that the proposed amendments are in accordance with 51 FR 7750. Therefore, the staff proposes to determine that the proposed amendments involve no significant hazards considerations.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: May 25, 1990

Description of amendment requests: In 1984, Technical Specification (TS) 3.11.B.5, "Explosive Gas Mixture," was added to the Surry TS. The addition of this TS was based on Section 3.11.2.5 of NUREG-0472, Revision 3, "Standard Radiological Effluent Technical Specifications for Pressurized Water Reactors." NUREG-0472 provides three options for the explosive gas mixture specification.

The specification currently contained in the Surry TS, 3.11.B.5, is the first option in NUREG-0472, Section 3.11.2.5, which is applicable to systems designed to withstand a hydrogen explosion. A system is designed to withstand a hydrogen explosion if it is designed and tested to 20 times its normal operating pressure.

The waste gas decay tanks at Surry are designed to 150 psig and operated at up to 115 psig. By this criteria, the gaseous waste system at Surry is not designed to withstand a hydrogen explosion, and therefore NUREG-0472, Section 3.11.2.5 is not the appropriate application for the Surry TS. Therefore, the proposed amendments would incorporate the third option in NUREG-0472, which pertains to hydrogen rich systems not designed to withstand a hydrogen explosion.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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 licensee has reviewed the proposed changes in accordance with the requirements of 10 CFR 50.92 and has determined that the request does not involve a significant hazards consideration in that:

1. Operation of the gaseous waste system in accordance with the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed Technical Specification, like the current specification, limits the concentration of hydrogen and/or oxygen in the gaseous waste system to prevent an explosive gas mixture. The proposed specification is more directly applicable for Surry than the existing specification because it is intended for use in hydrogen rich systems, which is the case for the Surry gaseous waste system. Specifically, the proposed change addresses waste gas system rupture prevention measures rather than accident conditions or consequences. No impact on the existing safety analysis is made by these changes. Furthermore, since the proposed changes provide preventive measures directly applicable to the plant design, no significant increase in the probability of an accident will occur. The proposed change prevents explosive mixtures for hydrogen rich gaseous waste systems consistent with [S]tandard [T]echnical [S]pecifications.

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated. The revised specification and the existing specification both address the same issue: prevention of explosive concentrations of hydrogen and oxygen in the gaseous waste system. No accident or event other than a potential gas explosion is relevant to this proposed change.

3. The revised Technical Specification does not involve a significant reduction in a margin of safety. The proposed change continues to ensure that actions are taken to prevent an explosive gas mixture from forming in the gaseous waste system. The proposed change merely provides a specification which is directly applicable to plant specific design characteristics and consistent with [S]tandard [T]echnical [S]pecifications.

Based on the staff's review of the licensee's evaluation, the staff agrees with the licensee's conclusions as stated above. Therefore, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: May 25, 1990

Brief Description of amendment request: These amendments would modify the Technical Specifications (TS) to add a note to TS 4.8.1.1.2h(6)(c) that allows the emergency diesel generator high jacket water temperature trip to be bypassed.

Date of publication of individual notice in Federal Register: June 22, 1990 (55 FR 25756)

Expiration date of individual notice: Comment period expires July 9, 1990; notice period expires July 23, 1990.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: May 31, 1990

Description of amendment request: This change incorporates wording from Standard Technical Specifications into YNPS's LCO Specifications 3.10.3 and 3.10.4. This wording allows physics testing to be conducted with the number of OPERABLE Power Range and Intermediate Power Range Neutron Flux channels being determined by the LCO requirements of Technical Specification 3.3.1 instead of the specific number of channels presently specified.

Date of publication of individual notice in **Federal Register:** June 18, 1990 (55 FR 24674)

Expiration date of individual notice: July 20, 1990

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: May 2, 1990

Brief description of amendments: These amendments would modify the Surveillance Requirement 4.4.10.1.1 by revising the existing footnotes on pages 3/4 4-28 and 3/4 4-29 to replace the June 1990 and June 1991 dates with a reference to the applicable Unit 1 and Unit 2 refueling outages.

The Nuclear Regulatory Commission (NRC) issued license amendments (Nos. 123 and 106) modifying the Unit 1 and 2 Technical Specification Surveillance Requirement 4.4.10.1.1 to link the completion of the reactor coolant pump (RCP) flywheel inspections to the RCP motor overhaul program. The original schedules called for completion of the RCP motor overhaul program and flywheel inspections to coincide with the completion of Unit 1 Refueling Outage (RFO) (June 1990) and Unit 2 RFO (June 1991). The dates for these refueling outages have been revised as a result of an extended shutdown of both units since the first half of 1989 to accomplish certain unrelated hardware evaluations, repairs and various administration actions. The new schedules for Unit 1 RFO and Unit 2 RFO are fall 1991 and spring 1992, respectively, based on a Unit 1 startup in July 1990 and a Unit 2 startup in late fall of 1990.

Date of issuance: June 19, 1990

Effective date: June 19, 1990, to be implemented within 30 days

Amendment Nos.: Unit 1, 143, Unit 2, 126

Facility Operating License Nos. DPR-53 and DPR-69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 16, 1990 (55 FR 20350) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated June 19, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Carolina Power & Light Company, et al., Docket No. 50-325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of application for amendment: February 28, 1990, as amended April 4, 1990

Brief description of amendment: The amendment changes the minimum critical power ratio safety limit from 1.04 to 1.07. The change is necessary because a new fuel type (GE8x8NB-3) is being added to the core. The amendment also specifies the fuel types located in the core for the upcoming cycle. Fuel type GE8x8NB-3 will be added and fuel types 8x8R and P8x8R will be deleted. Fuel type GE8 will be renamed as fuel type GE8x8EB.

Date of issuance: June 18, 1990

Effective date: June 18, 1990

Amendment No.: 142

Facility Operating License No. DPR-71: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 16, 1990 (55 FR 20351) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 18, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: March 15, 1990

Brief Description of amendments: The amendments will: (1) revise Technical Specification (TS) 3.3.1, Table 3.3.1-1, Item 10, to correctly indicate the minimum number of operable channels per trip system (this change is for Unit 2 only); and (2) revise Technical Specification 3.3.5.7, Table 3.3.5.7-1, Item 5, for both Units 1 and 2 to correctly indicate the minimum number and types of fire detectors required operable. The proposed changes are requested to correct prior typographical errors.

Date of issuance: June 20, 1990

Effective date: June 20, 1990

Amendment Nos.: 143 and 174

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in Federal Register: April 18, 1990 (55 FR 14502) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 20, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: May 25, 1990.

Brief description of amendment: The exigent Technical Specifications amendment adds a clarifying note regarding frequency of the nuclear source range instrumentation "Logic Channel Testing" in Table 4.1-1 of the Technical Specifications. The amendment also corrects a typographical error and renumbers a subsequent note in Table 4.1-1.

Date of issuance: June 21, 1990

Effective date: June 21, 1990

Amendment No. 127

Facility Operating License No. DPR-23. Amendment revises the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (55 FR 22975 dated June 5, 1990). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice erroneously provided for an opportunity to request a hearing by *June 20, 1990.* Notice period actually expires July 5, 1990. The notice indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment and the final determination on no significant hazards consideration are contained in a Safety Evaluation dated June 21, 1990.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Commonwealth Edison Company, Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: August 14, 1989, supplemented March 19, 1990.

Brief description of amendments: These amendments approve changes to the Technical Specifications to reduce the number of members of the Onsite Nuclear Safety Group (ONSG) from four members to three members. The Technical Specification required functions of the ONSG are not changed by this amendment. Those review items listed in Technical Specification 6.2.3.1 will continue to be reviewed by the ONSG.

Date of issuance: June 27, 1990

Effective date: Immediate.

Amendment Nos: 24 and 24.

Facility Operating License Nos. NPF-72 and NPF-77: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 21, 1990 (55 FR 10529) The March 19, 1990 submittal provided a typographical correction and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 27, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: April 23, 1990, as supplemented May 17 and June 4, 1990.

Brief description of amendments: The amendments revise TS 3/4.9.11, "Fuel Handling Ventilation Exhaust System," and its associated Bases. The revision changes the carbon adsorber test method to ensure that the fuel pool ventilation filters have a decontamination efficiency of greater than or equal to 95% under all postulated operating conditions.

Date of issuance: June 14, 1990

Effective date: June 14, 1990

Amendment Nos.: 75 and 69

Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 1, 1990 (55 FR 18198) The May 17 and June 4, 1990, supplements provided clarifying word changes to the Technical Specifications. The supplements did not alter the Commission's initial determination of no significant hazards consideration. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 14, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: October 25, 1989

Brief description of amendments: The amendments changed the Technical Specifications by defining the surveillance intervals in Notes 3 and 6 of Table 4.3-1 in terms of effective full power days rather than calendar days.

Date of issuance: June 22, 1990

Effective date: June 22, 1990

Amendment Nos.: 17 and 7

Facility Operating License Nos. NPF-76 and NPF-80. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 16, 1990 (55 FR 20358) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 22, 1990

No significant hazards consideration comments received: No.

Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County Illinois

Date of application for amendment: June 30, 1989

Description of amendment request: The amendment to Table 3.6.4-1 of the Clinton Power Station Technical Specifications added certain valves associated with containment penetrations 17, 35, 36, and 42 to the list of containment isolation valves.

Date of issuance: June 25, 1990

Effective date: June 25, 1990

Amendment No.: 37

Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 7, 1990 (55 FR 8226) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 25, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Long Island Lighting Company, Docket No. 50-322, Shoreham Nuclear Power Station, Unit 1, Suffolk County, New York

Date of application for amendment: February 20, 1990

Brief description of amendment: This amendment made changes to the Administrative Controls section (Section 6) of the Technical Specifications; moved existing procedural details involving radioactive effluent monitoring instrumentation, equipment requirements and control of liquid and gaseous effluents, and radiological monitoring and reporting details from the Technical Specifications to the Offsite Dose Calculation Manual (ODCM); moved the definition of solidification and existing procedural details from the Technical Specifications to the Process Control Program (PCP); added record retention requirements for changes to the ODCM and PCP, and updated the definitions of the ODCM and PCP consistent with these changes; simplified reporting requirements and administrative controls for changes to the ODCM and PCP.

Date of issuance: June 25, 1990

Effective date: June 25, 1990

Amendment No. 5

Facility Operating License No. NPF-82. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10540) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 25, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786-9697.

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of application for amendment: December 8, 1989.

Brief description of amendment: This amendment revises Section 2.1, Safety Limits, the associated Bases, and Section 3/4.4.1, Recirculation System, to increase the Safety Limit Minimum Critical Power Ratio for cycle 2 reload.

Date of issuance: June 19, 1990

Effective date: June 19, 1990, prior to startup following the first refueling outage

Amendment No.: 16

Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10541) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 19, 1990.

Significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of application for amendment: November 9, 1989, as superseded April 10, 1990.

Brief description of amendment: This amendment revises the Technical Specifications which contain cycle-specific parameter limits by replacing the values of those limits with a reference to a Core Operating Limits Report for the values of those limits. These changes are in accordance with Generic Letter 88-16.

Date of issuance: June 19, 1990

Effective date: June 19, 1990, to be implemented within 30 days

Amendment No.: 17

Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 16, 1990 (55 FR 20362) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 19, 1990.

Significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: March 19, 1990

Brief description of amendment: The amendment changes the Technical Specification Section 4.4.9.3.1.d, 4.7.1.1 and 4.4.2 by specifying the surveillance Inservice Testing (IST) for the power operated relief valves (PORV's), main steam safety valves and the pressurizer safety valves respectively in accordance with Section 4.0.5 which specifies the IST in accordance with ASME Section XI Code Edition and applicable addenda as required by 10 CFR 50.55a(g).

Date of issuance: June 18, 1990

Effective date: June 18, 1990

Amendment No.: 147

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 18, 1990 (55 FR 14512) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 18, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thomas Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: December 11, 1989 as supplemented by letter dated March 2, 1989.

Brief description of amendment: The amendment modifies Technical Specifications (TS) 3/4.5.1, "Accumulators," to increase the allowable out-of-service time (for reasons other than a closed discharge isolation valve) from 1 hour to 8 hours.

Date of issuance: June 18, 1990

Effective date: June 18, 1990

Amendment No.: 51

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 21, 1990 (55 FR 6109) and May 16, 1990 (55 FR 20363) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 18, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thomas Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendment: November 17, 1989

Brief description of amendment: The amendments changed the Technical Specifications for Limerick 1 and 2 to: (a) remove surveillance requirement (SR) 4.1.3.5.b.2 (and the associated footnote) which requires Control Rod Drive (CRD) scram accumulator check valve testing once per 18 months and specifies test acceptance criteria, (b) modify Limiting Condition of Operating (LCO) 3.1.3.5.a.2.a to allow the rector operator twenty (20) minutes to restart a tripped CRD pump provided that reactor pressure is greater than or equal to 900 psig or if reactor pressure is less than 900 psig, the operator will immediately place the reactor mode switch in the Shutdown position and (c) change the 18 month accumulator pressure sensor channel calibration (setpoint), SR 4.1.3.5.b.1.b. from "970 plus or minus 15 psig" to "equal to or greater than 955 psig."

Date of issuance: May 22, 1990

Effective date: May 22, 1990

Amendment No. 39 and 6

Facility Operating License Nos. NPF-39 and NPF-85. This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 13, 1989 (54 FR 51258) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: October 20, 1989

Brief decription of amendment request: The amendment changes the qualification requirements, as specified in Technical Specifications 6.3.1, that must be met by the Radiation Protection Branch Manager.

Date of issuance: June 18, 1990

Effective date: June 18, 1990

Amendment No.: 161

Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 18, 1990 (55 FR 14518) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 18, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Portland State University Library, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

Virginia Electric and Power Company, Docket No. 50-280, Surry Power Station, Unit No. 1, Surry County, Virginia.

Date of application for amendment: January 8, 1990, as clarified March 20 and April 20, 1990

Brief description of amendment: The amendment provides a one-time extension to perform local leak rate testing (Type C tests) at the Cycle 10 refueling outage, currently scheduled for October 1990. In the event that the Cycle 10 refueling outage is delayed by more than 2 months beyond the current projection of October 1990, this approval for deferral would become invalid and the licensee would have to seek new approval. An exemption from the leakage test requirements set forth in 10 CFR Part 50 Appendix J was also issued in connection with the amendment.

Date of issuance: June 22, 1990

Effective date: June 22, 1990

Amendment No. 142

Facility Operating License No. DPR-32: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 21, 1990 (55 FR 6124) The March 20 and April 20, 1990 letters provided clarifying information which did not alter the staff's initial determination of no significant hazards consideration. The Commission's related evaluation of the amendment is contained in an Environmental Assessment dated June 20, 1990 and in a Safety Evaluation dated June 22, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: February 19, 1990

Brief description of amendment: The amendment deleted TS 4.3 concerning reactor coolant system leak testing and weld examination requirements that are covered in TS 4.2a which requires leak testing and inservice inspection be conducted in accordance with Section XI of the ASME Boiler and Pressure Vessel Code. The amendment also revised TS 3.3.d.2 and 3.3.e.2 to eliminate the requirement to place the plant in a cold shutdown condition upon a long-term loss of one train of component cooling water (CCW) or service water (SW). This will prevent having to place the plant in a mode which would demand the maximum support from the CCW or SW systems. By maintaining reactor coolant system temperature above 200° F but less than 350° F, the steam generator would be available as an additional means of decay heat removal.

The amendment also included several miscellaneous revisions to correct typographical errors, correct inconsistencies, and clarify the intent of certain technical specifications.

Date of Issuance: June 22, 1990

Effective date June 22, 1990, to be implemented within 30 days

Amendment No. 87

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 21, 1990 (55 FR 10549) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 22, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 2, 1990

Brief description of amendment: The amendment revised the Technical Specification Table of Contents and Technical Specification Surveillance Requirement 4.8.4.1 to delete references to Table 3.8-1 which was previously removed from Technical Specifications in Amendment 28.

Date of Issuance: May 30, 1990

Effective date: May 30, 1990

Amendment No.: 39

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 4, 1990 (55 FR 12505) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 30, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: April 12, and April 20, 1990.

Brief description of amendment: This amendment changes the Technical Specifications (TS) as follows:

1. The title of the Technical Services Supervisor has been changed to Technical Services Manager.

2. A new position is established entitled Maintenance Support Supervisor.

3. Another new position is established entitled Operations Support Supervisor.

4. The number of SROs on shift is increased from one to two.

5. The limitation that operating personnel work only eight-hour shifts is being removed to allow some operating personnel to work twelve-hour shifts during plant operations.

Date of issuance: June 18, 1990

Effective date: June 18, 1990

Amendment No.: 132

Facility Operating License No. DPR-28: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 16, 1990 (55 FR 20365) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 18, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION

During the period since publication of the last biweekly notice, individual notices of issuance of amendments have been issued for the facilities as listed below. These notices were previously published as separate individual notices. They are repeated here because this biweekly notice lists all amendments that have been issued for which the Commission has made a final determination that an amendment involves no significant hazards consideration.

In this case, a prior Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing was issued, a hearing was requested, and the amendment was issued before any hearing because the Commission made a final determination that the amendment involves no significant hazards consideration.

Details are contained in the individual notice as cited.

Long Island Lighting Company, Docket No. 50-322, Shoreham Nuclear Power Station Unit 1, Suffolk County, New York

Date of application for amendment: January 5, 1990 as supplemented by letter dated April 5, 1990. The supplemental letter did not change the original intent of the application request and did not affect the staff's original no significant hazards determination.

Brief description of amendment: This amendment revised paragraph 2.E to the Shoreham license allowing the reclassification of certain vital areas and other modifications which allows LILCO to reduce the size of the Shoreham facility's security force.

Date of issuance: June 14, 1990

Amendment No.: 4

Effective date: June 14, 1990

Facility Operating License No. NPF-82: The Amendment revised the license.

Date of individual notice in Federal Register: June 21, 1990 (55 FR 25367)

Dated at Rockville, Maryland, this 2nd day of July 1990.

For the Nuclear Regulatory Commission

Dennis M. Crutchfield,

Director, Division of Reactor Projects-III, IV, V and Special Projects Office of Nuclear Reactor Regulation

[Doc. 90-15789 Filed 7-12-90; 8:45 am]

BILLING CODE 7590-01-D

OVERSIGHT BOARD

Regions 3 and 2 Advisory Board Meetings

AGENCY: Oversight Board.

ACTION: Meeting notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is hereby published for Regional Advisory Board meetings for Regions 3 and 2. The meetings are open to the public.

DATES: The meetings are scheduled as follows:

1. Region 3 Advisory Board: July 31, 1990, 8:30 a.m. to 4:30 p.m., Kansas City, KS.

2. Region 2 Advisory Board: August 2, 1990, 8:30 a.m. to 4:30 p.m., Atlanta, GA.

ADDRESSES: The meetings will be held at the following locations:

1. Kansas City, Kansas—Jack Reardon Civic Center, Shawnee room, 500 Minnesota.

2. Atlanta, GA—The Martin Luther King, Jr., Center, Freedom Hall Auditorium, 449 Auburn Ave. NE.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Oversight Board/RTC, 1777 F Street, NW., Washington, DC 20232, 202/736-9675.

SUPPLEMENTARY INFORMATION: 21 A(d) of the Federal Home Loan Bank Act, as added by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law No. 101-73, sec. 501(a) ("FIRREA"), directed the Oversight Board to establish one national advisory board and six regional advisory boards. Announcement on the establishment of the advisory boards was published in the Federal Register on November 21, 1989 (54 FR 48172).

The advisory boards are to provide information and recommendations on the policies and programs for the sale or other disposition of real property assets of depository institutions, the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before August 9, 1989, the date of the enactment of FIRREA, and for which the Resolution Trust Corporation ("RTC"), has been appointed as the conservator or receiver during the period from January 1, 1989 to August 9, 1992.

Purpose

The purpose of the regional advisory boards is to provide advice to the RTC. These are the first of a series of meetings to be held throughout the country.

Agenda

A detailed agenda will be available at the meeting. Discussions will center around the activities of that particular region as related to the disposition of affordable housing and appraisal policies. In addition, there will be briefings on RTC activity and policy updates pertaining to that region.

Statements

Interested persons may present data, information, or views in writing on the issues pending before the advisory boards. Persons wishing to make oral statements are to notify the contact person 15 days before each meeting, giving a brief statement on the nature of the remarks. Time permitting, oral comments limited to five minutes may be presented.

All meetings are open to the public. Seating is available on a first come first served basis.

Dated: July 3, 1990.

Diane M. Casey,

Vice president, Office of Public Affairs.

[FR Doc. 90-16147 Filed 7-10-90; 8:45 am]

BILLING CODE 2222-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28168; File No. SR-NSCC-90-11]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of a Proposed Rule Change by National Securities Clearing Corp., Regarding a Technical Correction to its Debt Comparison Procedures

June 29, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act ("Act") of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 7, 1990, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change references the comparison procedures applicable to the National Municipal Comparison System and the Automated Bond System.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The purpose of the proposed rule change is to reformat section II(D) of NSCC's Procedures in order to more properly reference the comparison procedures applicable to the National Municipal Comparison System and the Automated Bond System. Subsection 2(k) has been moved in its entirety and placed under subsection 1 as a new paragraph (f).

(b) Since the proposed rule change facilitates the prompt and accurate clearance and settlement of securities transactions for which NSCC is responsible, it is consistent with the requirements of section 17A of the Act and the rule and regulations thereunder applicable to NSCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder because the proposed rule change is a change which constitutes a stated policy, practice, or interpretation with respect to the meaning and administration of already existing rules. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all susequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR-NSCC-90-11 and should be submitted by August 1, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-16132 Filed 7-10-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28179; File No. SR-NYSE-90-28]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Revised Uniform Application for Securities Industry Registration or Transfer (Form U-4) and Uniform Termination Notice for Securities Industry Registration (Form U-5).

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 1, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization ("SRO"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of revisions to the Uniform Application for Securities Industry Registration or Transfer (Form U-4) and to the Uniform Termination Notice for Securities Industry Registration (Form U-5).[1]

[1] The revised Forms U-4 and U-5 were attached to the rule filing as Exhibits A and B, respectively, and are available at the NYSE and the Commission at the address noted in Item IV below.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Forms U–4 and U–5 are used by the Exchange as part of its registration and oversight of member organization personnel. The forms are employed in connection with the National Association of Securities Dealers, Inc.'s ("NASD") Central Registration Depository ("CRD") system which allows for the efficient review and tracking of the continuous and frequent entry, movement, and departure of individuals in the securities industry, as well as changes in their employment histories. The Exchange and the other SROs use the CRD system for regulatory purposes.[2]

a. Revisions to Form U–4. The proposed revisions to Form U–4 consist of various wording changes which clarify and simplify the registration application. The Exchange also proposes additional modifications which reflect recent changes in the securities industry. Some of the specific changes proposed by the Exchange are set forth below. First, the Exchange proposes the addition of nine new categories for types of registration, including the categories of Securities Lending Representative and Securities Trader.[3]

The Exchange also proposes to add a provision providing that any arbitration award rendered against any member organization may be entered as a judgment in any court of competent jurisdiction. In addition, the Exchange proposes to substitute the broader term "jurisdiction" for the term "state" wherever such term is used throughout Form U–4.

The Exchange also proposes a new provision setting forth the methods of service of notice of any investigation or proceeding by any SRO against any member organization.[4] Under the new provision, this notice could be given by personal service, regular, registered, or certified mail, confirmed telegram to the member's most recent business or home address, or by leaving notice of the investigation or proceeding at such address.

In addition, the Exchange is proposing amended language to clarify that former employers of a member who furnish information in connection with the employee's termination would be released from any liability in connection with that information.

Finally, Form U–4 currently gives the Exchange the authority to give any information concerning a member organization to any securities or commodities industry SRO. The Exchange proposes to broaden this language so that the Exchange may provide information concerning a member organization to any organization.

b. Revisions to Form U–5. The proposed change to Form U–5 adds a page [(Disclosure Reporting Page DRP–5)] to the form, to be used to report details of certain events or proceedings required to be disclosed in connection with employment termination, *e.g.*, details of disciplinary actions, customer complaints, criminal actions or SRO invesitgations. Although this information is required to be reported on the current Form U–5, this revised reporting format allows the information to be more easily captured by the CRD system.

These proposed revisions to Forms U–4 and U–5 would enhance the utility of the forms as part of the Exchange's registration and oversight functions by providing more simplified and detailed reporting and by facilitating the capture of reported information by the CRD system.

(2) Statutory Basis

The proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to foster cooperation and coordination with persons engaged in regulating transactions in securities. Additionally, the information reported on Forms U–4 and U–5 assists the Exchange in its responsibilities under section 6(c) of the Act in denying membership to those subject to a statutory disqualification or who cannot meet such standards of training, experience, and competence as are prescribed by the rules of the exchange or those who have engaged in acts or practices inconsistent with just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed

[2] In recent years, the North American Securities Administrators Association ("NASAA"), the National Association of Securities Dealers, Inc. ("NASD"), the NYSE, and other securities SROs have worked together to clarify and strengthen the existing provisions of Forms U–4 and U–5. The Commission recently approved identical changes to Forms U–4 and U–5 submitted by the NASD. *See* Securities Exchange Act Release No. 27826 (March 20, 1990), 55 FR 11282 (March 27, 1990).

[3] In addition, the Exchange proposes the following categories: Trading Supervisor, Assistant Representative/Order Processing, Introducing Broker-Dealer/Financial and Operations Principal, Securities Lending Supervisor, Approved Person, Agent of the Issuers, and Uniform Investment Advisor Law Examination. The Exchange proposes deletion of the category of Municipal Securities Financial and Operations Principal.

[4] Form U–4 currently contains, on page four, nine provisions which are applicable to member organizations. Under the proposed revisions in this rule filing, this new provision regarding service of process would be set forth as number seven. The revised Form U–4, therefore, would have ten provisions on this page.

with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-90-28 and should be submitted by (August 1, 1990.)

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 3, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-16134 Filed 7-10-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28178; File No. SR-NYSE-90-29]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the New York Stock Exchange, Inc.; Regarding Employees; Registration, Approval, and Records

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 12, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend Exchange Rules 345.11 and 345.17 to require members or member organizations ("members") to provide a copy of the Form U-5 (Uniform Termination Notice For Securities Industry Registration) to persons who are terminated by a member and to provide written notice to the Exchange regarding any changes to a terminated person's Form U-5. The proposed revisions would also require that members use their best efforts to obtain the most recent Form U-5 from any person seeking employment in a registered capacity.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Exchange Rule 345.17 presently requires members to report to the Exchange the discharge or termination of any registered person by submitting to the Exchange, or its agent, a Form U-5 (Uniform Termination Notice For Securities Industry Registration) [2] within 30 days of the registered person's termination date. The Exchange proposes to add a provision to this rule that would require a member to provide a copy of Form U-5 to the terminated person, at the same time as the original termination notice is submitted to the Exchange.

The Exchange also proposes to amend Rule 345.17 to require that an amended Form U-5 be filed with the Exchange, with a copy to the terminated person, in the event a member learns of facts or circumstances that would cause the original Form U-5 to become incomplete or inaccurate.[3]

Exchange Rule 345.11 currently requires that investigations be conducted of the previous records of prospective employees of member organizations. The proposed rule change would add a new provision to Rule 345.11(a) to require that, in instances where an applicant has previously been registered, a member must obtain from the applicant a copy of his or her Form U-5 filed by the most recent employer to be reviewed in connection with the member's investigation of the applicant A member must request a Form U-5 from any person who was previously registered with the Exchange or other self-regulatory organization that required its members to provide a copy of a Form U-5 to its terminated registered persons. Under the proposed change, the member would be required to obtain the Form U-5 from the applicant no later than 60 days after the applicant files for registration or the member must demonstrate to the Exchange that it has made reasonable efforts to comply with this requirement.

In addition, the Exchange proposes a new subsection (b) to Rule 345.11 which would require an applicant, in response to a request for the applicant's Form U-5 from a member, to provide the Form U-5 to the member within two business days. If the employer has failed to supply an applicant with a Form U-5, the applicant must promptly request it from the employer and provide it to the requesting member within two business days of receiving it. An applicant would also be required to provide any amendments to the Form U-5 to the requesting member.

The Exchange believes that the circumstances of a termination, as disclosed on Form U-5, are relevant to the hiring decision as to prospective employees and should be available to members for that purpose. Similarly, terminated persons should have access to information reported on a Form U-5 to check for accuracy and completeness and to be given the opportunity to express disagreement with the information contained on a Form U-5 to a subsequent employer.

(2) Statutory Basis

The proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public, in that it would provide broader access to the information on Form U-5 which allows the terminated person to verify the accuracy and completeness of the statements made on the Form U-5 and allows members to have additional relevant information available to them in order to make more informed hiring decisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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[1] The text of the Exchange's revisions to Rule 345 were attached to the rule filing as Exhibit A and are available at the NYSE and the Commission at the address noted in Item IV below.

[2] A Form U-5 is used by the Exchange as part of its registration and oversight of member organization personnel and contains information relating to the circumstances surrounding the prior termination of an applicant's employment.

[3] This new provision would be added to Rule 345.17 as new subparagraph (b).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld form the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-90-29 and should be submitted by August 1, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 3, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-16135 Filed 7-10-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28172; File No. SR-Philadep-89-02; SR-NSCC-89-10; and SR-MSTC-88-08]

July 3, 1990.

Self-Regulatory Organizations; Philadelphia Depository Trust Co., et al., Filing and Order Granting Accelerated Temporary Approval of Proposed Rule Changes Concerning Telecommunications Systems

On April 26, 1989, July 19, 1989, and December 2, 1988, respectively, Philadelphia Depository Trust Company ("Philadep"), National Securities Clearing Corporation ("NSCC"), and Midwest Securities Trust Company ("MSTC") filed proposed rule changes (SR-Philadep-89-02, SR-NSCC-89-10 and SR MSTC-88-08) with the Securities and Exchange Commission ("Commission").[1] Notices of the proposals were published in the Federal Register in order to solicit comment from interested persons.[2] No comments were received. Pursuant to section 19(b)(2) of the Act, the Commission approved these proposals on a temporary basis until March 31, 1990.[3] The Commission granted another extension in order to obtain further operational data concerning the proposals.[4] Philadep, NSCC, and MSTC requested an additional one month extension of the proposals.[5] This order extends temporary approval of the proposals until July 31, 1990.

Philadep's proposal is designed to offer its participants additional telecommunication services [6] including interfaced clearing agency services, and increased protection against unauthorized access to participant account information. NSCC's proposal would authorize NSCC to operate a data communications service which establishes a communcations link for automated transmission of data between NSCC members' computers and NSCC's computer. MSTC's proposed rule change is designed to provide File Transmission Service ("FTS") [7] users with a new method of submitting depository delivery instructions [8] to MSTC. Under MSTC's proposal, participants would be able to transmit DDIs directly from their computers to MSTC's computers.

As discussed in detail in the orders granting temporary approval of the proposals, the Commission preliminarily finds that the propsals are consistent with the Act, and, in particular, section 17A of the Act. The Commission believes that Philadep's NSCC's, and MSTC's propsals promote the prompt and accurate clearance and settlement of the securities transactions by

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[1] MSTC's proposed rule change was filed on December 2, 1988, pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934, as amended ("Act"). Subsequently on January 3, 1989, MSTC amended its proposal so that it may be reviewed by the Commission pursuant to section 19(b)(2) of the Act. NSCC's and MSTC's proposals were filed initially pursuant to section 19(b)(2).

[2] *See* Securities Exchange Act Release Nos. 26872 (May 30, 1989), 54 FR 24451; 27143 (August 15, 1989), 54 FR 34845; and 26418 (January 4, 1989), 54 FR 1040.

[3] *See* Securities Exchange Act Release Nos. 27491 (November 30, 1989), 54 FR 50556 (December 7, 1989) and 27381 (October 25, 1989), 54 FR 46174 (November 1, 1989) approving Philadep's and NSCC's proposals, respectively. MSTC's proposed rule change was initially approved until March 31, 1989, and subsequently extended three times (September 30, 1989; June 30, 1989; and March 31, 1990). *See* Securities Exchange Act Release Nos. 26418 (January 4, 1989), 54 FR 1040 (January 11, 1989); 26688 (April 3, 1989), 54 FR 14307 (April 10, 1989); 26995 (June 30, 1989), 54 FR 29127 (July 11, 1989); and 27311 (September 28, 1989), 54 FR 41192 (October 5, 1989).

[4] All three proposals were extended in a combined order. *See* letters requesting the Commission to extend the proposals, dated March 21, 1990, and March 28, 1990, respectively, from William Uchimoto, General Counsel, Philadep, and Jeffrey Lewis, Associate Counsel, MSTC, to Sonia Burnett, Staff Attorney, Division of Market Regulation, Commission; and *see* letter from Allison Hoffman, Associate Counsel, NSCC, dated March 21, 1990, to Ester Saverson, Branch Chief, Division Market Regulation, Commission. The Commission prelimiarily found the proposals consistent with the Act, however, the temporary approval order was extended for 3 months in order to continue to review the proposals. *See also*, Securities Exchange Act Release No. 27863 (March 29, 1990), 55 FR 12762 (April 5, 1990).

[5] *See* letters, dated July 2, 1990, June 30, 1990, and June 29, 1990, respectively, from William Uchimoto, General Counsel, Philadep; Allison Hoffmen, Associate General Counsel, NSCC; and Jeffrey Lewis, Associate Counsel, MSTC, to Sonia Burnett, Staff Attorney, Division of Market Regulation, Commission.

[6] Philadep requested approval of its electronic communication system in 1983 (SR-Philadep-83-03). The system was approved at that time as a pilot program. The current filing seeks to enhance the basic services Philadep was able to offer its participants at the time of filing the 1983 pilot program, *i.e.*, inquiry, input requests for delivery and withdrawal, *e.g.*, Miscellaneous Delivery Orders ("MDO") which allows participants to enter instructions to deliver securities from its account to another participant's account by book-entry, Certificate on Delivery ("COD") withdrawal service which enables participants to withdraw securities certificates and pick-up the certificates at the depository. The pilot system also included a pledge facility, and as a part of the participants could receive affirmations of trades and transmit confirmations of trades between the participant and institutional customers.

[7] FTS is an automated communication system linking MSTC to participating brokers, dealers or institutions. FTS is an enhancement to MSTC's existing system providing a file transmission interface between MSTC and MSTC members may receive and transmit data in bulk form.

[8] Depository Delivery Instructions ("DDI") are instructions authorizing transfer of securities from the participant's MSTC account to other MSTC participants and non-MSTC participants (free or for value).

encouraging use of automated systems for transmitting and processing data.

Accelerated approval of the proposal will allow Philadep, NSCC, and MSTC to gain further operational experience on an uninterrrupted basis and allow the Commission to continue its review of the proposals. Thus, the Commission finds that good cause exists, pursuant to section 19(b)(2) of the Act, for approving these proposals prior to the thirtieth day after the date of publication of the notice in the **Federal Register.**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exhange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal offices of Philadep, NSCC, and MSTC. All submissions should refer to file numbers SR–Philadep–89–02, SR–NSCC–89–10 and SR–MSTC–88–08 and should be submitted by August 1, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes (SR–Philadep–89–02, SR–NSCC–89–10 and SR–MSTC–88–08) be, and hereby are, temporarily approved until July 31, 1990.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–16133 Filed 7–10–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17570; 811–5489]

Corporate Capital Preferred Fund; Application for Deregistration

July 3, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration Under the Investment Company Act of 1940 (the "Act").

APPLICANT: Corporate Capital Preferred Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on December 12, 1989 and amended on June 28, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 31, 1990 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 655 Montgomery Street Suite 630, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504–2263, or Jeremy N. Rubenstein, Branch Chief, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is a Massachusetts business trust and and open-end diversified management investment company registered under the Act. On March 2, 1988, applicant filed a notification of registration on Form N–8A pursuant to section 8(a) of the Act. On the same day, applicant filed a registration statement on Form N–1A under the Securities Act of 1933. The registration statement became effective on August 31, 1988.

2. At a meeting held on September 6, 1989, applicant's board of trustees adopted a plan of liquidation. On September 8, 1989, applicant sent a letter to its shareholders informing them of its board of trustees' resolution to liquidate applicant. On November 17, 1989, Corporate Capital Investment Advisors, the owner of a majority of applicant's shares as of that date, executed a written consent authorizing the actions set forth in the board of trustee's resolution of September 6, 1989.

3. Following the letter of September 8, 1989, many of the Fund's shareholders voluntarily redeemed their shares. The remaining shares were redeemed on December 4, 1989. All of these shares were redeemed at a price equal to the proportionate share of the Fund's net asset value minus $70,000 which was held in a reserve fund for the purpose of paying the liquidation expenses. The total liquidation expenses amounted to $73,738.33. The excess $3,738.33 was charge to the shares owned by applicant's investment adviser.

4. Applicant's organizational expenses of $104,914 were to have been amortized over 60 months. Prior to the board of trustees' decision to liquidate, $18,673 of these organizational expenses had been amortized. The remaining $86,241 in unamortized organizational expenses were borne by applicant's investment adviser.

5. As of the date of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–16136 Filed 7–10–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17565; 811–4243]

Explorer II, Inc.; Application

July 3, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Explorer II, Inc.

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on June 19, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a

hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 30, 1990, and should be accompanied by proof of service on the Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, Vanguard Financial Center, Valley Forge, Pennsylvania 19482.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272–3022 or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulations).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is an open-end management investment company and a member of the Vanguard Group of Investment Companies, 30 investment companies being served in various respects by a wholly and jointly owned subsidiary, The Vanguard Group, Inc. Applicant filed a registration statement under the 1940 Act and the Securities Act of 1933 on February 28, 1985, with respect to an indefinite number of shares, which registration statement was declared effective on June 7, 1985.

2. On November 29, 1989, Applicant's board of directors approved a proposed Agreement and Plan of Reorganization ("Agreement") providing for the sale of substantially all assets of Applicant to the Explorer Fund, Inc. ("Explorer Fund"). In reaching its decision, the board considered the similar investment objectives and past performances of both funds and the rationale of having two "Explorer Funds" within the Vanguard group. The directors concluded that shareholders would be best served by merging Applicant and the Explorer Fund into a combined Fund, renamed Vanguard Explorer Fund, Inc., co-managed by the two investment advisers of both funds. At a special meeting of shareholders of Applicant held February 27, 1990, the proposed Agreement was approved by approximately 65% of the outstanding shares.

3. Pursuant to the Agreement, substantially all of Applicant's assets were acquired by the Explorer Fund on February 28, 1990. On the same date, Applicant had approximately 4,069,313 shares outstanding with a net asset value of $19.89 per share. Applicant's shareholders received the equivalent aggregate net asset value in shares of the Explorer Fund in return for all of Applicant's outstanding shares (approximately .7377 Explorer Fund shares for each of Applicant's shares).

4. Applicant incurred and paid the following expenses in connection with the merger: accounting costs, $2,000; proxy statement printing, $21,300; and proxy statement processing $1,677.

5. Applicant filed Articles of Transfer wih the Maryland Department of Assessments and Taxation on March 1, 1990. Applicant was dissolved under the laws of Maryland pursuant to Articles of Dissolution dated February 28, 1990, which were filed with the State of Maryland Department of Assessments and Taxation on April 10, 1990.

6. There are no securityholders of Applicant to whom distribution in complete liquidation of their interests have not been made. Applicant has no remaining shareholders.

7. Applicant has no assets and no debt outstanding. Applicant is not a party to any litigation or administrative proceeding and is not engaged, nor proposes to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–16137 Filed 7–10–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17573; 812–7191]

Fiduciary Capital Partners, L.P. et al.; Application

July 5, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Fiduciary Capital Partners, L.P. (the "Fund"), Fiduciary Capital Pension Partners, L.P. (the "Pension Fund," and together with the Fund, the "Partnerships") and FFCA Fiduciary Capital Management Company (the "Managing General Partner") (collectively, "Applicants").

RELEVANT 1940 ACT SECTIONS: Exemption requested under sections 6(c), 17(d) and 57(i) of the 1940 Act and Rule 17d–1 thereunder from sections 17(d) and 57(a)(4) of the 1940 Act and Rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order permitting the Partnerships to purchase and dispose of securities in certain otherwise prohibited joint transactions with each other.

FILING DATE: The application was filed on December 7, 1988, and amended on March 17, 1989 and February 20, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 30, 1990, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 3443 North Central Avenue, Phoenix, Arizona 85012.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504–2283, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Applicants represent that the Partnerships are limited partnerships organized under Delaware law, and each Partnership will be governed by an Amended and Restated Agreement of Limited Partnership (each individually, a "Partnership Agreement"). The Partnerships are business development companies under section 54(a) of the

1940 Act, and therefore they are subject to sections 55 through 65 of the 1940 Act and to those sections of the 1940 Act made applicable to business development companies by section 59 thereof. The Partnerships are designed to provide individuals the opportunity to invest in privately structured, friendly leveraged buyouts and other enhanced yield transactions.

2. The Partnerships filed a joint registration statement (the "Registration Statement"), on Form N–2 (File No. 33–25118) under the Securities Act of 1933, with respect to the Partnerships' aggregate offering of up to 100,000 units (the "Units") of limited partnership interests in the Partnerships. The Registration Statement was declared effective by the SEC on January 26, 1990. The Units are being offered at an initial public offering price of $1,000 per Unit. Those investors desiring to become Limited Partners in the Partnerships will be required to meet certain suitability standards.

3. The Partnerships' investment objectives are to provide current income and capital appreciation. They will attempt to achieve their investment objectives by primarily investing in subordinated debt and related equity securities, issued as the "mezzanine financing" of friendly leveraged buyouts, leveraged acquisitions and leveraged recapitalization ("Mezzanine Investments"). Friendly transactions are transactions not opposed by the Board of Directors of the company to be bought out, acquired or recapitalized, as the case may be. The Partnerships may provide interim debt financing ("Bridge Financing") to certain portfolio companies in which it has made or expects to make a Mezzanine Investment. The Partnerships also may invest up to 10% of their respective available investment capital, as defined in the application ("Available Capital"), in securities issued in connection with other types of corporate transactions, including investments in workouts and financially troubled companies, in turnaround situations and in certain nonleveraged acquisitions ("Other Investments"). Mezzanine Investments (as defined below) are referred to collectively as "Enhanced Yield Investments." Following an investment in an Enhanced Yield Investment, the Partnerships may purchase additional debt and/or equity securities in the portfolio company or may exercise existing rights (such as warrants) under securities acquired in connection with the initial Enhanced Yield Investment ("Follow On Investments").

4. The Fund and the Pension Fund have the same investment objectives, policies and restriction, except that the Fund may borrow, under certain circumstances, an amount equal to 25% of its net offering proceeds to provide a source of funds for certain Follow On Investments or for extraordinary Fund expenses. The Pension Fund was created solely for the purpose of providing an investment fund for tax-exempt investors who desire to avoid the possible receipt of unrelated business taxable income related to acquisition indebtedness, which the Fund will incur if it borrows funds as described in the application.

5. Each Partnership Agreement will provide that the Partnerships will have (except prior to the initial public offering of Units) at least two "Independent General Partners" (defined to be individuals who are not "interested persons" of the Partnerships within the meaning of the 1940 Act), and that a majority of each Partnerships' General Partners must be Independent General Partners. The Commission issued an order on January 12, 1989, stating that the Independent General Partners are not "interested persons" of such Partnerships within the meaning of section 2(a)(19) of the 1940 Act. Investment Company Act Release Nos. 16696 (Dec. 16, 1988) (notice) and 16754 (Jan. 12, 1989) (order). The Independent General Partners will provide overall guidance and supervision for the management of the Partnerships. They also will assume the responsibilities and obligations that the 1940 Act imposes on the disinterested directors of a registered investment company organized as a corporation.

6. Under each Partnership Agreement, the Managing General Partner will serve as the managing general partner of the Partnerships. In this capacity, it will be responsible for: (a) Purchasing investments for the Partnerships subject to the supervision of Independent General Partners, (b) providing administrative services to the Partnerships, and (c) admitting additional Limited Partners to the Partnerships. In addition, the Managing General Partner will act as the investment adviser to the Partnerships, and in that capacity will be responsible for: (a) The identification of all investment that each respective Partnership will make, and (b) other functions that an investment adviser normally provides a business development company. The Managing General Partner is a registered investment adviser under the Investment Advisers Act of 1940.

7. The two principal categories of proposed investments for the Partnerships consist of "Managed Companies" and "Non-Managed Companies." Managed Companies are those portfolio companies to which the Managing General Partner or other persons in the investor group of which a Partnership is a member make available "significant managerial assistance" (as defined in section 2(a)(47) of the 1940 Act). Non-Managed Companies with respect to a Partnership are those portfolio companies to which neither the Managing General Partner nor any member of the investor group makes available "significant managerial assistance." The 1940 Act requires a business development company to make available "significant managerial assistance" to certain issuers representing at least 70% of the value of that business development company's total assets.

8. The Independent General Partners and the Managing General Partner have approved certain "Investment Criteria," as set forth in the application, for Mezzanine Investments and Other Investments in Managed and Non-Managed Companies. The Investment Criteria, among other things, provide that each Partnership must purchase all Mezzanine Investments and Other Investments on terms no less favorable, in all material respects (*i.e.*, the same as, or no less advantageous to such Partnership), than any corresponding investments in the same company by third parties made at or about the time of such Parternship's investment.

9. Mezzanine Investments or Other Investments that the Managing General Partner will make for the Partnerships must either meet the Investment Criteria or be approved by all of the Independent General Partners after they have determined for each Partnership that: (a) The terms of the transaction, including consideration to be paid, are reasonable and fair to the Limited Partners of such Partnership and do not involve overreaching of the Partnership or the Limited Partners on the part of any person concerned, and (b) the proposed transaction is consistent with the interests of the Limited Partners and with the investment objective and policies of such Partnership.

10. Bridge Investments also must be approved by the Independent General Partners under the same Investment Criteria. If an Enhanced Yield Investment, taking into account any proposed Follow On Investment, continues to satisfy the Investment Criteria, the Managing General Partner will certify to that effect to the

Independent General Partners before a Partnership makes a related Follow On Investment. If the Enhanced Yield Investment, taking into account a proposed Follow On Investment, does not continue to meet the Investment Criteria, the Follow On Investment will be subject to prior approval by the Independent General Partners in the same manner, and subject to the same standards, as any Mezzanine Investment or Other Investment that does not meet the Investment Criteria.

11. In addition to the Investment Criteria, the Partnerships must meet certain conditions that will be applicable to the Partnerships' operations and coinvestment with each other. These conditions are as follows:

(a) Enhanced Yield Investments will be allocated between the Partnerships in proportion to the amount of capital that each Partnership has indicated is available for investment in Mezzanine Investments, Other Investments or Bridge Investments, as the case may be, at the time of such investments. With respect to the Fund, the determination of Available Capital will be made based on the borrowings, if any, made by the Fund at the time and therefore its level of borrowing may vary over the period of investment, the ratio of Available Capital of the Partnerships will not be constant. To the extent the Fund's actual leverage fluctuates, the allocation formula may not result in coinvestments for each Partnership's entire portfolio of Enhanced Yield Investments. Moreover, if the Partnerships make Interim Investments, the ratio of Available Capital with respect to the Partnerships at the time of any particular investment may vary from any such ratio that would exist at any subsequent Closing because different amounts of Available Capital would then be available to each of the Partnerships.

(b) The Managing General Partner will not participate for its own account in a transaction in which a Partnership invests unless such participation is permitted by the 1940 Act or any other separate exemption obtained thereunder.

(c) The Partnerships will participate in the disposition of securities held by them as coinvestments on a proportionate basis and on the same terms and conditions (a "simultaneous" disposition). If the Managing General Partner does not recommend a simultaneous disposition, then notice of the proposed sale will be given to the Independent General Partners of each Partnership who will determine whether such Partnership should participate in such sale and, if so, whether such participation should be in a simultaneous disposition or on some other basis. In order for the Partnership not to make a simultaneous disposition in such a case, all of the Independent General Partners of such Partnership must find that the retention by the Partnership is fair to the Partnership and not the result of overreaching on the part of the other Partnership or the Managing General Partner. If all of the Independent General Partners of each Partnership do not make such a finding in connection with a sale, each Partnership must participate in such sale on the basis of a simultaneous disposition. The Applicants will maintain in their records the basis of any decision whether to participate in a sale.

(d) The Independent General Partners of each Partnership will be provided quarterly for review all information concerning coinvestments made by the Partnerships so that they may determine whether all investments made during the preceding quarter comply with the conditions set forth above. The Independent General Partners of each Partnership will consider on a quarterly basis the continuing appropriateness of the standards established for investments by the Partnership. In this regard, the Independent General Partners will consider whether use of such standards of each Partnership continues to be in the best interests of the Partnership and the Limited Partners.

(e) The Independent General Partners will obtain independent legal advice with respect to the performance of their fiduciary duties under the 1940 Act, including their responsibilities set forth herein.

Applicants' Legal Analysis

1. Applicants request an order under sections 6(c), 17(d), and 57(i) of the 1940 Act and Rule 17d–1 thereunder that will permit the Partnerships to purchase and dispose of securities in certain joint transactions with each other that may be otherwise prohibited by section 17(d) and 57(a)(4) of the 1940 and Rule 17d–1 thereunder.

2. The Partnerships are designed to provide individuals the opportunity to invest in privately structured, friendly leveraged buyouts and other enhanced yield transactions. Applicants represent that the Pension Fund was created, and consequently this application is required, solely because of tax considerations. Leveraged buyouts and other enhanced yield transactions of the type in which the Partnerships intend to invest are relatively limited in number. Accordingly, the Partnerships plan to coinvest with each other in Mezzanine Investments, Other Investments and Bridge Investments in specified proportions and on terms that, Applicants believe, are otherwise identical in all material respects.

3. The Partnerships have identical investment objectives, policies and restrictions, except that the Fund may borrow, under certain conditions. The Independent General Partners and the Managing General Partner have adopted certain Investment Criteria that provide, among other things, that the Partnerships must purchase all investments on terms no less favorable, in all material respects, than any corresponding investments in the same company by third parties made at or about the time of the Partnerships' investments. Investments must meet the Investment Criteria or be approved by all of the Independent General Partners after they have made certain determinations designed to protect the interests of the Partnerships' Limited Partners. In addition to the Investment Criteria, the Partnerships must meet certain conditions that will be applicable to their operations and coinvestments with each other. Accordingly, Applicants believe that the structure and investment objectives of the Partnerships assure that participation in a transaction by one Partnership will not be on a basis less advantageous than that of the other Partnership.

4. Moreover, Applicants believe that the relief requested not only is consistent in all applicable material respects with that granted by the SEC in *In the Matter of ML–Lee Acquisition Fund, L.P., et al.*, Investment Company Act Release No. 16001 (Sept. 23, 1987), *In the Matter of Equitable Capital Partners, L.P., et al.*, Investment Company Act Release No. 16522 (Aug. 11, 1988), and *In the Matter of ML–Lee Acquisition Fund II, L.P., et al.*, Investment Company Act Release No. 17123 (Sept. 1, 1989); but also involves fewer of the concerns raised in connection with those applications and fewer classes of transactions involving affiliated persons other than the business development companies themselves.

5. The Rule 17d–1 order also is requested in conjunction with section 6(c) of the 1940 Act because the proposed transaction involves a class of transactions and not an individual specified transaction. In this regard, Applicants believe that the terms of the requested relief are consistent with the standards enumerated in section 6(c).

6. For the reasons stated above, Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes of the 1940 Act.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. Under each Partnership Agreement, a Partnership is authorized to make in-kind distributions of portfolio securities to its Partners. Applicants agree not to make any in-kind distributions of securities to Partners of a Partnership until such Partnership either has obtained a no-action letter from the staff of the SEC or, alternatively, has obtained an order pursuant to Section 206A of the Advisers Act permitting such distribution.

2. Applicants undertake that no changes will be made in the Investment Criteria or

conditions set forth in item 11 above, until an amendment of the requested order is obtained from the Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-16139 Filed 7-10-90; 8:45 am]
BILLING CODE 8010-01-M

[Rel No. IC-17567; 811-5314]

The Fifth Third Bank IRA Collective Investment Trust; Application for Deregistration

July 3, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Fifth Third Bank IRA Collective Investment Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on April 30, 1990 and amended on June 28, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 31, 1990 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 38 Fountain Square Plaza, Cincinnati, Ohio 45263.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504-2263, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch or by contacting the SEC's commerical copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is an Ohio business trust and an open-end diversified management investment company registered under the Act, consisting of two portfolios, the IRA Equity Portfolio and the IRA Bond Portfolio. On September 1, 1987, applicant filed a notification of registration on Form N-8A pursuant to Section 8(a) of the Act. On the same date, applicant filed a registration statement on Form N-1A under the Securities Act of 1933. The registration statement became effective on December 16, 1987, and applicant's initial public offering commenced on the same date.

2. On April 6, 1990, all of applicant's securityholders voluntarily redeemed their interests in the applicant. The appropriate distributions were made to all such securityholders on that same date. On May 22, 1990, all interests and dividends earned but not received prior to the April 6, 1990 redemptions were distributed to the prior securityholders on a pro rata basis.

3. At a meeting held on April 24, 1990, applicant's supervisory committee adopted a plan of dissolution. At the time of the plan, applicant has no shareholders, and therefore did not submit the dissolution plan for shareholder approval.

4. Applicant's organizational expenses of $65,785 were paid by applicant's investment advisor, the Fifth Third Bank.

5. Applicant's liquidation expenses were paid by applicant's investment advisor, the Fifth Third Bank.

6. As of the time of filing of the amended application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in , nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland
Deputy Secretary.

[FR Doc. 90-16138 Filed 7-10-90; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-17566; 811-3937]

Integra Fund; Application for Deregistration

July 3, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Integra Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on March 21, 1990 and amended on June 22, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 31, 1990 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 600 New Hampshire Avenue, NW., Suite 720, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504-2263, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a Massachusetts business trust and an open-end diversified management investment company registered under the Act. On January 6, 1984, applicant filed a notification of registration on Form N-8A pursuant to section 8(a) of the Act. On the same date, applicant filed a registration statement on Form N-1 under the Securities Act of 1933. The

registration statement was declared effective on April 20, 1984.

2. At a meeting held on August 14, 1989, applicant's board of trustees adopted a plan of liquidation, which was approved by the written consent on Mr. Gunter Stroh, the owner of more than two thirds of applicant's outstanding shares, on the same date.

3. On August 28, 1989, applicant redeemed 89,225.696 shares owned by Mr. Stroh at a per share price of $9.30. On August 30, 1989, applicant redeemed the remaining 1,086.015 shares, which were owned by Medical Tribune GmbH, at a per share price of $9.10. These redemptions were made on different days because Medical Tribune GmbH discovered that it had misplaced its share certificate, thus delaying the date on which the shares could be redeemed until an affidavit of lost certificate was completed. As a result of redemptions on different days, the net asset values of the redemptions differed as well.

4. Applicant incurred expenses of approximately $12,850 in connection with the liquidation. All but $1000 of these expenses were borne by Medivest AG, applicant's investment adviser and distributor. The remaining $1000 was borne by the shareholders on a pro rata basis.

5. As of the time filing the application, applicant had no shareholders. The applicant's only assets are its name and its status as a Massachusetts business trust and a registered investment company. Applicant's only liability is to its accountant for preparing applicant's final tax return, for which funds have been retained. Applicant is not a party to any litigation or administrative proceedings. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-16140 Filed 7-10-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17569; File No. 811-2037]

Provident National Assurance Company Separate Account C

July 3, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under section 8(f) of the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Provident National Assurance Company Separate Account C ("Separate Account C" or the "Applicant").

RELEVENT 1940 ACT SECTIONS: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order under section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on April 10, 1990 and amended on June 26, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on July 30, 1990. Request a hearing in writing, giving the nature of your interest, the reasons for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 1 Fountain Square, Chattanooga, TN 37402.

FOR FURTHER INFORMATION CONTACT: Wendy B. Finck, Staff Attorney, at (202) 272-3045 or Heidi Stam, Assistant Chief at (202) 272-2060 (Division of Investment Management, Office of Insurance Products and Legal Compliance.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicant's Representations

1. The Applicant is an open-end diversified management company. The Applicant registered under the 1940 Act on February 27, 1970 and on the same date filed a registration statement under the 1940 Act and the Securities Act of 1933. The registration statement became effective on May 3, 1972 and the initial public offering of the registrant commenced on June 12, 1972.

2. At a meeting of the Applicant's Board of Managers held on May 15, 1989, an agreement and plan of reorganization and liquidation of the Applicant was approved under which the Applicant would transfer its assets and liabilities to Provident National Assurance Company Separate Account B ("Separate Account B") in return for units of Separate Account C. The reorganization was subject to a registration filed with the Commission on Form N-14 which became effective on December 1, 1989. The plan of reorganization and liquidation was approved by contract owners of the Applicant at a special meeting called for that purpose on December 28, 1989. All assets and liabilities of the Applicant were thereupon transferred to Separate Account B on December 28, 1989, and on that date all Separate Account C contract owners became contract owners of Separate Account B without any diminution in contract owner equity or contract owner rights.

3. All expenses incurred in connection with the reorganization, liquidation and merger of the Applicant into Separate Account B were absorbed by Provident National Assurance Company, the sponsor, investment adviser and principal underwriter to the Applicant and Separate Account B.

4. The Applicant has no assets or outstanding debts. The Applicant has no security holders. The Applicant is not a party to any litigation or administrative proceeding nor is the Applicant engaged in nor does it propose to engage in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 90-16141 Filed 7-10-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-1756; 812-7251]

The Prudential Insurance Co. of America, et al.; Application

July 3, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: The Prudential Series Fund, Inc., Prudential-Bache High Yield Fund, Inc., The High Yield Income Fund, Inc., The Prudential Strategic Income Fund, Inc. (collectively, the "Funds"), and The Prudential Insurance Company of America ("Prudential").

RELEVANT ACT SECTIONS: Order requested under section 17(d) of the Act

and Rule 17d–1 thereunder to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants seek a conditional order permitting them to share legal fees and expenses on a pro rata basis with each other and certain unaffiliated persons, and, if applicable, to participate on a pro rata basis in any settlement related to their ownership of certain securities.

FILING DATE: The application was filed on February 21, 1989 and was amended on March 1, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Any interested person may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 30, 1990, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Applicants, Gateway Center 4, 6th Floor, 100 Mulberry Street, Newark, New Jersey 07102–4007.

FOR FURTHER INFORMATION CONTACT: Bibb L. Strench, Staff Attorney, at (202) 272–2856 or Jeremy N. Rubenstein, Branch Chief, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Prudential is a mutual life insurance company that engages in a variety of activities through wholly-owned subsidiaries. One indirect, wholly-owned subsidiary of Prudential, Prudential Fund Management, Inc. ("PFM"), is the investment adviser for three of the Funds: Prudential-Bache High Yield Fund, The High Yield Income Fund, and Prudential Strategic Income Fund. The other Fund, Prudential Series Fund, is advised directly by Prudential.

2. Prudential and the Funds have significant holdings of 13.05% Subordinated Debentures due 1999 (the "Debentures") and 12.85% Senior subordinated Notes due 1997 (the "Notes") issued by E-II Holdings, Inc. ("E-II Holdings") in July, 1987.

3. The Notes and Debentures are the subject of a lawsuit filed by Prudential and 27 other institutional investors against E-II Holdings and other parties, *Forstmann Leff Associates, Inc.* v. *American Brands, Inc.* (88 Civ. 4485 S.D.N.Y.) (the "*Forstmann Leff* action"). Plaintiffs allege that in February, 1988, American Brands, Inc. acquired E-II Holdings pursuant to a tender offer for all of the shares and outstanding notes and debentures of E-II Holdings, including the Notes and Debentures. Plaintiffs further allege that American Brands made statements in connection with the tender offer that caused the plaintiffs not to tender their Notes and Debentures, and that these statements violated sections 10(b) and 14(e) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder, and also constituted common law fraud.

4. The board of directors of each of the Funds has concluded that it would be in the interest of the Fund involved to pursue the claims involving the Notes and Debentures and has further concluded that it would be in the interest of such Fund to pursue such claims through joint representation by the counsel for other plaintiffs rather than through separate representation. Therefore, the Funds propose to enter into a fee-sharing agreement (the "Fee-Sharing Agreement") with Prudential and other plaintiffs. Under the Fee-Sharing Agreement, the parties will share legal fees and other normal litigation expenses incurred in connection with the *Forstmann Leff* action pro rata based upon each plaintiff's holdings of Notes and Debentures as of June 13, 1988, the cut-off point for claims presented in the *Forstmann Leff* action. Thus, any purchase or sale of Notes and Debentures by any of the participants after this date would not affect the amount of damages which each participant might hope to obtain in the action.

5. In addition to the *Forstmann Leff* action, holders of Notes and Debentures have retained counsel to investigate whether transactions to which E-II Holdings was a party resulted in violations of the indentures under which the Notes or Debentures were issued. Applicants state that the investigation may result in litigation against E-II Holdings and its affiliates. In this instance, the legal fees and expenses will be allocated pro rata based on each plaintiff's current holding of Notes and Debentures, because the current face amount of those holdings represents the amount each would receive if the claims were successful and E-II Holdings was required to pay the Notes and Debentures. Since changes in the participants' current holdings of the Notes and Debentures would affect the potential recovery of each on claims of indenture violations, the participants believed that, in this instance, each participant's share of legal fees and expenses should be based on its current holdings. The current holdings of each participant are updated at the beginning of each two-month billing period.

6. Proceeds from any settlement entered into by the parties to any litigation arising from their holdings of the Notes and Debentures will be allocated pro rata to the plaintiffs based on each plaintiff's holding of Notes and Debentures. In the event that any non-monetary consideration is involved in any settlement, the value of such consideration shall be determined by or under the direction of the board of directors of each participating Fund in the manner set forth in section 2(a)(41)(B) of the Act.

7. The holders of the Notes and Debentures have established a committee to direct the conduct of their counsel in the *Forstmann Leff* action and matters arising from the claims against E-II Holdings under the indentures. When the Funds become parties to the Fee-Sharing Agreement, each of the Funds will name its own representative to the committee. Such person may be an employee or affiliated person of Prudential or PFM, but with respect to service on the committee shall act directly under the supervision of the board of directors of the fund involved, and not under the supervision of Prudential or PFM.

Applicants' Legal Analysis

1. Section 17(d) and Rule 17d–1 prohibit an affiliated person of an investment company from participating in a joint enterprise or other joint arrangement or profit-sharing plan with such company without first obtaining an order from the SEC. Rule 17d–1(b) provides that, in passing on applications for permission to effect joint transactions, the SEC will consider whether the participation of the investment company in the proposed transaction is consistent with the provisions, policies and purposes of the Act, and whether such participation would be on a basis different from or less advantageous than that of the other participants. The staff of the SEC has taken the position that an agreement to share legal fees, or to settle litigation to which a registered investment company

and an affiliated person thereof are parties, constitutes a "joint enterprise, joint arrangement or profit-sharing plan" within the meaning of the Rule 17d–1.

2. The terms under which Prudential and the Funds will participate are based on the objective standard of the principal amount of Notes and Debentures each has at stake. The proposed arrangements for the sharing of legal fees do not raise any of the concerns about overreaching of registered investment companies by their affiliated persons which Rule 17d–1 is designed to prohibit.

3. The arrangements were not developed solely by Prudential and the Funds, but rather, were agreed upon by a number of unaffiliated parties, including other registered investment companies not affiliated with Prudential.

4. Any settlement must be approved by the directors of each Fund, including a majority of the non-interested directors, upon a finding that the requirements of Rule 17d–1 are satisfied.

5. In addition, any settlement must meet certain objective conditions which provide further protection against overreaching by any participant. The final terms of any settlement will have to be approved by a committee in which each plaintiff is entitled to name one representative. Accordingly, more than a majority of the representatives on the committee that would approve any settlement would be appointed by entities that are not affiliated with Prudential or any of the Funds. Applicants believe that advance approval of any settlement, subject to the conditions of the proposed order, is necessary to avoid the delay in payment and additional expense that might be occasioned by the need to file a subsequent application for approval of a specific settlement.

Applicants' Conditions

Applicants agree that the following conditions may be imposed by any order of the Commission granting the requested relief:

1. Each Fund will join the *Forstmann Leff* action or any other action involving the Notes and Debentures only if its board of directors, including a majority of the non-interested directors, determines that such participation would not be on a basis different from or less advantageous than that of any other participant and that such participation is fair and in the best interests of the Fund.

2. Each Fund will join the Fee-Sharing Agreement only if its board of directors, including a majority of the non-interested directors, determines that the agreement does not involve overreaching by any of the participants and that such participation would not be on a basis different from or less advantageous than that of any other participant and that such participation is fair and in the best interests of the Fund.

3. Each Fund will join a settlement agreement only if its board of directors, including a majority of the non-interested directors, determines that the settlement does not involve overreaching by any of the participants and that participation by the Fund is on a basis no different from that of any other similarly-situated participant or no less advantageous than that of any other participant and that such participation is fair and in the best interests of the Fund.

4. Each plaintiff participating in any settlement (including but not limited to any of the applicants) must receive the same amount per $1000 principal amount of Notes purchased or held during a particular period and the same amount per $1000 principal amount of Debentures purchased or held during a particular period. In the event that any non-monetary consideration is involved in any settlement, the value of such consideration shall be determined by or under the direction of the board of directors of each participating Fund in the manner set forth in section 2(a)(41)(B) of the Act in order to determine whether this requirement is met.

5. Each Fund will withdraw from the *Forstmann Leff* action or any other action involving the Notes and Debentures, the Fee-Sharing Agreement, and/or a settlement agreement only if its board of directors, including a majority of the non-interested directors, determines that such withdrawal would not be on a basis different from or less advantageous than that of any other person and that such withdrawal is fair and in the best interest of the Fund.

6. The reasons for the board of directors voting to join and/or withdraw from the *Forstmann Leff* action or any other action involving the Notes and Debentures, the Fee-Sharing Agreement, and any settlement agreement will be recorded in the minutes of the board and made available for inspection by the staff of the SEC for a period of no less than six years.

7. Applicants will maintain and preserve records of any payments received or disbursed in connection with the *Forstmann Leff* action and any other action involving the Notes and Debentures, as well as records of the information and documents presented to the board of directors, in connection with their determination to join and/or withdraw from any of the aforementioned actions. Such records will be made available for inspection by the staff of the SEC for a period of no less than six years.

The Commission notes that it has not reviewed the merits of applicants' claims related to the Notes and Debentures. Any order issued on this application would be based solely on a finding that applicants' proposal to share legal fees and expenses and, if applicable, to participate in any settlement meets the standards for issuance of an order under section 17(d) and rule 17d-1.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–16142 Filed 7–10–90; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1223]

Determination Under the Foreign Missions Act

Pursuant to the authority vested in the Secretary under the Foreign Missions Act (22 U.S.C. 4301 *et seq.*) and delegated to me by the Department of State Delegation of Authority No. 147 dated September 13, 1982, I hereby determine that it is "reasonably necessary on the basis of reciprocity or otherwise . . . to protect the interests of the United States" that certain "benefits" relating to the acquisition of contracting, construction, inspection and engineering services, and any and all materials and supplies related thereto acquired in the United States by the Union of Soviet Socialists Republics for its properties located at 9 East 91st Street and 11 East 91st Street in New York City, New York, be obtained through the Director of the Office of Foreign Missions (Director). In accordance with sections 4204(b) (A) and (B) of the Act, 22 U.S.C. 4304(b) (A) and (B), I hereby approve provision of such benefits from or through the director on terms and conditions, to be established by him, which include measures concerning the provision of local goods and services, as well as those terms and conditions specified in section 204, 22 U.S.C. 4304(c).

Publication of this notice in the Federal Register constitutes notice to persons subject to U.S. jurisdiction doing business, providing goods or services, or in contractual relationships with the U.S.S.R. or its agents with regard to the above mentioned properties located in New York City, New York, that terms and conditions are

hereby imposed on such activities. Compliance with such terms and conditions, is required by the Act. Accordingly, such persons should contact the Office of Foreign Missions to determine if a specific term or condition provided for under this determination affects the execution, performance, or other action concerning such person's arrangement with the U.S.S.R. The Office of Foreign Missions may be reached at room 2238, Department of State, Washington, DC 20520–7310 or by telephone on (202) 647–3416.

Dated: June 14, 1990.

Ivan Selin,

Secretary for Management.

[FR Doc. 90–16096 Filed 7–10–90; 8:45 am]

BILLING CODE 4710–08–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

New Route Opportunities (U.S.–U.K.)

By this notice we invite certificate applications from all U.S. carriers interested in serving the following U.S.–U.K. routes:

From a point or points in the United States to a point or points in the United Kingdom (excluding London, England)

On June 28, 1990, the Governments of the United States and Great Britain exchanged letters finalizing the terms of an agreement which expands North Atlantic route opportunities between the two countries.

Under the arrangement, the U.S. has two new opportunities to authorize service between two gateway points in the United States and regional U.K. airports, under U.S. Route 1 of the U.S.–U.K. Air Services Agreement (Agreement). Only one U.S. airline may operate in each selected U.S. gateway-regional U.K. airport city-pair market. The services are subject to all of the provisions of the Agreement including Annex 2 (capacity). Services may be provided via intermediate points on a blind sector basis.

In view of these new route opportunities, we invite carriers to file applications for certificate authority to serve the markets above no later than July 18, 1990. Competing applications and answers shall be due no later than July 23, 1990, and responsive pleadings no later than July 30, 1990. Carriers which have already filed for authority to serve between the U.S. and regional U.K. points[1] need not refile unless they wish to supplement their requests as a result of changed circumstances, etc.[2]

Applications should be filed pursuant to subpart Q and part 302 of the Department's regulations. Applications should be filed with the Department's Docket Section, room 4107, 400 Seventh Street, SW, Washington, DC 20590. As the route rights are limited, we intend to award the authority at issue in the form of 5-year, temporary, experimental certificates under section 401(d) of the Act. Procedures for acting on the applications filed shall be established by future Department order.

Dated: July 6, 1990.

Paul L. Gretch,

Director, Office of International Aviation.

[FR Doc. 90–16177 Filed 7–10–90; 8:45 am]

BILLING CODE 4910–62–M

[1] American Airlines (Dockets 42921 and 45129), Continental Airlines (Docket 43013), Northwest Airlines (Docket 45175), and United Air Lines (Docket 47000).

[2] Interested parties may file competing applications and responsive pleadings to applications already filed in accordance with the dates specified above.

Federal Highway Administration

Environmental Impact Statement: Sandoval County, NM

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 Sandoval County, New Mexico.

FOR FURTHER INFORMATION CONTACT: W.R. Bird, Environmental Planning Engineer, Federal Highway Administration, P.O. Box 25246, Denver, Colorado 80225, telephone 303–236–3468.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with Santa Fe National Forest and the New Mexico State Highway and Transportation Department, will prepare an environmental impact statement (EIS) on a proposed improvement of New Mexico Forest Highway (FH) 12, Cuba-Los Alamos Road. New Mexico FH 12 begins at the junction of State Highway 44 at Cuba, Sandoval County, New Mexico, and proceeds southeastward along State Highway Routes 126 and 4 to the town of Los Alamos in Los Alamos County. The section proposed for improvement begins in Sandoval County at the end of the paved section (approximately 10 miles east of Cuba) and extends southeasterly for approximately 25 miles, ending about 3 miles east of Fenton Lake.

The FHWA previously proposed to prepare an environmental assessment on 6.8 miles of New Mexico FH 12, ending at Telephone Canyon. This portion will now be included and evaluated in the EIS for the approximately 25-mile proposed project.

Alternatives under consideration include (1) the "no build," (2) the improvement of the existing facility to appropriate American Association of State Highway and Transportation Officials (AASHTO) design criteria, and (3) other alternatives that will be developed during the scoping process.

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. Interagency scoping meetings and public scoping meetings will be held in the project area. Public hearings will also be held. Information on the time and place of public scoping meetings and public hearings will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the hearing.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address 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: June 29, 1990.

Jerry L. Budwig,

Division Engineer, FHWA, Denver, CO.

[FR Doc. 90–16104 Filed 7–10–90; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; San Miguel County, NM

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 San Miguel County, New Mexico.

FOR FURTHER INFORMATION CONTACT: W.R. Bird, Environmental Planning Engineer, Federal Highway

Administration, P.O. Box 25246, Denver, Colorado 80225, telephone 303–236–3468.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with Santa Fe National Forest and the New Mexico State Highway Department, will prepare an environmental impact statement (EIS) on a proposed improvement of New Mexico Forest Highway (FH) 17, State Highway 63. The portion of FH 17 being considered for improvement begins at the Dalton crossing of the Pecos River approximately 6.25 miles north of the intersection of Highways 50 and 63 in Pecos and proceeds northward 12.9 miles to the bridge over the Pecos River at Cowles.

The FHWA hereby withdraws the Finding of No Significant Impact, Environmental Assessment, section 4(f) Determination, and Wetlands Finding completed July 11, 1989, for the southern 6.9 mile portion of the current proposal.

Alternatives under consideration include (1) the "no build," (2) improvement of the existing facility to appropriate American Association of State Highway and Transportation Officials' design criteria, (3) lesser improvements to the existing facility, and (4) other alternatives that may be developed during the scoping process.

Public meetings and meetings with local officials will be held in the project area. Public hearings will also be held. Information on the time and place of public meetings and hearings will be provided in the local news media.

The draft EIS will be available for public and agency review and comment at the time of the hearing. No formal scoping meeting is scheduled at this time. The FHWA is currently participating in a study by the New Mexico Environmental Improvement Division on hazardous waste which may be located in the vicinity of the proposed project. Scoping will not commence until completion of the hazardous waste study, which is anticipated in early 1991.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address 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: June 25, 1990.

Jerry L. Budwig,

Division Engineer, Denver, CO.

[FR Doc. 90–16105 Filed 7–10–90; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: July 5, 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: 1545–0068

Form Number: IRS Form 2441.

Type of Review: Revision.

Title: Child and Dependent Care Expenses.

Description: Internal Revenue Code section 21 allows a credit for certain child and dependent care expense to be claimed on Form 1040 (reduced by employer-provided day care excluded under section 129). Day care provider must be reported to IRS for both the credit and exclusion. Form 2441 is used to verify that the credit and exclusion are properly figured, and that provider information is reported.

Respondents: Individuals or households.

Estimated Number of Responses/ Recordkeepers: 6,729,251.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recording	20 minutes
Learning about the law or the form	13 minutes
Preparing the form	38 minutes
Copying, assembling, and sending the form to IRS.	25 minutes

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 10,637,217 hours.

OMB Number: 1545–0976.

Form Number: IRS Form 990–W and Schedule A (990–W).

Type of Review: Revision.

Title: Estimated Tax of Unrelated Business Taxable Income for Tax-Exempt Organizations.

Description: Form 990–W is used by tax-exempt trusts and tax-exempt corporations to figure estimated unrelated business income tax liability and the amount of each installment payment. Form 990–W is a worksheet only. It is not required to be filed.

Respondents: Businesses or other for-profit, Non-profit institutions.

Estimated Number of Responses/ Recordkeepers: 28,971.

Estimated Burden Hours Per Respondent/Recordkeeping:

Form	Recordkeeping	Learning about the law or the form	Preparing the form
990–W	4 hrs., 47 min.	3 hrs., 40 min.	3 hrs., 55 min.
Sch A (Pt. I)	11 hrs., 43 min.	18 min.	30 min.
Sch A (Pt. II)	24 hrs., 23 min.	18 min.	36 min.
Sch A (Pt. III)	5 hrs., 16 min.	0	5 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 352,575 hours.

OMB Number: 1545–1119.

Form Number: IRS Forms 8804, 8805 and 8813.

Type of Review: Revision.

Title: Annual Return for Partnership Withholding Tax (section 1446) (8804); Foreign Partner's Information Statement of section 1146 Withholding Tax (8805); and Partnership Withholding Tax Payment (section 1446) (8813).

Description: Code section 1446 requires partnership to pay a withholding tax if they have effectively connected taxable income that is allocable to foreign partners. Forms 8804, 8805, and 8813 are used by withholding agents to provide IRS and affected

partners with data to assure proper withholding, crediting to partners' accounts and compliance.

Respondents: Individuals or households, Business or other for-profit, Small businesses or organizations.

Estimated Number of Responses/ Recordkeepers: 55,000

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 8804	Form 8805	Form 8813
Recording	1 hr., 5 min	59 min	26 min.
Learning about the law or the form	55 min	54 min	48 min.
Preparing the form	32 min	17 min	31 min.
Copying, assembling, and sending the form to IRS	20 min	17 min	10 min.

Frequency of Response: On occasion, Quarterly, Annually.

Estimated Total Reporting/ Recordkeeping Burden: 126,300 hours.

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 Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–16124 Filed 7–10–90; 8:45 am]

BILLING CODE 4830–01–M

Office of Thrift Supervision

Information Collection Request; Capital Distributions Regulation

Dated: June 28, 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 new information collection entitled "Capital Distributions Regulation," 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 provide a mechanism for monitoring all capital distributions by all savings institutions. This will allow Supervision to identify and monitor institutions at risk who are not meeting the capital standards. We estimate it will take approximately 4 hours per respondent to complete the information collection.

DATES: Comments on the information collection request are welcome and should be received on or before July 23, 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: John Connolly, Office of Chief Counsel, (202) 906–6465, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

By The Office of Thrift Supervision.

Timothy Ryan,

Director.

[FR Doc. 90–16048 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Conservator; American Pioneer Federal Savings Bank

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for American Pioneer Federal Savings Bank, Daytona Beach, Florida, on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16051 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Conservator; Charter Federal Savings Associations

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Charter Federal Savings Association, Stamford, Connecticut ("Association") on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16049 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Conservator; First Jackson Federal Savings Bank

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for First Jackson Federal Savings Bank, Jackson, Mississippi, on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16050 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Conservator; Pioneer Federal Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989,

the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Pioneer Federal Savings and Loan Association, Marietta, Ohio, on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16052 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Conservator; Travis Federal Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Travis Federal Savings and Loan Association, San Antonio, Texas ("Association") on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16053 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Conservator; Windsor Federal Savings Association

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Windsor Federal Savings and Loan Association, Austin, Texas, on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16054 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Replacement of Conservator with a Receiver; American Pioneer Savings Bank

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as Conservator for American Pioneer Savings Bank, Daytona Beach, Florida, Docket No. 7796, with the Resolution Trust Corporation as sole Receiver for the Association on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16055 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Receiver; Capital Federal Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Capital Federal Savings and Loan Association, Little Rock, Arkansas, Docket No. 8615, on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16056 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Replacement of Conservator with a Receiver; CenTrust Federal Savings Bank

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Onwers' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for CenTrust Federal Savings Bank, Miami, Florida ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16057 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Receiver; Charter Federal Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Charter Federal Savings and Loan Association, Stamford, Connecticut ("Association"), on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16058 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Replacement of Conservator with a Receiver; Colorado Savings Bank, F.S.B.

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Colorado Savings Bank, F.S.B., Sterling, Colorado ("Association"), Docket No. 8669, with the Resolution Trust Corporation as sole Receiver for the Association on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16059 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Replacement of Conservator with an Association

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Constitution Federal Savings Association, Monterey Park, California ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-16060 Filed 7-10-90; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver; Delta Federal Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly appointed the Resolution Trust Corporation as sole Receiver for Delta Federal Savings and Loan Association, Drew, Mississippi, Docket No. 7538, on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-16061 Filed 7-10-90; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver; Elysian Federal Savings Bank

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Elysian Federal Savings Bank, Hoboken, New Jersey, Docket No. 7133 ("Savings Bank"), on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-16062 Filed 7-10-90; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver; First Federal Savings and Loan Association of Colorado Springs

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association of Colorado Springs, Colorado Springs, Colorado, Docket No. 2424, on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-16063 Filed 7-10-90; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver; First Jackson Savings Bank, F.S.B.

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Jackson Savings Bank, F.S.B., Jackson, Mississippi ("Association"), OTS Docket No. 7289, on June 29, 1990.

By the Office of Thrift supervision.

Dated: July 5, 1990.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-16064 Filed 7-10-90; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver; General Savings Association

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for General Savings Association, Henderson, Texas, Docket No. 7469, on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-16065 Filed 7-10-90; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver; Marshall Savings Association, F.A.

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Marshall Savings Association, F.A., Marshall, Texas, Docket No. 6723, on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-16066 Filed 7-10-90; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver; Pioneer Savings and Loan Co.

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owner's Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Pioneer Savings and Loan Company, Marietta, Ohio, Docket No. 0795, on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-16067 Filed 7-10-90; 8:45 am]

BILLING CODE 6720-01-M

Republic Bank for Savings, F.A.; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Republic Bank for Savings, F.A., Jackson, Mississippi ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-16068 Filed 7-10-90; 8:45 am]

BILLING CODE 6720-01-M

Replacement of Conservator with a Receiver; St. Louis County Savings Association F.A.

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home

Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for St. Louis County Savings Association, F.A., Ferguson, Missouri ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 28, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16070 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Replacement of Conservator with a Receiver; Rusk Federal Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Rusk Federal Savings and Loan Association, Rusk, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16069 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Receiver; Sun Federal Savings Association

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Sun Federal Savings Association, Fort Dodge, Iowa, Docket No. 8788, on June 28, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16071 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Receiver; Travis Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Travis Savings and Loan Association, San Antonio, Texas ("Association"), on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16072 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Receiver; Valley Federal Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Valley Federal Savings and Loan Association, McAllen, Texas ("Association"), on June 28, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16073 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Receiver; Windsor Savings Association

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Windsor Savings Association, Austin, Texas, Docket No. 7942, on June 29, 1990.

Dated: July 5, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16074 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

[OTS No. 3009; AC–41]

Aurora Federal Savings Bank, F.S.B., Aurora, IL; Final Action Approval of Voluntary Supervisory Conversion Application

June 29, 1990.

Notice is hereby given that the Director noted that on June 28, 1990, the Chief Counsel, Office of Thrift Supervision, acting pursuant to the authority delegated to him or his designee, approved the application of Aurora Federal Savings Bank, F.S.B., Aurora, Illinois, for permission to convert to the stock form of organization pursuant to a voluntary supervisory conversion, and the acquisition of all the conversion stock by West Suburban Bancorp, Inc., Lombard, Illinois.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16075 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

[AC–40]

Champlain Valley Federal Savings and Loan Association of Plattsburgh, Plattsburgh, NY; Final Action Approval of Conversion Application

June 28, 1990.

Notice is hereby given that on June 28, 1990, the Director of the Office approved the application of Champlain Valley Federal Savings and Loan Association of Plattsburgh, Plattsburgh, New York, for permission to convert to the federal stock form of organization pursuant to a voluntary supervisory conversion, and the acquisition of the conversion stock by Evergreen Bancorp, Inc., Glens Falls, New York.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16076 Filed 7–10–90; 8:45 am]

BILLING CODE 6720–01–M

[No.: AC–38]

Mississippi Valley Savings and Loan Association Burlington, IA; Final Action Approval of Conversion Application

June 28, 1990.

Notice is hereby given that June 28, 1990, the Director of the Office approved the application of Mississippi Valley Savings and Loan Association, Burlington, Iowa, for permission to convert to the federal stock form of organization pursuant to a voluntary

supervisory conversion, and the acquisition of the conversion stock by Community Investments, Ltd., Ames, Iowa.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-16077 Filed 7-10-90; 8:45 am]

BILLING CODE 6720-01-M

[No.: AC-39]

Saranac Lake Federal Savings and Loan Association Saranac Lake, NY; Final Action Approval of Conversion Application

Dated: July 5, 1990.

Notice is hereby given that on June 28, 1990, the Director of the Office approved the application of Saranac Lake Federal Savings and Loan Association, Saranac Lake, New York, for permission to convert to the federal stock form of organization pursuant to a voluntary supervisory conversion, and the acquisition of the conversion stock by Harold T. Clark, Jr.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-16078 Filed 7-10-90; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Amendment of System Notice

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

Notice is hereby given that the Department of Veterans Affairs (VA) is considering adding a new routine use statement to the system of records entitled Compensation, Pension, Education and Rehabilitation Records—VA (58VA 21/22) as set forth in **Federal Register** publication, "Privacy Act Issuances, 1987 Compilation, Volume V," pages 808-812.

Department of Defense (DOD), on behalf of the individual uniformed services, and Department of Transportation (DOT) (Coast Guard) have requested the names and current addresses of certain individuals contained in the VA's Compensation, Pension, Education and Rehabilitation system to assist them in recovering Survivor Benefit Plan (SBP) premium payments.

VA is proposing to allow disclosure of the names and addresses of VA beneficiaries who are identified by individual finance centers of DOD and DOT (Coast Guard) as responsible for the payment of SBP premium payments. The information may be released to the requesting agency only upon an official written request for information needed for their use in attempting to recover amounts owed for SBP premium payments.

To provide the information for the service finance centers, VA is proposing to add a routine use statement. A proposed new routine use number 53 is added to this system of records. This release of information will facilitate the ability of the DOD and DOT to reconcile and recover amounts due for SBP premium payments.

VA has determined that release of information for this purpose is a necessary and proper use of information in this system of records and that a specific routine use for transfer of this information is appropriate.

A "Report of Altered System" and an advance copy of the revised system have been sent to the majority and minority chairmen of the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, as required by 5 U.S.C. 552a(o) (Privacy Act) and guidelines issued by the Office of Management and Budget December 24, 1985, and Public Law 100-503.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amended routine use statements to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before August 10, 1990 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until August 20, 1990.

If no public comment is received during the 30 day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Department of Veterans Affairs, the amendments to 58VA 21/22 included herein are effective August 10, 1990.

Approved: June 28, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

[FR Doc. 90-15938 Filed 7-10-90; 8:45 am]

BILLING CODE 8320-01-M

Notice of Amendment to System of Records

The system identified as 58VA 21/22, "Compensation, Pension, Education and Rehabilitation Records—VA" as set forth in **Federal Register** publication, Privacy Act Issuances, 1987 Compilation, Volume V," pages 808-812, is amended by revising the following:

58 VA/21/22

SYSTEM NAME:

Compensation, Pension, Education and Rehabilitation Records—VA.

* * * * *

Routine Uses of Records Maintained In The System, Including Categories Of Users And The Purposes Of Such Uses:

* * * * *

53. The names and current addresses of VA beneficiaries who are identified by finance centers of individual uniformed services of the Department of Defense and the Department of Transportation (Coast Guard) as responsible for the payment of Survivor Benefit Plan (SBP) premium payments to be released from this system of records to them upon their official written request for such information for their use in attempting to recover amounts owed for SBP premium payments.

Report of Intention to Alter Federal Notice of System of Records for "Compensation, Pension, Education and Rehabilitation Records—VA" 58 VA 21/22

Purpose

Amending this system of records will allow the names and current addresses of VA beneficiaries who are characterized by the Department of Defense and the Department of Transportation (Coast Guard) as responsible for the payment of Survivor Benefit Plan (SBP) premium payments to be released from this system of records to the requesting Federal agency upon an official written request from them for such information for their use in attempting to recover amounts owed for SBP premium payments. The September 5, 1989, amendment of systems notice provided notice of the finance centers of the uniformed services on line access to 58 VA 21/22 through the Target system. Storage, retrievability and safeguards provisions for this system of records which were published in the September 5, 1989, Federal Register notice (54 Fed. Reg. 36933) also apply to this routine use.

Authority

Title 38, United States Code, Chapter 53.

Probable or Potential Effect on the Privacy of Individuals

These changes should have no effect on the privacy rights of individuals.

Relationship to Other Branches of the Federal Government and to State and Local Government

There should be no significant effects on other branches of the Federal Government or on State or local governments.

Risk Assessment

This amendment will not provide access to VA records.

[FR Doc. 90–15938 Filed 7–11–90; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 133
Wednesday, July 11, 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).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 9:30 a.m., Monday, July 16, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed adoption of an interpretation on the applicability of Regulation T (Credit by Brokers and Dealers) to unregistered securities sold and traded pursuant to the Securities and Exchange Commission's new Rule 144A.

Discussion Agenda

2. Consideration of revisions to Regulation K (International Banking Operations).

3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Jospeh R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: July 9, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-16246 Filed 7-9-90; 10:37 am]

BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Monday, July 16, 1990, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 9, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-16247 Filed 7-9-90; 10:38 am]

BILLING CODE 6210-01-M

Corrections

Federal Register
Vol. 55, No. 133
Wednesday, July 11, 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.

FARM CREDIT ADMINISTRATION

12 CFR Parts 613, 614, 615, 616, 618, and 619

RIN 3052-AA94

Eligibility and Scope of Financing; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Coordination; General Provisions; Definitions

Correction

In rule document 90-13862 beginning on page 24861 in the issue of Tuesday, June 19, 1990, make the following corrections:

1. On page 24862, in the first column, under **DATES:**, in the second line "on July 19, 1990" should read "upon the expiration of 30 days after this publication"(See 55 FR 25773, June 22, 1990).

2. On the same page, in the same column, under **FOR FURTHER INFORMATION CONTACT**, in the sixth line remove the "period" after "4444".

3. On page 24863, in the second column, in the second complete paragraph, in the last line "eligibility" was misspelled.

4. On the same page in the same column, in the last line "clarify" should read "clarity".

5. On page 24864, "§ 3.7" should read "section 3.7" in the second column, in the first complete paragraph wherever it appears. Also on page 24866, in the second column in the seventh line, make the same correction.

6. On page 24864, in the second column, in the seventh line from the bottom, "bank" should read "banks".

7. On page 24865, in the first column, in the first complete paragraph, in the fourth line, "association" was misspelled.

8. On page 24870, in the third column, in the second complete paragraph, in the 16th line "FDB" should read "FCB".

9. On page 24872, in the second column, in the ninth line, "within" should read "with".

10. On page 24873, in the third column, in the fifth line from the end, "514.4333" should read "614,4333".

11. On page 24874, in the third column, in the last paragraph, in the 17th line, "FAC" should read "FCA". In the same paragraph, in the third line from the end "monthly" was misspelled.

12. On page 24875, in the second column, in the first complete paragraph, in the eighth line "Corporation" was misspelled.

§ 613.3000 [Corrected]

13. On page 24877, in the first column, in § 613.3000, in the sixth line, "of" should read "to".

§ 613.3005 [Corrected]

14. On the same page, in the second column, in § 613.3005(c), in the fifth line "prescribe" was misspelled.

§ 613.3045 [Corrected]

15. On page 24878, in the third column, in § 613.3045(c)(4), in the second line "an" should read "and".

§ 613.3110 [Corrected]

16. On page 24879, in the second column, in § 613.3110(c)(2), in the sixth line, insert a comma after "section".

17. On the same page, in the third column in the boldface type above amendatory instruction 15, in the seventh line, "614.3005" should read "613.3005".

§ 614.4040 [Corrected]

18. On page 24881, in the third column, in § 614.4040(a)(3), in the first line "areas" was misspelled.

§ 614.4050 [Corrected]

19. On page 24882, in § 614.4050(b)(1)(ii), in the fifth line "of" should read "or".

§ 614.4160 [Corrected]

20. On page 24881, in the third column, in § 614.4160(e), in the second line, "practically" should read "practicality".

§ 614.4222 [Corrected]

21. In § 614.4222, on page 24885, in the first column, in the first line, insert "such" after "real estate or".

§ 614.4230 [Corrected]

22. On the same page, in the same column, in § 614.4230(a)(2), in the second line, "for" should read "or".

§ 614.4231 [Corrected]

23. On the same page, in the second column, in § 614.4231(a)(2)(iii), in the fourth line "are" should read "area".

24. On page 24888, in the third column, in the boldface type abpve amendatory instruction 56 in the third line "615.9065" should read "619.9065".

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AE67

Accountability for Authorization and Payment of Training and Rehabilitation Services

Correction

In rule document 90-14770 beginning on page 25974 in the issue of Tuesday, June 26, 1990, make the following correction:

§ 21.258 [Corrected]

On page 25975, in the second column, after the heading for part 21, insert the following amendatory instruction.

1. In § 21.258, paragraph (e) is removed and paragraph (c)(1) is revised to read as follows:

BILLING CODE 1505-01-D

federal register

Wednesday
July 11, 1990

Part II

Department of Defense

48 CFR Parts 211 and 252

Department of Defense Federal Acquisition Regulation Supplement; Acquisition and Distribution of Commercial Products; Proposed Rule

DEPARTMENT OF DEFENSE

48 CFR Parts 211 and 252

Department of Defense, Federal Acquisition Regulation Supplement; Acquisition and Distribution of Commercial Products

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comments.

SUMMARY: The Department of Defense is proposing changes to the DoD FAR Supplement to amend part 211, "Acquisition and Distribution of Commercial Products", and to add new clauses at 252.211. The revisions establish policy and procedures for use of a simplified uniform contract format to acquire commercial items.

DATES: Comments on the proposed rule should be submitted in writing at the address shown below on or before August 27, 1990, to be considered in the formulation of the final rule. Please cite DAR Case 90–420 in all correspondence related to this issue.

ADDRESSES: Interested parties should submit written comments to: Director for Acquisition Reform, ATTN: Mr. Louis Gaudio, Procurement Analyst, ODASD(P)/AR, Room 3E144, Pentagon, Washington, DC 20301–8000.

FOR FURTHER INFORMATION CONTACT: Mr. Louis Gaudio, Procurement Analyst, (202) 693–5640.

SUPPLEMENTARY INFORMATION:

A. Background

Public Law 101–189 requires the Department to develop new regulations implementing a simplified uniform contract format for the acquisition of commercial items and to require the use of such format for the acquisition of commercial items to the maximum extent practicable. The proposed amendments to DFARS parts 211 and 252 will modify the DoD acquisition policy and procedures by establishing a simplified uniform contract for acquisition of commercial items. A summary of the simplified uniform contract policies and procedures follows:

—Government specified designs or Government unique specifications are not permitted.
—Commercial items available from only one source may be acquired without obtaining certified cost or pricing data. This procedure will be authorized under a Secretarial exemption from 10 U.S.C. 2306a.
—Acquisition of technical data is minimized.
—The Government will rely on an offeror's commercial quality and inspection procedures. Government inspection is limited to verification that supplies tendered for acceptance conform to contractual requirements.
—The Government may acquire commercial warranties customarily offered to the public.
—Specification changes shall only be made by bilateral modification.
—Contractors will not be required to include clauses and provisions in contracts with their subcontractors or suppliers unless required by statute or Executive Order.
—Generally requires the use of commercial packaging and marking practices.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. Comments are invited from small businesses and other interested parties and will be considered in determining whether or not Final Regulatory Flexibility Analysis is required. Comments from small businesses concerning the affected DFARS subparts will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and must cite DAR Case 90–610D in correspondence.

C. Paperwork Reduction Act

The proposed rule does contain information collection requirements requiring the approval of OMB under 44 U.S.C. 3501 et seq. A request for an information collection requirement will be submitted to OMB for review and approval.

List of Subjects in 48 CFR Parts 211 and 252

Government procurement.

Linda E. Greene,

Deputy Director, Defense Acquisition Regulatory System.

Therefore, it is proposed that 48 CFR parts 211 and 252 be amended as follows:

1. The authority citation for 48 CFR parts 211 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 211—ACQUISITION AND DISTRIBUTION OF COMMERCIAL PRODUCTS

2. Subpart 211.70 is added to read as follows:

Subpart 211.70—Contracting for Commercial Items

Sec.

211.7000 Scope of subpart.
211.7001 Definitions.
211.7002 Policy.
211.7003 Applicability.
211.7003–1 General.
211.7003–2 Commercial Items Available From Only One Source.
211.7003–3 Existing or Prior Sources of Supplies.
211.7003–4 Exempted Categories of Supplies.
211.7004 Requirements.
211.7004–1 General.
211.7004–2 Telegraphic and Facsimile Submission of Offers.
211.7004–3 Content and Format for Solicitations and Contracts.
211.7004–4 Part I—The Schedule.
211.7004–5 Part II—Contract Clauses (Section I, Contract Clauses).
211.7004–6 Part III—List of Attachments and Exhibits.
211.7004–7 Part IV—Representations and Instructions.
211.7005 Procedures.
211.7005–1 General.
211.7005–2 Award of contracts.
211.7005–3 One offer.
211.7005–4 Contract administration.
211.7005–5 Specification changes and change orders.
211.7005–6 Transportation of supplies.
211.7006 Contract clauses

Subpart 211.70—Contracting for Commercial Items

211.7000 Scope of subpart.

(a) This subpart implements section 824(b) of Public Law 101–189 by establishing policies, procedures and a simplified uniform contract format for the acquisition of commercial items.

(b) None of the requirements or procedures specified in the Federal Acquisition Regulation (FAR) or Defense Federal Regulation Supplement (DFARS) apply to the acquisition of commercial items under this subpart unless, and only to the extent, specified in this subpart.

211.7001 Definitions.

As used in this subpart—

Commercial items means items, including computer software, regularly used for other than Government purposes which, in the course of normal business operations:

(a) Have been sold or traded to the general public;

(b) Have been offered for sale to the general public at established prices but not yet sold;

(c) Although intended for sale or trade to the general public, have not yet been offered for sale but will be available for commercial delivery in a reasonable period of time;

(d) Are described in paragraphs (a), or (b), or (c) and would require only minor modification in order to meet the requirements of the procuring agency.

Commercial item description means a standard product description developed by the Department of Defense to acquire commercial items for the Department (see FAR part 10).

Competition means the solicitation of offers from more than one potential source where award will be made to the responsive responsible offeror whose bid or proposal offers the best value to the Government price and, where appropriate, other factors considered or, when a solicitation contemplates more than one award, the offerors independently compete for a proportionate share (0 to 100%) of the award to be determined by the evaluation criteria specified in the solicitation. The term "competition" includes contracting using full and open competition (see FAR subparts 6.1 and 6.2) and other forms of competition authorized in FAR subpart 6.3.

Established price means a price published in a catalog, price list, schedule or other verifiable pricing record at which items are offered for sale to the public; or, prices which have been established in the course of ordinary and usual trade between buyers and sellers free to bargain. The established price:

(a) Must be available for customer inspection and state the current or last sales price; or,

(b) Can be substantiated by data from sources independent of the offeror.

Minor modification means a modification to a commercial item that does not alter the performance or physical characteristics of the item.

Performance specification means a description of the item to be acquired expressed only in terms of the item's performance requirements, form, fit, or function or other physical characteristics.

Subcontractor means an entity producing an item for another entity to the other entity's specifications, designs or drawings. The term does not include entities that produce such items to their own specifications, designs or drawings for sale to others.

Supplier means an entity that produces items to its own specifications, designs or drawings for sale to others.

211.7002 Policy.

It is Department of Defense policy:

(a) To satisfy its requirements, to the maximum extent practicable, through competitive acquisition of commercial items.

(b) To acquire products which offer the best value to the Government.

(c) Not to require certified cost or pricing data from contractors or require contractors to obtain certified cost or pricing data from their subcontractors or suppliers when contracting for commercial items under this subpart.

(d) To require prime contractors to include in contracts with their subcontractors and suppliers, as those terms are defined at 211.7001, only those clauses and special provisions that are required by law or executive order to be included in such contracts (see 211.7006(e)).

211.7003 Applicability.

211.7003–1 General.

(a) This subpart shall be used, to the maximum extent practicable, to:

(1) Competitively acquire commercial items; and,

(2) Acquire commercial items available from only one source under the circumstances set forth in 211.7003–2.

(b) This subpart may be used to acquire:

(1) Precision Components for Mechanical Time Devices (see 208.74) and Miniature and Instrument Ball Bearings (See 208.73) that are standard commercial items, but are not end items or items intended for use as components or subassemblies of defense equipments or systems (e.g., repair parts);

(2) High-Purity Silicon (see 208.75) and High Carbon Ferrochrome (HCF) (see 208.76), that are standard commercial items, but are not end items or in the case of HCF, steel plate, sheet or ingots and the like, that incorporate HCF;

(3) Forging and Welded Shipboard Anchor Chain Items only when the quantity to be procured satisfies that requirement at 208.7803 and the procedures of that section are followed; and,

(4) Automatic Data Processing Equipment (ADPE) when authority to contract for ADPE has been delegated to a contracting activity by the General Services Administration (see part 270).

(c) This subpart shall not be used to acquire:

(1) Commercial items on a non-competitive basis except as provided at 211.7003–2;

(2) Supplies within the exempted categories listed at 211.7003–4.

211.7003–2 Commercial items available from only one source.

(a) A commercial item that is available from only one source may be procured under the procedures of this subsection only if all of the following conditions are satisfied:

(1) The commercial item is an item regularly used for other than Government purposes that has been sold or traded to the general public in the course of normal business operations;

(2) The commercial item is the only practicable means for satisfying a Government requirement;

(3) Market research and analysis (see FAR 11.004) has confirmed that the commercial item is available from only one source;

(4) A Justification and Approval required for acquisitions described in FAR 6.302–1(b)(1)(i) has been executed; and,

(5) The prospective source has certified (see 252.211–7014) that the item(s) offered in response to the solicitation are commercial items which have been sold or traded to the public and either:

(i) The prices offered do not exceed the lowest price at which the items have been actually sold to any other customer, in similar quantities and for similar delivery periods, within the 90 day period preceding the date of the offer; or,

(ii) The written justification required by the certification at 252.211–7014(c)(2)(ii) adequately substantiates the proposed adjustments to the lowest prices at which the items have been sold.

(b) Contracting officers may, at their discretion, request additional information from an offerer to clarify the offeror's justification of price differences. Such information shall not be considered cost or pricing data for purposes of this subpart.

(c) Award may be made without negotiations if all the criteria in paragraph (a) of this subsection have been satisfied. The offeror shall not be required to submit certified cost or pricing data to the Government or to obtain, or require the submission of, certified cost or pricing data from its subcontractors and suppliers.

211.7003–3 Existing or prior sources of supplies.

(a) The Head of a Military Department or Defense Agency, or his or her designee, may determine that it is in the Government's interests to permit existing or prior sources of supplies to

participate in a competition for a commercial item.

(b) This determination may be made only when:

(1) A commercial item will replace an item that is being or has been furnished to the Government in accordance with Government unique product descriptions, drawings or other specifications; and,

(2) The existing or previously furnished item will compete with commercial items under the same terms, conditions and evaluation/award criteria.

(c) The authority and criteria at paragraphs (a) and (b) of this subsection also apply to minor modifications (as that term is defined at 211.7001) of existing or previously furnished items when the minor modifications are necessary to comply with the Government's solicitation requirements.

(d) The policies, procedures, solicitation provisions and contract clauses applicable to commercial items under this subpart shall apply also to existing or previously furnished items permitted to participate in a competition conducted under this subpart.

211.7003-4 Exempted categories of supplies.

(a) The procedures of this subpart shall not be used to acquire the following:

(1) Small purchases under FAR part 13;

(2) Bakery and dairy products (See 217.73) and perishable foods;

(3) Petroleum, crude oil, unfinished oils and finished products as defined in FAR 25.108(d)(2);

(4) Items subject to Authorization and Appropriations Act Restrictions (see 225.70);

(5) Forging and welded shipboard anchor chain items (see 208.78 and 211.7003-1 (b)(3));

(6) Anti-friction bearings (see 208.79); and,

(7) Utilities services (see DFARS Supplement No. 5).

211.7004 Requirements.

211.7004-1 General.

(a) *Contract type.* Only firm fixed price contracts, or as provided in paragraph (b) of this subsection, fixed price contracts with economic price adjustment provisions, shall be used to acquire commercial items under this subpart. The term "firm fixed price contracts" includes orders under Indefinite-Delivery contracts (see FAR 16.502 through 16.504 and 16.506) when the prices at which supplies may be acquired are established as firm fixed prices or fixed prices with economic price adjustment.

(b) *Economic price adjustment.* (1) Contracting officers shall structure solicitations for commercial items to assure that the period of contract performance is not extended beyond customary industry practice for the product to be acquired.

(2) Contracting officers may consider the use of fixed price contracts with economic price adjustment provisions, subject to the limitations at FAR 16.203-3, if an extended period of performance cannot be avoided and the other conditions described in FAR 16.203-2 exist.

(3) Solicitations and contracts shall include economic price adjustment provisions tailored to the particular contracting situation.

(c) *Specification requirements.* Commercial items shall be acquired using commercial item descriptions or performance specifications expressed in terms of an item's performance requirements and form, fit, function or other physical characteristics. Performance specifications shall not include: (1) Specific designs, manufacturing processes or procedures; or, (2) Military Standards or Military Specifications which would restrict a potential contractor's ability to satisfy the Government's requirements.

(d) *Technical data and computer software.* (1) Contracting officers shall not acquire technical data or computer software when contracting for commercial items under this subpart, except for:

(i) Technical data or computer software required to properly maintain and repair the items when maintenance or repair is not otherwise the contractor's responsibility under the contract;

(ii) Technical data and computer software describing the proper operating or handling procedures for the items when such data are not customarily provided to the general public as part of an item's price;

(iii) Technical data or computer software describing the modifications made to the items in order to meet the requirements of the procuring agency; or,

(iv) Computer software as an end item (see 270.302-2(b)).

(2) All data to be acquired under the contract shall be listed on DD Form 1423, Contract Data Requirements List.

(3) The clauses at 252.211-7017, Technical Data and Computer Software—Commercial Items; 252.211-7021, Technical Data and Computer Software—Withholding of Payment—Commercial Items; and 252.211-7022, Certification of Technical Data Conformity—Commercial Items shall be included in all contracts for commercial items when technical data or computer software will be acquired under the contracts.

(e) *Contract quality requirements.* Contracting officers shall not require contractors to comply with a government specified quality control system or quality program (see FAR 46.202-3). The Government shall rely on the contractor's standard quality systems for commercial items.

(f) *Inspection requirements.* The Government shall rely on the contractor's inspection systems. Government inspection of supplies acquired under this subpart shall be limited to verification that the supplies tendered for acceptance conform to contractual requirements. The place or places at which inspection and acceptance will be performed, the acceptance criteria and any associated requirements shall be identified in section E, "Inspection and Acceptance", of the solicitation and contract. These requirements may also be included in the commercial item descriptions or performance specifications used to acquire the items.

(g) *Packaging and marking.* Commercial items shall be packaged and marked in accordance with best commercial practice unless unique military storage or operational needs require special packaging and marking. Requiring activities shall document the contract file to clearly identify the needs or circumstances which mandate the use of special packaging or marking requirements.

(h) *Options.* Contracting officers may include option provisions in solicitations and resulting contracts in accordance with the procedures at FAR subpart 17.2. Solicitation provisions and contract clauses shall be tailored to fit the requirements of the particular contracting situation.

(i) *Certified cost or pricing data.* (1) Contracting Officers shall not require certified cost or pricing data from contractors or require contractors to obtain certified cost or pricing data from their subcontractors or suppliers when:

(i) Competitively acquiring commercial items;

(ii) Acquiring commercial items available from only one source when the criteria at 211.7003-2 are satisfied; or,

(iii) From the sole offeror submitting a response to a competitive solicitation when the criteria at 211.7005-3 are satisfied.

(2) Contracting officers shall require prime contractors to submit certified

cost or pricing data for contract modifications involving a price adjustment in excess of $100,000 in accordance with the requirements at FAR 15.804 and 215.804. Contracting officers shall require contractors to submit only the cost or pricing data necessary to price the contract modification.

(3) Solicitations and contracts shall include the clauses at 252.211–7010, "Price Reduction for Defective Cost or Pricing Data—Contract Modifications—Commercial Items" and 252.211–7012, "Audit of Contract Modifications—Commercial Items" when the criteria in subparagraphs (i) (1) and (2) are met.

(j) *Warranties.* (1) Weapon Systems.

(i) 10 U.S.C. 2403 requires warranties of certain weapon systems but provides that the term weapon system does not include commercial items sold in substantial quantities to the general public.

(ii) Contracting officers shall include tailored, cost effective warranties in solicitations and contracts for weapon systems in accordance with the policies and procedures at 246.770.

(2) Other than weapons systems.

(i) General.

(A) Contracting officers shall consider the criteria at FAR 46.703 in determining whether the use of a warranty is appropriate.

(B) Warranty clauses shall not limit the Government's rights under the Inspection and Acceptance—Commercial Items clause (252.211–7004) and shall provide that the warranty applies notwithstanding inspection and acceptance or other clauses or terms of the contract.

(C) Contracting officers shall assure that warranty provisions are consistent with other contractual requirements (e.g., failure free warranties may not be appropriate when acceptance criteria are based upon sampling techniques which assume an "acceptable" level of discrepancies).

(D) The duration of a warranty for an item intended for use as a subsystem or component of a weapon system should be established giving consideration to the duration of the weapon system warranty.

(ii) Commercial items, including computer software, which have been sold or traded to the general public in the course of normal business operations.

(A) Contracting officers shall acquire, to the extent practicable, commercial warranties customarily offered to the general public whenever those warranties adequately protect the Government's interests.

(B) Contracting officers shall structure solicitations and develop evaluation criteria that permit the evaluation of offers and contract award based on:

(*1*) Warranties which have been customarily provided to the general public, either within the item's price or at an additional cost; or,

(*2*) Government specified warranty provisions tailored to the specific needs of the procurement.

(C) Solicitations requiring offers based upon a Government specified warranty, shall permit offerors to offer alternative prices based upon the offeror's standard commercial warranty and shall include appropriate evaluation criteria.

(iii) Other commercial items, as defined in 211.7001.

(A) Solicitations and contracts may include tailored warranty clauses or the warranties clauses provided at FAR 52.246–17, Warranty of Supplies of a Non-Complex Nature, 52.246–18, Warranty of Supplies of a Complex Nature, or 52.246–19, Warranty of Systems and Equipment under Performance Specifications or Design Criteria, and their alternates. The FAR clauses may be modified, as provided in FAR 46.710, to suit the particular needs of the procurement.

(B) Solicitations may provide for the submission and evaluation of alternative price offers based upon an offeror's standard warranty. The solicitation shall provide that alternative offers shall be considered for award only if the contractor's standard warranty provides adequate protection of the Government's interests.

(C) Tailored warranty provisions should be considered when an item is intended for use as a subsystem or component of a weapon system to assure that the subsystem or component is procured in a manner that does not invalidate the weapon system warranty.

(k) *Socio-economic programs.* (1) The procedures at FAR part 19 and DFARS parts 219 and 220 shall be followed when it is anticipated that small businesses or labor surplus area concerns may respond to a solicitation for commercial items; or, the contracting officer determines that the acquisition should be set aside, either totally or partially, for small businesses.

(2) Solicitations and contracts under this Subpart shall include the provision at 252.211–7020 in lieu of the representations and certifications prescribed at FAR part 19 and DFARS parts 219 and 220.

(l) Buy American Act, Foreign Contracting, Acquisitions for Foreign Governments and related considerations.

(1) The procedures at FAR part 25 that are applicable to DOD acquisitions, FAR subpart 47.5, DFARS part 225 and DFARS subpart 247.5 apply, to the extent specified therein, to all acquisitions of commercial items under this subpart.

(2) Supplies to be acquired for a foreign government or international organization under the authority of 10 U.S.C. 2304(c)(4) (see FAR 6.302–4), shall not be acquired using the procedures of this subpart.

(m) *Cost accounting standards.* The cost accounting standards at FAR part 30 are applicable, under this subpart, only to the acquisition of commercial items available from only one source. Contracting officers shall include the provision at FAR 52.230–1, Cost Accounting Standards Notices and Certification (National Defense) in solicitations for commercial items available from only one source. The clauses at FAR 52.230–3, "Cost Accounting Standards"; 52.230–4, "Administration of Cost Accounting Standards"; and, 52.230–5, "Disclosure and Consistency of Cost Accounting Practices" shall be included in all solicitations and contracts for commercial items available from only one source.

211.7004–2 Telegraphic and facsimile submission of offers.

(a) Contracting officers shall authorize the submission of telegraphic or facsimile offers to the maximum extent practicable.

(b) *Telegraphic Offers.* (1) Telegraphic offer means an offer, modification of an offer, or withdrawal of an offer that is delivered to the Government by telegram or mailgram; or, transmitted to the Government by telex.

(2) The solicitation provision at 252.211–7007 shall be incorporated in solicitations when telegraphic submission of offers is authorized.

(3) The Government's telex number shall be provided to offerors in paragraph (g) of the solicitation provision if telex equipment is available at the location designated in the contract for submission of offers.

(4) Contracting officers shall require offerors submitting telegraphic offers to submit a signed, original offer within five (5) working days from the date specified for receipt of offers in the solicitation.

(5) Contracting officers may provide offerors who fail to make a timely response to the contracting officer's request for an original, signed offer an opportunity to cure the deficiency in accordance with the procedures at

14.405 and 15.607. The contracting officer shall specify the time and date by which the deficiency must be cured. An offeror's failure to cure the deficiency within the time specified by the contracting officer shall render the offer non-responsive and ineligible for award.

(c) Facsimile Offers. (1) Contracting officers shall include the solicitation provision at 252.211–7003 when submission of facsimile offers is authorized.

(2) Contracting officers may make awards on the basis of facsimile submissions.

(3) Contracting officers may require offerors submitting facsimile offers to submit separately an original, signed copy of the solicitation cover sheet and shall specify the place and time at which the signed cover sheet must be submitted to the contracting officer.

(4) Contracting officers may provide offerors who fail to sign a facsimile offer or fail to make a timely respond to the contracting officer's request for an original signed copy of the offer cover sheet, an opportunity to cure the deficiency in accordance with the procedures at 14.405 and 15.607. The contracting officer shall specify the time and date by which the deficiency must be cured. An offeror's failure to cure the deficiency within the time specified by the contracting officer shall render the offer non-responsive and ineligible for award.

211.7004–3 Content and format for solicitations and contracts.

(a) Solicitations and contracts shall include only the:

(1) Solicitation provisions authorized at 211.7004–7;

(2) Contract clauses authorized at 211.7004–5;

(3) Special contract requirements authorized at 211.7004–4(h); and,

(4) Solicitation provisions, contract clauses and special contract requirements that the contracting officer has determined, in writing, are essential for the protection of the Government's interests in a particular contract.

(b) Invitations for Bids (IFBs) and resulting contracts shall be prepared in either the standard format contained in Table 211–1 or the simplified contract format described at FAR 14.201–9. Requests for Proposals (RFPs) and resulting contracts shall be prepared using the standard format contained in Table 211–1.

TABLE 211–1—STANDARD COMMERCIAL ITEM CONTRACT FORMAT

Section	Title
	Part I—The Schedule
A	Solicitation/Contract Form.
B	Supplies and prices.
C	Description/Specification.
D	Packaging and Marking.
E	Inspection and Acceptance.
F	Delivery Schedule.
G	Contract Administration Information.
H	Special Contract Requirements.
	Part II—Contract Clauses
I	Contract Clauses.
	Part III—Attachments
J	List of Attachments.
	Part IV—Representations and Instructions
K	Representations and certifications.
L	Instructions, conditions or notices.
M	Evaluation factors for award.

211.7004–4 Part I—The Schedule.

The contracting officer shall prepare the Schedule as follows:

(a) *Section A, Solicitation/Contract Form.* Invitations for Bids and Requests for Proposals shall be prepared on either Standard Form (SF) 33 or SF 1447, which serves as the first page of the solicitation.

(b) *Section B, Supplies and Prices.* Provide a brief description of the supplies to be acquired under each line item, and the quantities and units of measure (i.e., gross, dozen, etc.) applicable to each line item.

(c) *Section C, Description/Specification.* Include only the commercial item descriptions or performance specifications (expressed in terms of the item's performance requirements, form, fit or function, or other physical characteristics) which describe the Government's requirements.

(d) *Section D, Packaging and Marking.* Contracting officers shall require packaging and marking to be accomplished in accordance with "best commercial practices" unless the use of special packaging and marking has been justified (see 211.7004–1(g)). Any justified special packaging and marking requirements shall be clearly identified.

(e) *Section E, Inspection and Acceptance.* Solicitations and contracts shall identify the place(s) where inspection and acceptance will be performed and the acceptance criteria.

(f) *Section F, Delivery Schedule.* Solicitations and contracts shall identify the date(s) and place(s) of delivery, and shall provide shipping instructions if necessary.

(g) *Section G, Contract Administration Information.* This section may be used to supplement, if necessary, the contract administration information provided on the cover sheet.

(h) *Section H, Special Contract Requirements.* Contracting officers shall include in this section economic price adjustment, option, or tailored warranty provisions (including a contractor's standard commercial warranty when a standard commercial warranty has been acquired) and any other special contract requirements that the contracting officer has determined, in writing, are essential for the protection of the Government's interests in a particular contract (See 211.7004–3(b)).

211.7004–5 Part II—Contract Clauses (Section I, Contract Clauses)

(a) The contracting officer shall include in all solicitations and contracts under this subpart: All the clauses included in 211.7006(a); any applicable clauses from 211.7006(b); and, any other contract clauses that the contracting officer has determined, in writing, are essential for the protection of the Government's interests in a particular contract (See 211.7004–3(b)).

(b) Flow down requirements to subcontractors and suppliers are identified at 211.7006(e).

211.7004–6 Part III—List of Attachments and Exhibits.

Section J, List of Attachments and Exhibits. The Contracting officer shall list the title, date, and number of pages of each attached document.

211.7004–7 Part IV—Representations and Instructions.

The contracting officer shall prepare the representations and instructions as follows:

(a) *Section K, Representations and Certifications.* (1) Only the representations and certifications, or submissions of other information by offerors which are authorized for use under this subpart (See 211.7006(c)) shall be included in the solicitation.

(2) The representation at 252.211–7015 shall be used in both Invitations for Bids and Requests for Proposals.

(3) The certification at 252.211–7013 shall be included in all competitive solicitations.

(4) The certification at 252.211–7014 shall only be included in solicitations for commercial items available from only one source.

(b) *Section L, Instructions, Conditions, or Notices.* (1) Insert in this section the applicable solicitation provisions from 211.7006(d), any other solicitation provisions that the contracting officer has determined, in writing, are essential for the protection of the Government's interests in a particular contract (See

211.7004–3(b)) and any other information which may be required to facilitate an offeror's understanding of the solicitation.

(2) The solicitation provisions at 52.215–9, 52.215–12, 52.215–13, 52.215–14, 52.216–1, 252.211–7009, and 252.211–7016 shall be included in all Invitations for Bid and Requests for Proposals.

(3) The solicitation provision at 252.211–7018 shall be included in all Invitations for Bid and Requests for Proposals issued in the United States or Canada that require the submission of offers to a contracting office in the United States or Canada.

(4) The solicitation provision at 252.211–7019 shall be included in all Invitations for Bid and Requests for Proposals requiring the submission of offers to a contracting office outside the United States and Canada.

(c) *Section M, Evaluation Factors for Award.* (1) When sealed bids will be solicited, identify the price related factors other than the bid price that will be considered in evaluating bids and awarding the contract.

(2) When proposals will be solicited, the solicitation shall clearly advise offerors that award will be based on best value to the government. The solicitation shall identify all factors and any subfactors that will be considered in awarding the contract and state the relative importance the Government places on those evaluation factors and subfactors. As prescribed at FAR 15.605(b), price and quality shall be addressed in every source selection.

211.7005 Procedures.

211.7005–1 General.

Procedures for administrative matters, the synopsis and release of solicitations, safeguarding bids or proposals, evaluating proposals and other requirements related to the processing of bids or proposals are set forth in FAR parts 4, 5, 14, and 15 and DFARS parts 204, 205, 214 and 215; except that the requirements at 15.804 and 215.804 for certified cost and pricing data apply only to modifications to contracts awarded under the procedures of subpart 211.70.

211.7005–2 Award of contract.

(a) Contracts for commercial items shall be awarded to:

(1) For sealed bids, the responsive, responsible bidder whose bid is most advantageous to the Government considering only price and the price related factors included in the solicitation; and,

(2) For other than sealed bids, the responsive, responsible offeror whose proposal has been determined, in accordance with the evaluation criteria contained in the solicitation, to provide the best value to the Government.

(b) Contracts resulting from IFBs shall be awarded on the forms prescribed at FAR 14.407(d)(1).

(c) Contract awards using procedures other than sealed bidding procedures, including awards contemplated when only one response is received to a competitive Request for Proposals, shall be made using the award portion of the solicitation document (SF 33 or SF 1447) unless the contracting officer has had discussions with the contractors within the competitive range and bilateral execution of a SF 26 would more appropriately reflect acceptance of the modified offer resulting from the discussions or negotiations.

211.7005–3 One offer.

If only one offer is received from a responsive, responsible offeror in response to a competitive solicitation, the contracting officer shall re-examine the market analyses and specifications for the commercial item to assure that the initial assumptions of market conditions were valid and the specifications contained in the solicitation did not unduly restrict competition.

(a) The contracting officer shall cancel the solicitation if it is determined that the specification(s) unduly restricted competition.

(b) The contracting officer shall make an award in accordance with the procedures of this subpart if the specifications did not unduly restrict competition and the initial assumptions of market conditions were valid. The offer received shall be considered an offer submitted under conditions of full and open competition. The offeror shall not be required to submit certified cost or pricing data.

(c) The contracting officer may, if the specification did not unduly restrict competition but the initial assumptions of market conditions were not valid:

(1) Award the contract if the offeror has certified that the item offered in response to the solicitation:

(i) Has been sold to the general public in the course of normal business operations;

(ii) Has been offered for sale at established prices; or,

(iii) Is a minor modification of such items.

The offer received shall be considered an offer submitted under conditions of full and open competition. The offeror shall not be required to submit certified cost or pricing data.

(2) Enter into negotiations under FAR part 15 or DFARS part 215 if the offeror has certified that the commercial item, or minor modification of a commercial item, offered is an item that has not yet been offered for sale but will be commercially available in a reasonable period of time.

211.7005–4 Contract administration.

The procedures for assignment of contract administration functions are set forth in FAR part 42 and DFARS part 242, except that FAR subparts 42.5, 42.7 through 42.11, and DFARS subparts 242.5, 242.7 through 242.11, and 242.70 through 242.73 are not applicable when contracting under this subpart.

211.7005–5 Specification changes and change orders.

(a) *General.* A change to a contract for a commercial item can have a more disruptive and costly effect on both the contractor and the Government than a corresponding change to an item which has been specifically designed and developed for the Department of Defense. Therefore, the ordering of changes, particularly specification changes, is strongly discouraged. Requirements personnel and contracting officers shall carefully evaluate the perceived need for a change prior to ordering any change. An example of an extraordinary circumstance under which a change may be necessary is a change to the form, fit or function of a commercial item necessitated by a change to other equipment or systems of which the commercial item is, or is intended to be, a component.

(b) *Unilateral changes.* As prescribed at 252.211–7002–Changes—Commercial Items, the contracting officer may at any time, by written order, make unilateral changes in the method of shipment, packing or place of delivery.

(c) *Bilateral changes.* As prescribed at 252.211–7002–Changes—Commercial Items, specification changes shall be issued only by a bilateral modification to the contract. The bilateral modification shall be prospectively, definitively priced unless the Government's interests demand that performance begin immediately and negotiation of a definitive price is not possible in sufficient time to meet the Government's requirements. In the latter event, the bilateral modification shall:

(1) Include a maximum price for the change and the contractor's agreement that the definitive price for the change shall not exceed the maximum price; and,

(2) Contain definitization schedules established in accordance with 217.7503(b)(3).

(d) *Certified cost or pricing data.* Certified cost or pricing data may be required when the definitive price of a contract change exceeds $100,000 as provided at 211.7004–1(i), and FAR 15.804. Certified cost or pricing data are not required when establishing the maximum price for a contract change in accordance with paragraph (c) of this subsection.

211.7005–6 Transportation of supplies.

Contracting officers shall comply with the policies and procedures for the transportation of supplies at FAR part 47 and DFARS part 247 except that FAR subparts 47.2 and 47.4 and DFARS 247.2–247.4 are not applicable to the acquisition of commercial items.

211.7006 Contract clauses.

(a) The contracting officer shall insert the following required clauses in Section I of all solicitations and contracts awarded under this subpart:

(1) FAR 52.203–1 Officials Not to Benefit.
(2) FAR 52.203–3 Gratuities.
(3) FAR 52.203–5 Covenant Against Contingent Fees.
(4) FAR 52.203–6 Restriction on Subcontractor Sales to the Government.
(5) FAR 52.203–7 Anti-Kickback Procedures.
(6) FAR 52.203–12 Limitation on Payments to Influence Certain Federal Transactions.
(7) FAR 52.209–6 Protecting Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.
(8) FAR 52.215–33 Order of Precedence.
(9) FAR 52.219–8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.
(10) FAR 52.219–13 Utilization of Women-Owned Small Businesses.
(11) FAR 52.220–3 Utilization of Labor Surplus Area Concerns.
(12) FAR 52.222–26 Equal Opportunity.
(13) FAR 52.222–35 Affirmative Action for Special Disabled and Vietnam Era Veterans.
(14) FAR 52.222–36 Affirmative Action for Handicapped Workers.
(15) FAR 52.222–37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era.
(16) FAR 52.223–6 Drug-Free Workplace.
(17) FAR 52.225–13 Restrictions on Contracting with Sanctioned Persons.
(18) FAR 52.229–3 Federal, State, and Local Taxes.
(19) FAR 52.232–23 Assignment of Claims.
(20) FAR 52.233–1 Disputes.
(21) FAR 52.233–2 Service of Protest.
(22) FAR 52.233–3 Protest After Award.
(23) 252.203–7001 Special Prohibition on Employment.
(24) 252.203–7002 Statutory Compensation Prohibitions and Reporting Requirements Relating to Certain Former Department of Defense (DoD) Employees.
(25) 252.211–7000 Termination—Commercial Items.
(26) 252.211–7001 Invoice and Payment—Commercial Items.
(27) 252.211–7002 Changes-Commercial Items.
(28) 252.211–7003 Patents and Copyright Indemnification—Commercial Items.
(29) 252.211–7004 Inspection and Acceptance—Commercial Items.
(30) 252.211–7005 Limitation of Liability—Commercial Items.
(31) 252.211–7006 Title and Risk of Loss—Commercial and Items.
(32) 252.211–7017 Technical Data and Computer Software—Commercial Items.
(33) 252.211–7023 Clauses to be Included in Contracts with Sub-Contractors and Suppliers—Commercial Items.
(34) 252.214–7001 Domestic Source Restriction.
(35) 252.225–7009 Preference for Certain Domestic Commodities.
(36) 252.243–7001 Pricing of Adjustments.
(37) 252.247–7203 Transportation of Supplies by Sea.

(b) The contracting officer shall insert the following clauses in Section I of solicitations and contracts awarded under this subpart as applicable:

(1) FAR 52.215–1 Examination of Records by Comptroller General.
(2) FAR 52.216–18 Ordering.
(3) FAR 52.216–19 Delivery Order Limitation.
(4) FAR 52.216–20 Definite Quantity.
(5) FAR 52.216–21 Requirements.
(6) FAR 52.216–22 Indefinite Quantity.
(7) FAR 52.219–6 Notice of Total Small Business Set-Aside.
(8) FAR 52.219–7 Notice of Partial Small Business Set-Aside.
(9) FAR 52.219.9 Small Business and Small Disadvantaged Business Subcontracting Plan.
(10) FAR 52.219–16 Liquidated Damages—Small Business Subcontracting Plan.
(11) FAR 52.220–4 Labor Surplus Area Subcontracting Program.
(12) FAR 52.222–1 Notice to the Government of Labor Disputes.
(13) FAR 52.222– Convict Labor.
(14) FAR 52.222–20 Walsh Healy Public Contracts Act.
(15) FAR 52.222–24 Preaward On-Site Equal Opportunity Compliance Review.
(16) FAR 52.222–28 Equal Opportunity Preaward Clearance of Subcontracts.
(17) FAR 52.223–2 Clean Air and Water.
(18) FAR 52.225–10 Duty-Free Entry.
(19) FAR 52.225–11 Certain Communist Areas.
(20) FAR 52.230–3 Cost Accounting Standards.
(21) FAR 52.230–4 Administration of Cost Accounting Standard.
(22) FAR 52.230–5 Disclosure and Consistency of Cost Accounting Practices.
(23) FAR 52.232–17 Interest.
(24) FAR 52.232–28 Electronic Funds Transfer Payment Methods.
(25) FAR 52.242–10 F.o.b. Origin—Government Bills of Lading or Prepaid Postage.
(26) FAR 52.246–17 Warranty of Supplies of a Non-Complex Nature.
(27) FAR 52.246–18 Warranty of Supplies of a Complex Nature.
(28) FAR 52.246–19 Warranty of Systems and Equipment Under Performance Specifications or Design Criteria.
(29) FAR 52.247–1 Commercial Bill of Lading Notations.
(30) FAR 52.247–29 F.o.b. Origin.
(31) FAR 52.247–34 F.o.b. Destination.
(32) 252.2205–7000 Release of Information to Cooperative Agreement Holders.
(33) 252.211–7010 Price Reduction for Defective Cost or Pricing Data—Contract Modifications—Commercial Items.
(34) 252.211–7012 Audit of Contract Modifications—Commercial Items.
(35) 252.211–7021 Technical Data and Computer Software—Withholding of Payment—Commercial Items.
(36) 252.211–7022 Certification of Technical Data and Computer Software Conformity—Commercial Items.
(37) 252.219–7000 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts).
(38) 252.219–7001 Notice of Combined Small Business-Labor Surplus Area Set-Aside.
(39) 252.219–7002 Notice of Combined Small Business-Labor Surplus Area Set-Aside—Alternate.
(40) 252.219–7003 Determining the Set-Aside Award Price.
(41) 252.219–7006 Notice of Total Small Disadvantaged Business Set-Aside.
(42) 252.219–7007 Notice of Evaluation Preference for Small Disadvantaged Business (SDB) Concerns.
(43) 252.219–7009 Incentive Program for Subcontracting With Small and Small Disadvantaged Business Concerns, Historically Black Colleges and Universities and Minority Institutions.
(44) 252.219–7010 Notice of Partial Small Business Set-Aside With Preferential Consideration for Small Disadvantaged Business (SDB) Concerns.
(45) 252.219–7011 Determining the Set-Aside Award Price (Preferential Small Disadvantaged Business (SDB) Consideration).
(46) 252.220–7000 Notice of Labor Surplus Area Set-Aside.
(47) 252.220–7001 Notice of Labor Surplus Area Set-Aside—Alternate.
(48) 252.223–7004 Hazardous Material Identification and Material Safety Data.
(49) 252.223–7005 Notice of Radioactive Materials.
(50) 252.225–7001 Buy American Act and Balance of Payment Program.
(51) 252.225–7002 Qualifying Country Sources as Subcontractors.
(52) 252.225–7006 Buy American Act-Trade Agreement Act and the Balance of Payments Program.
(53) 252.225–7007 Supplies to be Accorded Duty-Free Entry.

(54) 252.225–7008 Duty-Free Entry-Qualifying Country End Products and Supplies.
(55) 252.225–7014 Duty-Free Entry-Additional Provisions.
(56) 252.225–7015 United States Products Certificate (Military Assistance Program).
(57) 252.225–7016 United States Products (Military Assistance Program).
(58) 252.225–7017 Limitation of Sales Commissions and Fees for Foreign Governments.
(59) 252.225–7019 Exclusionary Policies and Practices of Foreign Governments.
(60) 252.225–7021 Acquisition and Use of Excess and Near-Excess Currency.
(61) 252.233–7000 Certification of Request for Adjustment Exceeding $100,000.
(62) 252.242–7000 Submission of Commercial Freight Bill to the General Services Administration for Audit.
(63) 252.247–7204 Notification of Transportation of Supplies by Sea.

(c) The contracting officer shall insert the following representations and certifications in Section K of solicitations as applicable:

(1) FAR 52.203–4 Contingent Fee Representation and Agreement.
(2) FAR 52.203–11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.
(3) FAR 52.204–3 Taxpayer Identification.
(4) FAR 52.204–4 Contractor Establishment Code.
(5) FAR 52.209–5 Certification Regarding Debarment, Suspension, Proposed Debarment and Other Responsibility Matters.
(6) FAR 52.222–19 Walsh-Healy Public Contracts Act Representation.
(7) FAR 52.222–21 Certification of Nonsegregated Facilities.
(8) FAR 52.222–22 Previous Contracts and Compliance Reports.
(9) FAR 52.222–25 Affirmative Action Compliance.
(10) FAR 52.223–1 Clear Air and Water Certification.
(11) FAR 52.223–5 Certification Regarding A Drug-Free Workplace.
(12) FAR 52.225–12 Notice of Restrictions on Contracting with Sanctioned Persons.
(13) FAR 52.230–1 Cost Accounting Standards Notices and Certification (National Defense).
(14) 252.209–7000 Certification or Disclosure of Ownership or Control by a Foreign Government that Supports Terrorism.
(15) 252.211–7013 Certifications, Commercial Items, Competitive Acquisitions.
(16) 252.211–7014 Certifications, Commercial Items-Non-Competitive Acquisitions.
(17) 252.211–7015 New Material, Commercial Items.
(18) 252.211–7020 Business Type Certification, Commercial Items.
(19) 252.225–7000 Buy American-Balance of Payment Program Certificate.
(20) 252.225–7005 Buy American Act-Trade Agreement Act-Balance of Payments Program Certificate.
(21) 252.247–7202 Representation of Extent of Transportation by Sea.

(d) The contracting officer shall insert the following instructions, conditions or notices in section L of solicitations as applicable:

(1) FAR 252.214–21 Descriptive Literature.
(2)FAR 252.214–23 Late Submissions, Modifications, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.
(3) FAR 252.214–24 Multiple Technical Proposals.
(4) FAR 252.214–25 Step Two of Two-Step Sealed Bidding.
(5) FAR 252.214–33 Late Submissions, Modifications and Withdrawals of Technical Proposals Under Two step-Sealed Bidding (Overseas).
(6) FAR 252.215–8 Acknowledgment of Amendments to Solicitations.
(7) FAR 252.215–9 Submissions of Offers.
(8) FAR 252.215–12 Restriction on Disclosure and Use of Data.
(9) FAR 252.215–13 Preparation of Offers.
(10) FAR 252.215–14 Explanation to Prospective Offerors.
(11) FAR 252.216–1 Type of Contract.
(12) 252.211–7007 Telegraphic Submission of Offers—Commercial Items.
(13) 252.211–7008 Facsimile Submission of Offers—Commercial Items.
(14) 252.211–7009 General Solicitation Information and Definitions—Commercial Items.
(15) 252.211–7016 Contract Award—Commercial Items.
(16) 252.211–7018 Late Submissions, Modifications and Withdrawals of Offers—Commercial Items.
(17) 252.211–7019 Late Submissions, Modifications and Withdrawals of Offers—Commercial Items (Overseas).

(e) Contracting officers shall not require contractors to include in their contracts with subcontractors and suppliers, as those terms are defined at 211.7001 (g) and (h), any clauses or solicitation provisions other than the contract clauses and provisions required by statute or Executive Order to be included in such contracts. Contracting officers who include the following clauses in prime contracts, shall require prime contractors to include the same clauses in contracts with their subcontractors or suppliers in accordance with the following thresholds:

(1) All contracts with subcontractors and suppliers at any tier:

(i) *Regardless of dollar value:*

TITLE

FAR 52.203–7 Anti-Kickback Procedures.
FAR 52.222–26 Equal Opportunity.
FAR 52.225–12 Notice of Restrictions on Contracting with Sanctioned Persons.
FAR 52.225–13 Restrictions on Contracting with Sanctioned Persons.
252.223–7005 Notice of Radioactive Materials.
252.225–7000 Buy American-Balance of Payment Program Certificate.
252.225–7001 Buy American Act and Balance of Payment Program.
252.225–7005 Buy American Act-Trade Agreement Act-Balance of Payments Program Certificate.
252.225–7006 Buy American Act-Trade Agreement Act and the Balance of Payments Program.
252.225–7007 Supplies to be Accorded Duty-Free Entry.
252.225–7008 Duty-Free Entry-Qualifying Country End Products and Supplies.
252.225–7014 Duty-Free Entry-Additional Provisions.
252.225–7015 United States Products Certificate (Military Assistance Program).
252.225–7016 United States Products (Military Assistance Program).

(ii) *Over $2,500:*

FAR 52.222–36 Affirmative Action for Handicapped Workers.

(iii) *Over $10,000:*

FAR 52.222–35 Affirmative Action for Special Disabled and Vietnam Era Veterans.
FAR 52.222–37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era.

(iv) *Over $50,000:*

FAR 52.222–22 Previous Contracts and Compliance Reports.

(2) Subcontractors (See 211.7001(h), all tiers:

(i) *Regardless of dollar value:*

FAR 52.225–11 Certain Communist Areas.

(ii) *Over $10,000:*

FAR 52.222–21 Certification of Nonsegregated Facilities.
252.225–7009 Preference for Certain Domestic Commodities.

(iii) *Over $25,000:*

252.247–7203 Transportation of Supplies by Sea.

(iv) *Over $50,000:*

FAR 52.222–25 Affirmative Action Compliance.

(v) *Over $100,000:*

FAR 52.223–1 Clear Air and Water Certification.
FAR 52.223–2 Clean Air and Water.
FAR 52.225–10 Duty-Free Entry.
FAR 52.230–1 Cost Accounting Standards Notices and Certification (National Defense).
FAR 52.230–4 Administration of Cost Accounting Standard.
FAR 52.230–5 Disclosure and Consistency of Cost Accounting Practices.
252.211–7011 [Reserved.]
252.211–7012 Audit of Contract Modifications-Commercial Items.

(vi) *Over $500,000:*

FAR 52.220–4 Labor Surplus Area Subcontracting Program.

(vii) *Over $10,000,000:*

FAR 52.230–3 Cost Accounting Standards.

(3) Only subcontracts awarded by a prime contractor (first tier subcontractors):

(i) *Over $10,000:*

FAR 52.219–8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.

(ii) *Over $25,000:*

FAR 52.215–1 Examination of Records by Comptroller General.

(iii) *Over $500,000:*

FAR 52.219–9 Small Business and Small Disadvantaged Business Subcontracting Plan.

252.219–7000 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts).

(4) Although not required by statute, contracting officers may require prime contractors to include the clause at FAR 52.222–1, "Notice to the Government of Labor Disputes", in their subcontracts if the supplies to be acquired under the prime contract are related to programs or requirements which have been designated by the Head of the Contracting Activity as requiring notice of actual or potential post award labor disputes.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Sections 252.211–7000 through 252.211–7023 are added to read as follows:

Sec.

252.211–7000 Termination—Commercial Items.

252.211–7001 Invoice and Payment—Commercial Items.

252.211–7002 Changes—Commercial Items.

252.211–7003 Patent and Copyright Indemnification—Commercial Items.

252.211–7004 Inspection and Acceptance—Commercial Items.

252.211–7005 Limitation of Liability—Commercial Items.

252.211–7006 Title and Risk of Loss—Commercial Items.

252.211–7007 Telegraphic Submission of Offers—Commercial Items.

252.211–7008 Facsimile Submission of Offers—Commercial Items.

252.211–7009 General Solicitation Information and Definitions—Commercial Items.

252.211–7010 Price Reduction for Defective Cost or Pricing Data-Contract Modifications—Commercial Items.

252.211–7011 [Reserved]

252.211–7012 Audit of Contract Modifications—Commercial Items.

252.211–7013 Certifications—Commercial Items—Competitive Acquisitions.

252.211–7014 Certifications—Commercial Items—Non-Competitive Acquisitions.

252.211–7015 New Material—Commercial Items.

Sec.

252.211–7016 Contract Award—Commercial Items.

252.211–7017 Technical Data and Computer Software—Commercial Items.

252.211–7018 Late Submissions—Modifications and Withdrawals of Offers, Commercial Items.

252.211–7019 Late Submissions—Modifications and Withdrawal of Offers—Commercial Items (Overseas).

252.211–7020 Business Type Certification—Commercial Items.

252.211–7021 Technical Data and Computer Software—Withholding of Payment—Commercial Items.

252.211–7022 Certification of Technical Data and Computer Software Conformity—Commercial Items.

252.211–7023 Clauses to be Included in Contracts with Sub-Contractors and Suppliers—Commercial Items.

252.211–7000 Termination—Commercial Items.

As prescribed at 211.7006(a), insert the following clause:

TERMINATION—COMMERCIAL ITEMS (AUG 1990)

(a) The Government may terminate all or any part of this contract, at any time and for any reason, by giving written or electronic notice to Contractor. The termination notice shall specify whether termination is for the convenience of the Government or default by the contractor. Immediately upon receipt of the termination notice, the contractor shall stop all work hereunder and shall immediately cause its suppliers or subcontractors to cease such work. The contractor shall take all other reasonable actions to minimize the costs of the termination.

(b) Termination for Convenience of the Government.

(1) If this contract is terminated for the convenience of the Government, the contractor shall submit its final termination settlement proposal within ninety (90) days following receipt of the termination notice, unless extended in writing by the contracting officer upon written request of the contractor within such ninety (90) day period.

(2) The contracting officer shall have the unilateral right to determine the amount payable, if any, under this clause if the contractor fails to submit a timely termination settlement proposal as provided in paragraph (b)(1) of this clause. The contractor shall have no right of appeal regarding the contracting officer's unilateral determination if the contractor has failed to submit a termination settlement proposal as provided in paragraph (b)(1) and has failed to request an extension of the time for proposal submission.

(3) Notwithstanding any other provision of this contract, the Government shall have the right to audit and examine all books, records, facilities, work, material, inventories and other items relating to the termination proposal.

(4) The Government shall pay for termination charges computed in the following manner:

(i) The reasonable, allowable and allocable costs, determined in accordance with FAR Part 30, incurred by Contractor, its Subcontractors and Suppliers prior to the date of termination for completed work, work in process, and materials directly related to the terminated portion of the contract, for orderly phase out of performance if requested by the Government and for preparation and settlement of the contractor's, its subcontractor's and supplier's termination claims.

(ii) A reasonable profit on the terminated portion of the work.

(iii) In no event shall the sum of the termination amounts payable and any amounts paid for items delivered under the contract exceed the total contract price.

(5) The contracting officer shall deduct the amount of any claim which the Government has against the contractor under this contract from any amount due the contractor under this clause.

(6) The Government will make no payment for:

(i) Any undelivered items which are in the Contractor's, a sub-contractor's or a supplier's standard stock or which are readily marketable;

(ii) Finished goods, work-in-process or raw materials fabricated or procured by Contractor in amounts in excess of those required for this contract;

(iii) Except as provided in paragraph (b)(4) of this clause, any costs which would not have been charged had the contract not been terminated; or

(iv) Claims by the Contractor, its Subcontractors or Suppliers for any loss of anticipated profit, unabsorbed overhead, facilities rearrangement costs or rental, incident to the termination action.

(v) An amount which exceeds the product of the unit price of the terminated units multiplied by the number of units in process under this contract at the time of termination.

(7) Except for a unilateral determination under paragraph (b)(2) of this clause, if the contracting officer and the contractor fail to agree on the whole amount to be paid because of the termination of work, the contracting officer shall make a final decision regarding the amount payable under paragraphs (b) (4) through (6) of this clause and shall pay the contractor such amount. The contractor shall have the right to appeal the contracting officer's final decision under the Disputes clause of this contract.

(c) Termination for Default.

(1) Except as provided in paragraph (c)(2) of this clause, the Government may terminate this contract or any part thereof, for default if the Contractor:

(i) Repudiates or breaches any of the terms of this contract, including the Contractor's warranties;

(ii) Fails to deliver items at the times and places required by the contract;

(iii) Fails to deliver items which conform to contractual requirements;

(iv) Fails to make progress so as to endanger timely and proper completion of contract and delivery of supplies; and

(v) Fails to provide the Government reasonable assurances of future performance.

(2)(i) Neither party shall be liable for default or delay caused by any occurrence beyond the reasonable control of the party and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, accidents, unusually severe weather, and delays of common carriers.

(ii) If the failure to perform is caused by the default of a subcontractor or supplier at any tier, and if the cause of the default is beyond the control of both the contractor and the subcontractor/supplier, and without the fault or negligence of the contractor and its subcontractors and suppliers, the contractor shall not be liable for any excess costs for failure to perform, unless the supplies were obtainable from other sources in sufficient time for the contractor to meet the required delivery schedule.

(3) The Government shall provide the contractor written or electronic notice of its intent to terminate the contract for default and the specific reason therefor. The contractor shall be provided ten (10) days after receipt of such notice to correct the breach or failure.

(4) If the contractor does not cure such failure within ten (10) days, or such other period authorized in writing by the contracting officer, the Government may exercise its right to terminate the contract in whole or in part. The contractor shall continue the work not terminated. The Government shall have no liability to the contractor incident to such termination. The contractor shall be liable to the Government for any and all damages including any costs to procure items similar to those terminated which are in excess of the costs for the terminated portion of the contract.

(5) If, after termination, it is determined that the contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(6) The Government shall pay for any items delivered by the contractor and accepted by the Government for which payment has not been made.

(d) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of Clause)

252.211-7001 Invoice and payment—Commercial items.

As prescribed at 211.7006(a), insert the following clause:

INVOICE AND PAYMENT—COMMERCIAL ITEMS (AUG 1990)

(a) Payments.

(1) Payment shall be made only for supplies accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) The Government shall pay for accepted and delivered supplies no later than the thirtieth day following receipt of a proper invoice for such supplies.

(3) The contracting officer, at his discretion and notwithstanding any other provision of this contract, may adjust any payment owed to the contractor for accepted supplies delivered under this contract if the contracting officer determines that previously accepted supplies, for which payment had been made, did not conform to the requirements of the contract or were not in the quantity or quantities stated on any prior invoice. The amount of the contracting officer's adjustment shall not exceed an amount necessary to assure that the total payments to the contractor under the contract do not exceed the amounts payable for fully conforming supplies. If the payment in question is the final payment under the contract, the contractor agrees to promptly refund the amount necessary to correct the discrepancy between the total amount payable for fully conforming supplies and the amount actually paid by the Government.

(b) Interest penalty for late Government payments.

(1) An interest penalty will be paid to the Contractor if the Government does not make payment on or before the thirtieth day following receipt of a proper invoice. Interest shall accrue on a daily basis beginning the thirty-first day following receipt of a proper invoice and ending on the date payment is made. The date payment is made shall be the date appearing on the payment check or the date an electronic funds transfer was made. The amount of interest shall be computed using the rate of interest established by the Secretary of the Treasury (published in the Federal Register semiannually) for interest payments under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), which is in effect on the day the penalty begins.

(2) The interest penalty shall be applied only to the portion of the invoice amount approved for payment by the Government and shall be compounded in thirty day increments. Interest accrued and not paid during any thirty day period to which the interest penalty applies (the thirty-first through sixtieth, sixty-first through ninetieth, etc. day periods following receipt of a proper invoice) shall be added to the amount approved for payment and the adjusted amount shall earn interest until payment is made by the Government.

(3) The following periods of time will not be included in the determination of an interest penalty:

(i) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days.

(ii) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233–1, Disputes, or for more than 1 year. Interest penalties of less than $1.00 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable will be resolved in accordance with the clause at 52.233–1, Disputes.

(4) An interest penalty shall also be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(5) A penalty amount, calculated in accordance with regulations issued by the Office of Management and Budget, shall be paid in addition to the interest penalty amount if the Contractor—

(i) Is owed an interest penalty;

(ii) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(iii) Makes a written demand, not later than 40 days after the date the invoice amount is paid, that the agency pay such a penalty.

(6) For the sole purpose of determining the date upon which entitlement to an interest penalty payment for late payment by the Government begins, the date of receipt of a proper invoice shall be:

(i) If the designated billing office fails to notify the contractor of a defective invoice within the period prescribed in subparagraph (c)(4) of this clause, the date of the corrected invoice shall be adjusted by subtracting from the date of the corrected invoice the number of days taken to provide such notification which are in excess of the number of days prescribed in subparagraph (c)(4); (i.e., 7 day notification period, 10 days taken to notify the contractor, corrected invoice date of July 1, the date of submission of a proper invoice shall be June 28).

(ii) If the Government fails to accept or reject supplies within a seven day period following tender for acceptance, the Government shall be considered to have received a proper invoice from the contractor on the seventh day following the date supplies were tendered for acceptance; provided that such supplies were properly tendered in accordance with the terms of the contract clause entitled "Inspection and Acceptance—Commercial Items". This constructive receipt of an invoice shall not obligate the Government to accept the supplies, perform contract administration functions, or make payment for the supplies.

(7) Adjustments will be made by the designated payment office for errors in calculating interest penalties, if requested by the contractor.

(c) Invoices.

(1) Acceptance and delivery at contractor's facility. The contractor may invoice for payment upon the Government's execution of a completed DD Form 250, Material Inspection and Receiving Report, signifying acceptance of the supplies by an authorized Government official or upon receipt of any other documentation authorized in the contract to signify Government acceptance of the supplies.

(2) Acceptance at contractor's facility, delivery at other sites.

The contractor may submit an invoice for supplies accepted at the contractor's facility that are required to be delivered to another site or sites specified in the contract:

(i) Upon receipt at the other site or sites if the contractor is contractually responsible for physically transporting the supplies to such sites; or,

(ii) Upon execution of the DD Form 250 or other documentation signifying acceptance of the supplies at the contractor's facility by an authorized Government official if the Government is responsible for physically transporting the supplies to such sites.

(3) Delivery to sites other than the contractor's facility for acceptance.

The contractor may invoice for supplies delivered to a site or sites other than the contractor's facility for acceptance at that site or sites upon execution by an authorized Government official of a DD Form 250, or such other documentation as may be authorized in the contract, signifying that the delivered supplies have been accepted by the Government.

(4) The Contractor shall submit an original invoice and three copies to the address designated in the contract to receive invoices. A proper invoice must include (i) name and address of the Contractor; (ii) invoice date; (iii) Contract number, contract line item number and, if applicable, the order number; (iv) description, quantity, unit of measure, unit price and extended price of the supplies delivered; (v) shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on Government bill of lading; (vi) terms of any prompt payment discount offered; (vii) name and address of official to whom payment is to be sent; and, (viii) name, title, phone number of person to be notified in event of defective invoice. If the invoice does not comply with these requirements, the contractor will be notified of the defect within seven (7) days after receipt of the invoice at the designated office.

(d) Discounts for Prompt Payment.

(1) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a prompt payment discount in conjuncetion with the offer, offerors awarded contracts may include prompt payment discounts on individual invoices.

(2) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

(End of Clause)

252.211-7002 Changes—Commercial items.

As prescribed at 211.7006(a), insert the following clause:

CHANGES—COMMERCIAL ITEMS (AUG 1990)

(a) Neither party to this contract may change the contract specification(s), without the consent of the other. The Contractor may submit a proposal for specification changes to the contracting officer, or the Government may request the Contractor to submit such a proposal in the format specified by the contracting officer.

(b) Unilateral Changes.

(1) The contracting officer may at any time, by written order, make changes within the general scope of this contract in the method of shipment, packaging and packing or place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, delivery of supplies ordered under this contract, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract accordingly.

(2) The contractor must assert its right to an adjustment under this clause within 30 days after receipt of a written change order under paragraph (b)(1) of this clause, or such other period as may be specified by the contracting officer, by submitting to the contracting Officer a proposal containing sufficient detailed information to permit the contracting officer to negotiate an equitable adjustment to the price and other terms of the contract affected by the change order.

(c) Bilateral Changes. The contracting officer and the contractor may, by written agreement, make specification changes within the general scope of this contract. The contracting officer and the contractor shall promptly negotiate the scope and equitable adjustment, if any, to the contract price, delivery schedule or both, for such change prior to commencement of work on the change. If the Government's interests demand that performance begin immediately and negotiation of a definitive price is not possible in sufficient time to meet the Government's requirement, the contractor agrees to promptly negotiate a maximum price for the change. If the Government decides to proceed with a maximum priced change, the contractor agrees: (1) To immediately commence work on the change as ordered; and, (2) that the definitive price for the change shall not exceed the agreed upon maximum price.

(d) If any change ordered under this contract will result in a price adjustment involving aggregate increases and/or decreases in costs, plus applicable profits, of more than $100,000, the contractor shall be required to submit cost and pricing data in support of his proposal and to execute the certificate of current cost and pricing data at FAR 15.804-4 prior to execution of the contract modification establishing the definitive price unless the price is an established price.

(e) Nothing in this clause shall excuse the contractor from proceeding with the contract as changed.

(End of Clause)

252.211-7003 Patent and copyright indemnification—Commercial items.

As prescribed at 211.7006(a), insert the following clause:

Patent and Copyright Indemnification—Commercial Items (AUG 1990)

The contractor shall defend and indemnify the Government, and all subsequent users of the supplies furnished under this contract, against all claims and proceedings for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright arising under this contract, and the contractor shall hold the Government and all subsequent users harmless from any resulting liabilities and losses, provided the contractor is reasonably notified of such claims and proceedings. The contractor's obligation shall not apply to any infringement arising from the use or sale of the supplies in combination with items not delivered by the contractor if such infringement would not have occurred from the use or sale of such supplies solely for the purpose for which they were designed or sold to the Government.

(End of Clause)

252.211-7004 Inspection and acceptance—Commercial items.

As prescribed at 211.7006(a), insert the following clause:

INSPECTION AND ACCEPTANCE—COMMERCIAL ITEMS (AUG 1990)

(a) Contractor Inspection and Test Responsibilities.

(1) The contractor shall maintain testing, inspection and quality control systems consistent with the contractor's standard commercial practice.

(2) The contractor shall provide the contracting officer five (5) working days notice of its intent to tender supplies for acceptance. If the supplies are not ready for inspection or test at the time specified by the contractor, the contractor shall reimburse the Government for any costs incurred by the Government as a result of the contractor's failure to have the supplies available for test and inspection.

(3) The contractor shall tender to the Government for acceptance only supplies that have been inspected in accordance with the contractor's inspection system and have been found by the contractor to be in conformity with contract requirements.

(4) If inspection or test will be performed at the contractor's facility or at a supplier's or subcontractor's facility, the contractor shall furnish, and shall require the suppliers or subcontractors to furnish, at no change to the price of this contract, all reasonable facilities and assistance for the safe and convenient performance of all inspections and tests.

(5) If supplies tendered for acceptance are rejected, any costs incurred by the contractor to correct the deficiency or deficiencies which caused the rejection, shall not result in any increase to the price of this contract. The contracting officer may charge the contractor for any additional inspection and testing costs if the rejection make re-inspection or re-test necessary.

(b) Government Inspection and Test.

(1) The Government has the right to inspect and test all supplies called for by the contract when such supplies have been tendered for acceptance. Government inspection and/or

testing shall be performed as soon as practicable following tender for acceptance. The Government assumes no contractual obligation to perform any inspection or test for the benefit of the contractor unless specifically set forth elsewhere in this contract.

(2) Except as otherwise provided in the contract, the Government shall bear the expense of Government inspections or tests made at other than the contractor's or its suppliers' or subcontractors' facilities.

(3) The Government shall not be liable for any reduction in the value of any supplies, including test samples, resulting from inspection or test.

(c) Acceptance of Conforming Supplies.

(1) The Government shall accept conforming supplies as soon as practicable following tender for acceptance, unless otherwise provided in the contract. Government failure to inspect and accept or reject the supplies shall not relieve the contractor from responsibility, nor impose liability on the Government, for nonconforming supplies.

(2) Acceptance shall be conclusive, except for patent defects, latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.

(d) Rejection, Replacement or Correction of Non-Conforming Supplies.

(1) Supplies are nonconforming when they are defective in material or workmanship, fail to comply with contractual performance requirements or are otherwise not in conformity with contract requirements.

(2) The Government, at its sole election and as promptly as practicable after tender for acceptance, may:

(i) Reject non-conforming supplies, with or without disposition instructions;

(ii) Require the correction or replacement of nonconforming supplies;

(iii) Conditionally accept non-conforming supplies (see paragraph (e) of this clause); or,

(iv) Require an equitable reduction in the price of the contract in lieu of correction or replacement of non-conforming supplies.

(3) The contracting officer shall promptly notify the contractor of the Government's election regarding the non-conforming supplies and the contractor shall promptly remove all supplies rejected or required to be corrected or replaced. The contracting officer may require or permit correction or replacement in place.

(4) The contractor shall replace or correct non-conforming supplies within ten (10) days (or such other period as may be authorized in writing by the contracting officer) following receipt of the contracting officer's notification.

(5) If the contractor fails to promptly remove rejected supplies that are required to be removed or fails to replace or correct the non-conforming supplies within ten (10) days or such other period specified by the contracting officer, the Government may (i) remove, replace, or have the supplies corrected, either by itself or a third party, and charge the costs of removal, replacement or correction to the contractor or (ii) terminate the contract for default.

(6) All corrections or replacements of non-conforming supplies shall be accomplished by the contractor at no change to the contract price including, but not limited to, all costs to make such corrected or replaced supplies ready for inspection, test and acceptance by the Government and all transportation costs from the original place of acceptance to the contractor's facility and return to the original place or such other place for acceptance as may be permitted by the contracting officer, when those places are not the contractor's facility.

(7) Corrected or replaced supplies shall be tendered for acceptance at the place stipulated in the contract or at such other place permitted by the contracting officer in accordance with a reasonable delivery schedule as may be agreed upon between the contractor and the contracting officer. The contracting officer may require a reduction in contract price if the contractor fails to meet such delivery schedule.

(e) Acceptance under Special Conditions. The contracting officer reserves the right to require the contractor to deliver non-conforming supplies prior to their correction. Such supplies shall be provisionally accepted by the Government and subsequently re-tendered for acceptance by the contractor following correction of the non-conformity. The contractor and the contracting officer shall negotiate an amount to be withheld from the price of supplies provisionally accepted pending their correction. The amount negotiated shall represent equitably the value of such correction of the non-conforming supplies. The Government shall be responsible for all risks of loss or damage to such supplies while they are in the Government's possession. Risk of loss shall remain with the Government until the provisionally accepted supplies are returned to the contractor for correction. The Government shall be responsible for all transportation costs associated with return of the provisionally accepted supplies to the contractor. The contractor shall be responsible only for correction of the non-conformities identified at the time of provisional acceptance and for any costs associated with the return of corrected supplies to the Government. The schedule for such correction and return shall be negotiated between the contractor and the contracting officer.

(End of Clause)

252.211-7005 Limitation of liability—Commercial items.

As prescribed at 211.7006(a), insert the following clause:

LIMITATION OF LIABILITY—COMMERCIAL ITEMS (AUG 1990)

The Contractor shall defend, indemnify and hold harmless the Government, its agents, consignees, employees and representatives from and against all expenses, losses, claims, demands, or causes of action of whatever kind; including negligence, breach of express or implied warranty, failure to warn, or strict liability, and from and against all special, indirect, incidental, or consequential damages, including lost profits, of every kind whatsoever arising out of, by reason of, or in any way connected with, accidents, occurrences, injuries or losses to or of any person or property, including the Government or the Government's property, which may occur before or after acceptance of the completed items by the Government, in any way due or resulting from in whole or in part, the design, preparation, manufacture, construction, completion, warning, or failure to warn, delivery or non-delivery of items, including such as are caused by any subcontractor or supplier of the Contractor.

Immediately upon receipt from the Government of written notice of any suit or claim relating to any risk described in the first paragraph of this clause and upon written request by the Government, the Contractor shall assume the defense of the litigation. In any event, the Contractor shall pay for or reimburse the Government for all costs and expenses, including attorney's fees, arising out of any suit or claim relating to any risk described in the first paragraph of this clause.

(End of Clause)

252.211-7006 Title and risk of loss—Commercial items.

As prescribed at 211.7006(a), insert the following clause:

TITLE AND RISK OF LOSS—COMMERCIAL ITEMS (AUG 1990)

(a) Title to supplies furnished under this contract, except for commercial computer software, shall pass to the Government upon formal acceptance, regardless of when or where the Government takes physical possession, unless the contract specifically provides for earlier passage of title. Title to commercial computer software shall remain with the contractor.

(b) Unless the contract specifically provides otherwise, risk of loss or damage to supplies shall remain with the Contractor until, and shall pass to the Government upon—

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Acceptance by the Government or delivery of the supplies to the government at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.

(c) Paragraph (b) above shall not apply to supplies that so fail to conform to contract requirements as to give a right of rejection. The risk of loss or damage to such nonconforming supplies remains with the contractor until cure or acceptance. After cure or acceptance, paragraph (b) above shall apply.

(d) Under paragraph (b) above, the contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Government acting within the scope of their employment.

(End of clause)

252.211-7007 Telegraphic Submission of Offers—Commercial Items.

As prescribed at 211.7004-2(b)(2), insert the following provision:

Telegraphic Submission of Offers—Commercial Items (AUG 1990)

(a) Definition. "Telegraphic offer" means an offer, modification of an offer, or withdrawal of an offer that is delivered to the Government by telegram or mailgram; or, if a telex number has been provided in paragraph (g) of this provision, transmitted to the Government by telex.

(b) Telegraphic offers may be submitted in response to this solicitation. Such offers must be received at the place, and prior to the time, specified in the solicitation for the submission of offers.

(c) Telegraphic offers shall refer to this solicitation and include the items or sub-items, quantities, unit prices, time and place of delivery, all representations and other information required by this solicitation, and a statement specifying the extent of agreement with all the terms, conditions, and provisions of the solicitations.

(d) Telegraphic offers that fail to furnish required representations or information, or that reject any of the terms, conditions and provisions of the solicitation, may be excluded from consideration.

(e) Offerors must submit a complete, signed, original offer in confirmation of their telegraphic offer within five (5) working days from the time specified in the solicitation for receipt of offers. Failure to submit the complete, signed, original offer within the time specified may render the offer non-responsive and ineligible for award.

(f) The Government shall not be responsible for any deficiencies in telegraphic offers including, but not limited to, the following:

(1) Receipt of illegible, garbled, or incomplete offers.

(2) Availability of the Government's telex equipment.

(3) Incompatibility between the sending and receiving equipment.

(4) Delay in transmission or receipt of the offer.

(5) Failure of the offeror to properly identify the offer.

(g) The Government's telex number is _____.

(h) The Government shall not be responsible for physical security of a telegraphic offer prior to receipt of the offer.

(End of provision)

252.211-7008 Facsimile Submission of Offers—Commercial Items.

As prescribed at 211.7004-2(c)(1), insert the following provision:

FACSIMILE SUBMISSION OF OFFERS—COMMERCIAL ITEMS (AUG 1990)

(a) Definition. "Facsimile offer" means an offer, modification of an offer, or withdrawal of an offer that is transmitted to and received by the Government via electronic equipment that communicates and reproduces both printed and handwritten material.

(b) Facsimile offers may be submitted in response to this solicitation. Facsimile offers must be received at the place, and prior to the time, specified in the solicitation for the submission of offers.

(c) Facsimile offers that fail to furnish required representations or information, or reject any of the terms conditions and provisions of the solicitation, may be excluded from consideration.

(d) Facsimile offers must contain the required signatures. The Offeror agrees that its facsimile signature has the same force and effect as a handwritten signature on an original document and fully signifies its intent to contract in accordance with the facsimile offer.

(e) The Government reserves the right, at its sole discretion, to accept an offer and enter into a contract solely on the basis of the facsimile offer. The Government also reserves the right to require the offeror to submit, prior to the Government's acceptance of the offer, an original, signed solicitation cover sheet. The offeror agrees to provide the original, signed, solicitation cover sheet to the contracting officer within (5) working days following the Government's request.

(f) The offeror's failure to make timely submission of the original, signed, solicitation cover sheet in accordance with paragraph (d) of this provision may render the offer non-responsive and ineligible for award.

(f) The Government shall not be responsible for any deficiencies in facsimile offers including, but not limited to, the following:

(1) Receipt of illegible, garbled, or incomplete offers.

(2) Availability of the receiving electronic equipment.

(3) Incompatibility between the sending and receiving equipment.

(4) Delay in transmission or receipt of the offer.

(5) Failure of the offeror to properly identify the offer.

(g) The Government's facsimile compatibility characteristics are as follows:

(1) Telephone number of receiving equipment: _____

(2) Compatibility characteristics. (e.g., make and model number, receiving speed, communications protocol): _____

_____

_____

(h) The Government shall not be responsible for physical security of a facsimile offer prior to receipt of the offer.

(End of provision)

252.211-7009 General Solicitation Information and Definitions—Commercial Items.

As prescribed at 211.7004-7(b)(2), insert the following provision:

GENERAL SOLICITATION INFORMATION AND DEFINITIONS—COMMERCIAL ITEMS (AUG 1990)

(a) General Solicitation Information.

If this solicitation has been made using Standard Form 33 the reference to solicitation provisions 52.214-7, "Late Submissions, Modifications, and Withdrawals of Bids" and 52.215-10, "Late Submissions, Modifications, and Withdrawals of Proposals" means 252.211-7018, "Late Submissions, Modifications and Withdrawals of Offers—Commercial Items" and reference to 52.232-8, "Discounts for Prompt Payment" means paragraph (c) of 252.211-7001, "Invoice and Payment—Commercial Items".

(b) Definitions:

(1) "Contracting Officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(2) "Offer" means either "bid" in sealed bidding or "proposal" in other than sealed bidding.

(3) "Solicitation" means an invitation for bids in sealed bidding or a request for proposal in other than sealed bidding.

(End of Provision)

252.211-7010 Price Reduction for Defective Cost or Pricing Data-Contract Modifications—Commercial Items.

As prescribed at 211.7004-1(i)(3), insert the following clause:

PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA-CONTRACT MODIFICATIONS—COMMERCIAL ITEMS (AUG 1990)

(a) This clause is applicable only to contract modifications involving aggregate increases and/or decreases in costs, plus applicable profits, of more than $100,000, except that it does not apply to any modification for which the price is an established price.

(b) If the amount of any price adjustment, either a price increase or decrease, negotiated for any modification to this contract was based upon defective data, because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data that were not accurate, the price shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to defective cost or pricing data relating to contract modifications for which this clause becomes operative under paragraph (a) above.

(c) Any reduction in the contract price under paragraph (b) above due to defective cost or pricing data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which the actual subcontract, or the actual cost to the contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(End of clause)

252.211-7011 [Reserved]

252.211-7012 Audit of Contract Modifications—Commercial Items.

As prescribed at 211.7004–1(i)(3), insert the following clause:

AUDIT OF CONTRACT MODIFICATIONS—COMMERCIAL ITEMS (AUG 1990)

(a) If the Contractor has submitted cost or pricing data in connection with the pricing of any modification to this contract, unless the price of the contract modification is an established price, the Contracting Officer or a representative who is an employee of the Government shall have the right to examine and audit all books, records, documents, and other data of the contractor (including computations and projections) related to negotiating, pricing or performing the modification, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data. The Comptroller General of the United States or a representative who is an employee of the Government shall have the same rights.

(b) The Contractor shall make available at its office at all reasonable times the materials described in paragraph (a) above, for examination, audit, or reproduction, until three years after final payment under this contract. Except that records pertaining to appeals, litigation or the settlement of claims arising under or relating to the performance of this contract shall be made available until disposition of such appeals, litigation, or claims.

(c) The contractor shall insert a clause containing all the provisions of this clause, including this paragraph (c), in all subcontracts over $100,000 under this contract, altering the clause only as necessary to identify properly the contracting parties and the contracting office under the Government prime contract.

(End of clause)

252.211-7013 Certifications—Commercial Items—Competitive acquisitions.

As prescribed at 211.7004–7(a)(3), insert the following provision:

CERTIFICATIONS—COMMERCIAL ITEMS—COMPETITIVE ACQUISITIONS (AUG 1990)

(a) If an offer containing the following certifications results in a contract award, the certifications shall form a material part of the contract whether or not physically attached to the contract.

(b) Definitions:

As used in this certification:

(1) "Commercial items" means items, including computer software, regularly used for other than Government purposes which, in the course of normal business operations:

(i) Have been sold or traded to the general public;

(ii) Have been offered for sale or trade to the general public at established prices but not yet sold;

(iii) Although intended for sale or trade to the general public, have not yet been offered for sale but will be available for commercial delivery in a reasonable period of time;

(iv) Described in paragraph (i), (ii), or (iii) of this provision that would require only minor modification in order to meet the requirements of the procuring agency.

(2) "Established price" means a price published in a catalog, price list, schedule or other verifiable pricing record at which items are offered for sale to the public; or prices which have been established in the course of ordinary and usual trade between buyers and sellers free to bargain. The established price (i) must be available for customer inspection and state current or last sales price; or (ii) can be substantiated by data from sources independent of the offeror.

(3) "Minor modification" means a modification to a commercial item that does not alter the essential performance or functional characteristics of the item.

(c) The offeror, *(insert name of offeror)*, hereby certifies that:

(1) The item(s) offered in response to solicitation number _____ (insert solicitation number) are:

_____ Commercial item(s) as defined in (b)(1)(i).*

_____ Commercial item(s) as defined in (b)(1)(ii).*

_____ Commercial item(s) as defined in (b)(1)(iii).*

_____ Commercial item(s) as defined in (b)(1)(iv).*

*Note: Check one or more as appropriate. If more than one box is checked identify the items and quantities within each category.

(2) The commercial items offered in response to this solicitation:

(i) _____ will not be produced using the Government production and research property (see FAR 45.301).

(ii) _____ will be produced using Government production and research property (see FAR 45.301) identified below:

Government production and research property	Use authorized under contract number	Cognizant contracting officer or contracting activity

(End of Certification)

(d) Failure to complete the certifications required in paragraph (c) of this provision shall render the offer non-responsive and ineligible for award.

(End of Provision)

252.211-7014 Certifications—Commercial Items—Noncompetitive acquisitions.

As prescribed at 211.7004–7(a)(4), insert the following provision:

CERTIFICATIONS—COMMERCIAL ITEMS—NON-COMPETITIVE ACQUISITIONS (AUG 1990)

(a) If an offer containing the following certifications results in a contract award, the certifications shall form a material part of the contract whether or not physically attached to the contract.

(b) Definition:

As used in this certification "Commercial items" means items, including computer software, regularly used or intended for use for other than Government purposes and which have been sold or traded to the general public in the course of normal business operations.

(c) The offeror *(insert name of offeror)*, hereby certifies that:

(1) The item(s) offered in response to solicitation number _____ (insert solicitation number):

(i) _____ are Commercial item(s) as defined in paragraph (b) of this clause.

(ii) _____ are not Commercial item(s) as defined in paragraph (b) of this clause.

(2) The prices offered:

(i) _____ do not exceed the lowest price at which the items have been actually sold to any other customer, in similar quantities and for similar delivery periods, within the 90-day period immediately preceding the date of this offer.

(ii) _____ except for the following price adjustments necessitated by unique Government requirements set forth in this solicitation, do not exceed the lowest prices at which the items have been actually sold to any other customer within the 90-day period immediately preceding the date of this offer. Such price adjustments are identified below and a written justification for the adjustments is attached.

Item	Lowest price actually sold	Dollar adjustment	This offer

(list as necessary)

(iii) _____ do not meet the criteria of subparagraphs (i) or (ii).

Note.—If subparagraphs (c)(1)(ii) or (c)(2)(iii) are checked, or if the written justification required to be submitted when subparagraph (c)(2)(ii) is checked does not adequately substantiate the adjustments to the lowest prices at which the items have been sold, a contract award shall not be made using the simplified contracting procedures for commercial items.

(3) The commercial items offered in response to this solicitation:

(i) _____ will not be produced using Government production and research property (see FAR 45.301).

(ii) _____ will be produced using the Government production and research property (see FAR 45.301) identified below:

Government production and research property	Use authorized under contract number	Cognizant contracting officer or contracting activity

(End of Certification)

(d) The offeror agrees to promptly provide the contracting officer any additionl information requested by the contracting officer to clarify the offeror's certification under paragraph (c)(2) of this clause.

(e) Failure to complete the certifications required in paragraph (c) of this clause shall render the offer non-responsive and ineligible for award under the simplified contracting procedures for commercial items.

(End of Provision)

252.211-7015 New material—Commercial items.

As prescribed at 211.7004-7(a)(2), insert the following provision:

NEW MATERIAL—COMMERCIAL ITEMS (AUG 1990)

The offeror represents that, unless this solicitation specifies otherwise, the supplies and components are new and are not of such age or so deteriorated as to impair their usefulness or safety. If the offeror believes that furnishing used or reconditioned supplies or components will be in the Government's interest, the offeror shall so notify the Contracting Officer in writing. The offeror's notice shall include the reasons for the request along with a proposal for any consideration to the Government if the Contracting Officer authorizes the use of used or reconditioned supplies or components.

(End of Provision)

252.211-7016 Contract award—Commercial items.

As prescribed at 211.7004-7(b)(2), insert the following provision:

CONTRACT AWARD—COMMERCIAL ITEMS (AUG 1990)

(a) The Government will evaluate offers in response to Invitations for Bid without discussions and will award a contract to the responsible offeror whose offer, conforming to the solicitation, will be most advantageous to the Government considering only price and the price related factors specified elsewhere in the solicitation.

(b) The Government will award a contract resulting from a Request for Proposals to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors specified elsewhere in the solicitation, considered. The Government may award a contract on the basis of initial offers received in Response to a Request for Proposals without discussions. Therefore, each initial offer should contain the offeror's best terms from a price and technical standpoint.

(c) The Government may (1) reject any or all offers if such action is in the public interest, (2) accept other than the lowest offer, and (3) waive informalities and minor irregularities in offers received.

(d) The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may be submitted for quantities less than those specified. The Government reserves the right to make an award on any time for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

(e) A written award or acceptance of offer mailed for otherwise furnished to the successful offeror within the time for acceptance specified in the offer or any extension thereof shall result in a binding contract wthout further action by either party unless the offer was withdrawn (1) prior to the date for bid opening if the offer was submitted in response to an Invitation for Bid or, (2) prior to contract award if the offer was submitted in response to a Request for Proposal.

(End of Provision)

252.211-7017 Technical Data and Computer Software—Commercial Items.

As prescribed at 211.7006(a), insert the following clause:

TECHNICAL DATA AND COMPUTER SOFTWARE—COMMERCIAL ITEMS (AUG 1990)

(a) Definitions.

As used in this clause:

(1) "Computer software" means a set of instructions, rules, routines or statements which cause a computer to perform a specific operation or series of operations; and, source code listings, object codes, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated or recompiled.

(2) "Commercial computer software" means software that has been developed at private expense, are either trade secrets or have been copyrighted and have been offered for sale or sold to the general public during the normal course of business operations.

(3) "Computer software documentation" means owner's manuals, user's manuals, and operating instructions and other items, regardless of storage media, which explain the capabilities of the computer software or provide operating instructions for using the software to obtain desired results from a computer.

(4) "Technical data" includes, but is not limited to, information, regardless of format or storage media, concerning the design, manufacture, testing, performance characteristics, form, fit and function, operational environments, capabilities, proper use, maintenance, support and operation of the supplies procured under this contract. Technical data includes computer software documentation and computer data bases but does not include computer software, financial or administrative data or cost and pricing data.

(b) Technical data and Computer Software (other than commercial computer software).

The contractor agrees that the Government may use, for whatever purpose:

(1) All technical data and computer software customarily provided to the general public subject only to the restrictions, if any, imposed upon the public's use of such data and software.

(2) All technical data and computer software not customarily provided to the public which have been purchased under this contract, subject only to the following restrictions:

(i) Release or disclosure outside the Government shall not be made without the contractor's permission except for emergency repair or overhaul of the items;

(ii) The technical data and computer software shall not be used by the Government to manufacture additional quantities of the supplies to be furnished under this contract or, in the case of computer software, for preparing the same or similar computer software.

(3) All technical data and computer software specifically developed by the contractor to document the differences between a commercial item and the modifications to such items necessary to meet the requirements of the procuring agency which have been purchased by the Government, either as an integral part of the item's price or as a separately purchased item, without restriction on their use.

(c) Commercial Computer Software.

Commercial computer software and related documentation shall be acquired under the same licensing agreements provided by the software manufacture or distributor to the general public subject to the following:

(1) Title to and ownership of the software and documentation shall remain with the contractor.

(2) The government shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the contractor. Third parties do not include prime contractors, subcontractors and agents of the Government who have the Government's permission to use the licensed software and documentation at the facility, and who have agreed to use such software and documentation only in accordance with the terms of the license.

(3) The Government shall have the right to use the commercial computer software and documentation at any other facility to which it may be transferred; to use the computer software and documentation with a backup computer when a primary computer is inoperative; to use the software and documentation at multiple facilities, by multiple users or on a local area network when permitted by the license.or otherwise provided for in the contract acquiring the software and documentation; to copy computer programs for safekeeping (archives) or backup purposes; and to modify the software and documentation or combine it with other software provided that the unmodified portions shall remain subject to these restrictions.

(End of Clause)

252.211-7018 Late Submissions—Modifications and Withdrawals of Offers, Commercial Items.

As prescribed at 211.7004-7(b)(3), insert the following provision:

LATE SUBMISSIONS—MODIFICATIONS AND WITHDRAWALS OF OFFERS, COMMERCIAL ITEMS (AUG 1990)

(a) Any offer received at the office designated in the solicitation after the exact

time specified for receipt will not be considered unless it is received before award is made and it—

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(2) Was sent by mail or, if authorized by the solicitation, was sent by telegram or via facsimile and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation;

(3) Was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5 p.m. at the place of mailing two working days prior to the date specified for receipt of offers. The term "working days" excludes weekends and U.S. Federal holidays; or

(4) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the Contracting Officer's request for "best and final" offers under other than sealed bidding procedures, is subject to the conditions in subparagraphs (a) (1), (2), and (3) of this provision.

(c) A modification resulting from the Contracting Officer's request for "best and final" offer under other than sealed bidding procedures received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the Government after receipt at the Government installation.

(d) The only acceptable evidence to establish the date of mailing of a late offer or modification sent either by U.S. Postal Service registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the offer or modification shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exculsive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(e) The only acceptable evidence to establish the time of receipt at the Government installation is the time/date stamp of that installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

(f) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (d) of this provision, excluding the postmarks of the Canadian Postal Service. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(g) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful offer that makes its terms more favorable to the government will be considered at any time it is received and may be accepted.

(h) (1) Offers may be withdrawn by written notice (including signed facsimile copies) or telegram (including mailgram) received (i) prior to the date for bid opening if the offer was submitted in response to an Invitation for Bid or, (ii) at any time prior to award if the offer was submitted in response to a Request for Proposal.

(2) Offers may be withdrawn in person by an offeror or an authorized representative, if the representative's identity is made known and: (i) for offers submitted in response to an Invitation for Bid, the representative signs a receipt for the offer before award; or, (ii) for other than sealed bidding, the offeror or its representative delivers a written or facsimile notice of withdrawal to the contracting officer.

(End of provision)

252.211–7019—Late Submissions—Modifications and Withdrawal of Offers—Commercial Items (Overseas)

As prescribed at 211.7004–7(b)(4), insert the following provision:

LATE SUBMISSIONS—MODIFICATIONS AND WITHDRAWAL OF OFFERS—COMMERCIAL ITEMS (OVERSEAS) (AUG 1990)

(a) Any offer received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it—

(1) Was sent by mail or, if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the Government the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or,

(2) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the Contracting Officer's request for "best and final" offer under other than sealed bidding is subject to the same conditions as in subparagraph (a)(1) of this provision.

(c) A modification resulting from the Contracting Officer's request for "best and final" offer under other than sealed bidding received after the time and date specified in the request will not be considered unless received before award and the late receipt was due solely to mishandling by the Government after receipt at the installation.

(d) The only acceptable evidence to establish the time of receipt at the Government installation is the time/date stamp of the installation on the offer wrapper or other documentary evidence of receipt maintained by the installation.

(e) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful offer that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(f)(1) Offers may be withdrawn by written notice (including signed facsimile copies) or telegram (including mailgram) received (i) prior to the date for bid opening if the offer was submitted in response to an Invitation for Bid or, (ii) at anytime prior to award if the offer was submitted in response to a Request for Proposal.

(2) Offers may be withdrawn in person by an offeror or an authorized representative, if the representative's identity is made known and: (i) for offers submitted in response to an Invitation for Bid, the representative signs a receipt for the offer before award: or, (ii) for other than sealed bidding, the offeror or its representative delivers a written or facsimile notice of withdrawal to the contracting officer.

(End of provision)

252.211–7020—Business Type Certification—Commercial Items

As prescribed at 211.7004–1(k)(2), insert the following provision:

BUSINESS TYPE CERTIFICATION—COMMERCIAL ITEMS (AUG 1990)

(a) Definitions:

(1) "Handicapped individual" means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable.

(2) "Public or private organization for the handicapped" means one which (i) is organized under the laws of the United States or of any State, operated in the interest of handicapped individuals, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual; (ii) complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and, (iii) employs in the production of commodities and in the provision of services, handicapped individuals for not less than 75 percent of the direct labor required for the production or provision of the commodities or services.

(3) "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominate in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(4) "Small disadvantaged business concern," as used in this provision, means a small business concern, including mass media, owned and controlled by individuals who are both socially and economically disadvantaged, as defined in regulations prescribed by the U.S. Small Business Administration at 13 CFR part 124, the majority of earnings of which directly accrue to such individuals. (13 CFR part 124 generally provides that a small disadvantaged business concern is a small

business concern (i) Which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least fifty-one percent (51%) of the voting stock of which is owned by one or more socially and economically disadvantaged individuals, and (ii) Whose management and daily business operations are controlled by one or more such individuals.) (See 13 CFR 124.01 through 124.110.)

(5) "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who is or are U.S. citizens and who also control and operate the business.

(b) Representations.

(1) Type of Business Organization.

The offeror represents that—

(i) It operates as: _____ a corporation incorporated under the laws of the State of; _____, _____ an individual; _____ a partnership; _____ a nonprofit organization; or, _____ a joint venture, or

(ii) If the offeror is a foreign entity, it operates as: _____ an individual; _____ a partnership; _____ a nonprofit organization; _____ a joint venture; or _____ a corporation, registered for business in _____ (country).

(2) Small Business Concern Representation.

The offeror represents and certifies as part of its offer that it _____ is, _____ is not a small business concern and that _____ all, _____ not all end items to be furnished will be manufactured or produced by a small business concern in the United States, its territories or possessions, Puerto Rico, or the Trust Territory of the Pacific Islands.

Note: Offerors who have represented that they are not small business concerns are not required to complete the representations and certifications in paragraphs (b)(3) through (b)(7) of this clause.

(3) Small Disadvantaged Business Concern Representation.

(i) The offeror represents and certifies that it _____ is, _____ is not a small disadvantaged business concern.

(ii) The offeror represents that its ownership falls within at least one of the following categories (check the applicable categories):

_____ Subcontinent Asian (Asian-Indian) American (US Citizen with origins from India, Pakistan, Bangladesh, or Sri Lanka)

_____ Asian-Pacific American (US Citizen with origins from Japan, China, The Philippines, Vietnam, Korea, Samoa, Guam, U.S. Trust Territory of the Pacific Islands, Northern Mariana Islands, Laos, Cambodia, or Taiwan).

_____ Black American (US Citizen)

_____ Hispanic American (US Citizen with origins from South America, Central America, Mexico, Cuba, the Dominican Republic, Puerto Rico, Spain or Portugal)

_____ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians)

_____ Individual/concern currently certified for participation in the Minority Small Business and Capital Ownership Development Program under section 8(a) of the Small Business Act (15 U.S.C. 637(a))

_____ Other (The offeror must complete paragraph (3)(iii) if this block is checked)

(iii) (Complete only if paragraph (3)(ii) is checked "Other").

The offeror represents and certifies, as part of its offer, that the Small Business Administration (SBA) has _____, has not _____ made a determination concerning the offeror's status as a small disadvantaged business concern. If the SBA has made such a determination, the date of the determination was _____ and the offeror certifies that it was _____, was not _____ found by the SBA to be socially and economically disadvantaged as a result of that determination and that no circumstances have changed to vary that determination.

(4) Women-Owned Small Business Representation.

The offeror represents and certifies that it _____ is, _____ is not a women-owned small business concern.

(5) Organization for the Handicapped Representation.

(i) The offeror represents and certifies that it _____ is, _____ is not a public or private organization for the handicapped and agrees that at least 75 percent of the direct labor required in the performance of any resultant contract will be performed by handicapped individuals.

(ii) An offeror certifying in the affirmative in (5)(i) is eligible to participate in any resultant contract as if it were a small business concern.

(6) Subcontracting Limitation.

The offeror represents and certifies that in performance of the contract it _____ will, _____ will not perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

(7) Complete only if the offer has certified itself to be a small business in one of the categories of this subparagraph:

Offeror's number of employees for the past twelve (12) months or offeror's average annual gross revenue for the last three (3) fiscal years. (Check one of the following.)

Number of employees	Average annual gross revenues
____50 or fewer	____$1 million or less.
____51–100	____$1,000,001–$2 million.
____101–250	____$2,000,001–$3.5 million.
____251–500	____$3,500,001–$5 million
____501–750	____$5,000,001–$10 million.
____751–1,000	____$10,000,001–$17 million.
____Over 1,000	____Over $17 million.

(c) Labor Surplus Area Representation.

(i) Each offeror desiring to be considered as a labor surplus area (LSA) concern shall indicate below the address(es) where costs incurred on account of manufacturing or production (by offeror or first tier subcontractor) will amount to more than fifty percent (50%) of the contract price:

Name of Company:
Street Address:
City/County:
State:

(If more than one location is to be used, list each location and the costs to be incurred at each, stated as a percentage of the contract price.)

(ii) Offeror's status as a labor surplus area concern may affect (1) entitlement to award in case of tie offers or (2) offer evaluation in accordance with the Buy American Act clause, if included in this solicitation.

(iii) Failure to list the location of manufacture or production and the percentage, if required, of cost to be incurred at each location will preclude consideration of the offeror as an LSA concern.

(End of Certification)

(End of Provision)

252.211-7021 Technical data and computer software—Withholding of payment—Commercial items.

As prescribed at 211.004–1(d)(3), insert the following clause:

TECHNICAL DATA AND COMPUTER SOFTWARE—WITHHOLDING OF PAYMENT—COMMERCIAL ITEMS (AUG 1990)

(a) This clause applies to Technical Data and Computer Software (other than commercial computer software) as defined in the clause at 252.211–7017 of this contract.

(b) If the technical data or computer software to be delivered under this contract, are not delivered within the time(s) specified by this contract or are incomplete, inadequate or not in conformance with contractual requirements, the Contracting Officer may withhold payment of ten percent (10%) of the contract price (unless a lesser withholding is specified in paragraph (c)) pending correction of the deficiencies by the contractor. Payments shall not be withheld nor any other action taken pursuant to this paragraph when the Contractor's failure to make timely delivery or to deliver such data without deficiencies arises out of causes beyond the control and without the fault or negligence of the Contractor.

(c) The withholding percentage in paragrarph (b) of this clause shall be _____ percent.

(d) The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract.

(End of clause)

252.211-7022 Certification of technical data and computer software conformity—commercial items.

As prescribed at 211.7–004–1(d)(3), insert the following clause:

CERTIFICATION OF TECHNICAL DATA AND COMPUTER SOFTWARE CONFORMITY—COMMERCIAL ITEMS (AUG 1990)

(a) This clause applies to Technical Data and Computer Software (other than commercial computer software) as defined in the clause at 252.211–7017 of this contract.

(b) All technical data and computer commercial software delivered under this contract shall be accompanied by the following written certification:

The Contractor, (*name of contractor*), hereby certifies that, to the best of its

knowledge and belief, the technical data or computer software delivered herewith under contract number (*insert contract number*) are complete, accurate, and comply with all requirements of the contract.

Date: _____

Name and Title of Certifying Official: _____

(End of Certification)

This written certification shall be dated. The certifying official (identified by name and title) shall be an individual who has been authorized by the contractor to execute a binding certification on behalf of the contractor.

(c) The Contractor shall identify, and provide to the contracting officer as soon as practicable following contract award but in no event later than the time of first data submission and certification, by name and title, each individual (official) authorized by the Contractor to certify in writing that the technical data and computer software is complete, accurate, and complies with all requirements of the contract. The Contractor hereby authorized direct contact with the authorized individual responsible for certification of technical data and computer software. The authorized individual shall be familiar with the Contractor's technical data and computer software conformity procedures and their application to the technical data and computer software to be certified and delivered.

(End of Clause)

252.211-7023 Clauses to be included in contracts with subcontractors and suppliers—commercial items.

As prescribed at 211.7006(e), insert the following clause:

CLAUSES TO BE INCLUDED IN CONTRACTS WITH SUB-CONTRACTORS AND SUPPLIERS—COMMERCIAL ITEMS (AUG 1990)

(a) Definitions.

"Subcontractor" means an entity producing an item for another entity to the other entity's specifications, designs or drawings. The term does not include entities that produce such items to their own specifications, designs or drawings for sale to others.

"Suppliers" means an entity that produces items to its own specifications, designs, or drawings for sale to others.

(b) Required Clauses.

Contractors whose contracts with the Government include the clauses identified below shall include those clauses in their contracts with subcontractors and suppliers and, if applicable, require flow down of such clauses to lower tier subcontractors and suppliers in accordance with the following criteria:

(1) All contracts with subcontractors and suppliers at any tier:

(i) *Regardless of dollar value:*

	Title
FAR 52.203-7	Anti-Kickback Procedures.
FAR 52.222-26	Equal Opportunity.
FAR 52.225-12	Notice of Restrictions on Contracting with Sanctioned Persons.
FAR 52.225-13	Restrictions on Contracting with Sanctioned Persons.
52.223-7005	Notice of Radioactive Materials.
252.225-7000	Buy American-Balance of Payment Program Certificate.
252.225-7000	Buy American-Balance of Payment Program Certificate.
252.225-7001	Buy American Act and Balance of Payment Program.
252.225-7005	Buy American Act-Trade Agreement Act-Balance of Payment Programs Certificate.
252.225-7006	Buy American Act-Trade Agreement Act and the Balance of Payments Program.
252.225-7007	Supplies to be Accorded Duty-Free Entry.
252.225-7008	Duty-Free Entry Qualifying Country End Products and Supplies.
252.225-7014	Duty-Free Entry-Additional Provisions.
252.225-7015	United States Products Certificate (Military Assistance Program).
252.225-7016	United States Products (Military Assistance Program).
(ii) *Over $2,500:*	
FAR 52.222-36	Affirmative Action for Handicapped Workers.
(iii) *Over $10,000:*	
FAR 52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans.
FAR 52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era.
(iv) *Over $50,000:*	
FAR 52.222-22	Previous Contracts and Compliance Reports.
(2) Subcontractors, all tiers:	
(i) *Regardless of dollar value:*	
FAR 52.225-11	Certain Communist Areas.
(ii) *Over $10,000:*	
FAR 52.222-21	Certification of Nonsegregated Facilities.
252.225-7009	Preference for Certain Domestic Commodities.
(iii) *Over $25,000:*	
252.247-7203	Transportation of Supplies by Sea.
(iv) Over $50,000:	
FAR 52.222-25	Affirmative Action Compliance.
(v) *Over $100,000:*	
FAR 52.223-1	Clean Air and Water Certification.
FAR 52.223-2	Clean Air and Water.
FAR 52.225-10	Duty-Free Entry.
FAR 52.230-1	Cost Accounting Standards Notice and Certification (National Defense).
FAR 52.230-4	Administration of Cost Accounting Standard.
FAR 52.230-5	Disclosure and Consistency of Cost Accounting Practices.
252.211-7011	[Reserved]
252.211-7012	Audit of Contract Modifications-Commercial Items.
(vi) *Over $500,000:*	
FAR 52.220-4	Labor Surplus Area Subcontracting Program.
(vii) *Over $10,000,000:*	
FAR 52.230-3	Cost Accounting Standards.
(3) Only subcontracts awarded by a prime contractor (first tier subcontractors):	
(i) *Over $10,000:*	
FAR 52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.
(ii) Over $25,000:	
FAR 52.215-1	Examination of Records by Comptroller General.
(iii) *Over $500,000:*	
FAR 52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan.

	Title
252.219–7000	Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts).

(c) In the event of an inconsistency between the subcontractor applicability requirements in any FAR or DFARS clauses listed in paragraph (b) of this clause and the applicability requirements of this clause, the requirements of this clause shall have precedence.

(End of Clause)

[FR Doc. 90–15732 Filed 7–10–90; 8:45 am]

BILLING CODE 3810-01-M

federal register

Wednesday
July 11, 1990

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Set-Aside; Assistance for Homeless Families; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-90-3101; FR 2770-N-01]

Section 8 Set-Aside; Assistance for Homeless Families

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Statement of HUD/Robert Wood Johnson Foundation Joint Program to Benefit Homeless Families.

SUMMARY: HUD intends to provide a special allocation of funds to be reserved during Fiscal Year 1990 for up to 1200 Existing Housing Certificates authorized under section 8 of the United States Housing Act of 1937 (the Act). This funding for issuance of certificates shall be made available in order to support a program established by the Robert Wood Johnson Foundation that will benefit homeless families, particularly those with complex health and social problems.

EFFECTIVE DATE: (PUBLICATION).

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, room 6130, Office of Elderly and Assisted Housing, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone (202) 708-0720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Background

The Homeless Families Program is a national initiative of The Robert Wood Johnson Foundation and the U.S. Department of Housing and Urban Development (HUD). Under this competitive program, HUD section 8 certificates and two-year Foundation grants will be made available to nine of the nation's largest cities. (These cities will be ones selected by the Robert Wood Johnson foundation to participate in the program on the basis of grant applications submitted to the Foundation last January.) The grants and housing certificates will support community-wide projects aimed at providing comprehensive health and supportive services and housing assistance to homeless families suffering from complex, often chronic, problems, including health and mental health problems, inadequate education or job training, and lack of day care and other services. These services will be organized and delivered in conjunction with the permanent affordable housing settings.

The goal of the Homeless Families Program is to show that even in the most dysfunctional families, appropriately designed health and supportive services, combined with suitable housing, can help parents and children become healthy and hopeful, and avoid becoming permanent members of the nation's underclass. The program also seeks to promote the long-term expansion of permanent housing options for these families.

The Homeless Families Program is an outgrowth of several previous demonstration programs on behalf of the homeless, including the 19-city Health Care for the Homeless Program (HCHP) co-funded by the Foundation and The Pew Charitable Trusts. Under this program, thousands of homeless people received primary care services, health assessments, and referrals. Growing recognition by health care providers of the more complex needs of subgroups of the homeless—especially homeless families—helped lead to this new program, which builds directly upon the successes of the earlier effort. The program also reflects experiences from another Foundation/HUD joint initiative—the Program on Chronic Mental Illness—as well as HUD's Transitional Housing Program under the Stewart B. McKinney Act. The experience under the McKinney housing programs has reinforced the understanding of the need for comprehensive, individually tailored service packages to assist the homeless in achieving self-sufficiency.

The Homeless Families Program is intended to help communities develop the structure necessary to strengthen the potential of homeless parents and their children to function successfully. The Robert Wood Johnson Foundation will make as many as nine two-year grants of up to $300,000 each to enable cities to design and implement comprehensive health and supportive services systems tied to suitable permanent housing for homeless families. Public Housing Agencies (PHAs) in jurisdictions selected under the competition will be invited by HUD to apply for a share of the up to 1200 section 8 certificates HUD will set aside for this purpose. No applications for this funding should be submitted to HUD by a PHA until HUD invites the PHA to apply for section 8 certificate funding.

In each grantee city, a single entity will take the lead in serving homeless families for the demonstration. The projects themselves could take a variety of forms, depending upon the locations of health facilities and appropriate housing and the availability of other needed supportive services, and projects will be encouraged to shape their operations in response to local circumstances.

Robert Wood Johnson Foundation Funds may be used to help underwrite the design and start-up of the comprehensive services project. Critical activities will include: (a) Assessment of the service needs of individuals to be enrolled; (b) refinement and implementation of the health and social services package; and (c) creation of the necessary community infrastructure.

Foundation funds may *not* be used for the direct provision of services; direct service costs must be covered by existing or new, non-Foundation funding sources. Grant funds also may not be used as rent supplements, to renovate or alter existing facilities, to construct new facilities, for medical supplies and devices, as a substitute for currently available funds, or to reduce on-going deficits.

II. Application Selection Process

The Foundation, in conjunction with HUD, will select applicants in up to nine cities to participate in this program. Eligibility was restricted to 62 U.S. cities with populations of 250,000 or more or the counties in which these cities are located.

In October 1989, the Foundation published a call for proposals for the Homeless Families Program which listed all eligible cities (based on 1986 mid-year population estimates, U.S. Bureau of Census) provided information on the program and how application packets could be obtained. Appendix 1 lists eligible cities. Completed applications were to be submitted to the Foundation by January 22, 1990. (Please note that applications were not submitted to HUD.) Applications are being reviewed by a National Advisory Committee to determine which proposals most closely correspond to the goals and objectives of the Program as described in the brochure and the application packet. The Committee will recommend finalists to the Foundation and the U.S. Department of Housing and Urban Development.

A number of selected applicants will be asked to host a site visit by a team composed of representatives of the Foundation, the National Advisory Committee, and HUD.

Grant recipients will be announced in July 1990.

Applicants were required to obtain the endorsement of the mayor or county executive as the single entity within the jurisdiction designated to implement this

program. The endorsement of both the mayor and the county executive was required when a county agency is the applicant.

In addition, to be eligible for the Program, applicants were required to define the service structure capable of assuring access to a wide array of health, social, and education services to 150 or more homeless families.

Applicants were required to provide a draft memorandum of understanding between the Public Housing Agency (PHA) and the applicant agency, defining the respective roles of each in the partnership and specifying how decisions will be made in allocating housing resources to the homeless families. A realistic and timely plan must be presented for housing the families using the requested number of section 8 certificates.

Finally, an organizational structure for each applicant's project had to be presented, with clear lines of authority and responsibility delineated. Applicants were required to address the issues of governance and oversight, as well as the receipt and management of grant funds.

The Homeless Families Program offers a considerable challenge to the nation's largest cities. The formation of stable working partnerships and coalitions will be required to integrate housing assistance with health and social services. This collaboration of housing and service agencies may be new in many cities, and strong commitments will be necessary from all levels of local and State governments, as well as the health and human service agencies serving the communities in which these families will be housed. Demonstration of the applicant's ability to build such coalitions will be a critical factor in the grant selection process.

Specifically, the selection of Robert Wood Johnson grantees will be based on the strength of proposals with regard to these items listed in the call for proposals:

(1) Identifyng the local dimensions of the problems of homeless families, with particular emphasis on families suffering from multiple problems, including complex medical, mental health, or substance abuse problems, lack of education or job training, suitable housing, child care, and other supportive services;

(2) A commitment to provide comprehensive health and supportive services and housing assistance to at least 150 families initially (depending on community size);

(3) The service package to be offered;

(4) Obtaining the relevant sources of health and social services funding (with approvals from pertinent State and local officials) and the plan for coordination of these resources; and

(5) The housing resources needed and the types of housing that will be developed in the demonstration, and the applicant's plan for using the section 8 certificates to support these activities.

In addition, reviewers will consider:

(6) The level of matching funds from public and private sources; and

(7) The identification of realistic goals and objectives which can be measured during and after the time period of the grant.

III. Section 8 Program Guidelines

The Public Housing Agency (PHA) in each city selected to participate in this demonstration will be invited by HUD to apply for an allocation of up to 150 Section 8 certificates. These certificates, which must be administered in accordance with all regular Certificate Program requirements, will provide rental subsidies for low-income families living in standard housing. The rent subsidy is the difference between the PHA-approved rent and what the family can afford (approximately 30 percent of income). It is anticipated that most of these subsidies will be tenant-based; however, PHAs will have the option to use some of these certificates to provide project-based subsidies. The tenant-based component of the section 8 certificate Program allows a family to select the standard housing unit of its choice and, if the family moves to a different unit later, they can continue to receive the rent subsidy. Certificate funding provided by HUD in support of the RWJ homeless program will be under a five-year ACC.

PHAs and grantees will work together throughout the course of the program to achieve program objectives. A memorandum of understanding for the use of these certificates must be executed between the PHA and the grantee prior to ACC execution by HUD. It will state the specific criteria for determining whether applicants for Section 8 Certificates are appropriate candidates for the Homeless Families Program. The grantee will be responsible for identifying the social service and medical needs of the homeless families and for determining whether an applicant qualifies for the health and social services available for certificate holders in the Homeless Families Program.

The PHA will (a) Determine the eligibility of homeless families on its Section 8 waiting list and for special health and social services assistance provided by this initiative; (b) verify family income and ascertain the extent to which rent subsidy may be required; (c) determine whether any proposed housing unit meets section 8 requirements; (d) make housing assistance payments on behalf of those in the program. Except as expressly modified by this notice of funding availability, the regulations for the Section 8 Certificate Program in subparts A, B, C, F, and G of 24 CFR part 882 apply to the provision of housing assistance payments for those receiving section 8 certificates under this initiative.

In connection with this special allocation, the PHA will need to amend its HUD-approved administrative plan to provide for the number of certificates received as a part of this initiative, and to address advertising the availability of certificates and opening its waiting lists for more homeless families, if necessary. The local HUD Field Office must approve the revised plan before execution of the ACC providing funding in support of this program to the PHA.

An evaluation will be conducted by an independent research group on the effectiveness of the program in addressing the problems of dysfunctional homeless families. All grantees, as a condition of accepting Foundation funds, will be expected to participate in the evaluation. Grantees also will be required to submit periodic, uniform information to be used for overall program management.

In accordance with 24 CFR 50.20(d), this notice is not subject to the environmental assessment requirements of the National Environmental Policy Act of 1989, 42 U.S.C. 4332.

Appendix 1

U.S. Cities eligible for the Homeless Families Program.*

New York, NY	Seattle, WA
Los Angeles, CA	Nashville-Davidson, TN
Chicago, IL	Austin, TX
Houston, TX	Oklahoma City, OK
Philadelphia, PA	Kansas City, MO
Detroit, MI	Fort Worth, TX
San Diego, CA	Atlanta, GA
Dallas, TX	Long Beach, CA
San Antonio, TX	Portland, OR
Baltimore, MD	Pittsburgh, PA
San Francisco, CA	Miami, FL
Indianapolis, IN	Tulsa, OK
San Jose, CA	Honolulu, HI
Memphis, TN	Cincinnati, OH
Washington, DC	Albuquerque, NM
Jacksonville, FL	Tucson, AZ
Milwaukee, WI	Oakland, CA
Boston, MA	Newark, NJ
Columbus, OH	Minneapolis, MN
New Orleans, LA	Charlotte, NC
St. Louis, MO	Omaha, NE
Cleveland, OH	Toledo, OH
Denver, CO	Virginia Beach, VA
El Paso, TX	Buffalo, NY

* Based on 1986 mid-year population estimates, U.S. Bureau of the Census.

Sacramento, CA	Colorado Springs, CO
Louisville, KY	Corpus Christi, TX
Wichita, KS	St. Paul, MN
Fresno, CA	Mesa, AZ
Tampa, FL	Arlington, TX
Birmingham, AL	San Juan, PR
Norfolk, VA	Phoenix, AZ

Authority: Sec. 8, U.S. Housing Act, 1937 (42 U.S.C. 1437a).

Dated: June 29, 1990.

C. Austin Fitts,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 90–16091 Filed 7–10–90; 8:45 am]

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July 11, 1990

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 882 and 887

Section 8 Certificate Program, Moderate Rehabilitation Program and Housing Voucher Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 882 and 887

[Docket No. R-90-1452; FR-2662-F-03]

RIN 2502-AE70

Section 8 Certificate Program, Moderate Rehabilitation Program and Housing Voucher Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises the Certificate Program, Moderate Rehabilitation Program, and Housing Voucher Program regulations to permit a Public Housing Agency (PHA) (including an Indian Housing Authority) to deny or terminate assistance to applicants and participants in these programs if family members engage in drug-related criminal activities or in violent criminal activities. Current regulations limit the authority of a PHA to withhold Federal rental assistance when a program applicant or participant engages in drug-related criminal activities or violent criminal activities. The purpose of this rule is to further the war against drugs and violent crime, and to ensure the provision of decent and safe housing for eligible families and for individuals residing near assisted families.

EFFECTIVE DATE: August 13, 1990.

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000, telephone (202) 708-2720. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708-3938. (These telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Statement

The information collection requirements contained in §§ 882.216, 882.514, and 887.405 in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 and have been assigned OMB Control Number 2502-0123.

Public reporting burden for this collection of information is estimated to include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the documents making up the collection of information. Information on the burden hours for these requirements is provided as follows: Form HUD-52515, number of responses, 1,000; hours per response, 4; total burden hours 4,000. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., Room 10276, Washington, DC 20410, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Background

This final rule revises the Certificate Program, Moderate Rehabilitation Program, and Housing Voucher Program regulations to permit a Public Housing Agency (PHA) (including an Indian Housing Authority) to deny or terminate assistance to applicants and participants in these programs if family members engage in drug-related criminal activities or in violent criminal activities.

On October 26, 1989, the Department published a proposed rule at 54 FR 43594, which would have provided PHAs administering the Certificate, Moderate Rehabilitation, or Housing Voucher Program the authority to terminate assistance to a participant family or to deny assistance to an applicant family, if a family member engages in drug-related criminal activities or in violent criminal activities.

The proposed rule provided the following definition of drug-related criminal activities and violent criminal activities:

Drug-related criminal activity includes the felonious manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). Drug-related criminal activity also includes the felonious use, or possession (other than with intent to manufacture, sell, or distribute), of a controlled substance, except that such use or possession must have occurred within one year prior to the date that the PHA provides notice to an applicant under [cross-reference to appropriate section], or to a participant under [cross-reference to appropriate section], of the PHA's determination to deny admission or terminate assistance.

Violent criminal activity includes any felonious criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

The rule did not create new administrative procedures to be used when a PHA exercised this new authority, but relied on existing hearing and review procedures that currently apply when a PHA exercises its existing authority to terminate or deny assistance.

The proposed rule initially provided a 60-day comment period, which was reduced to 30 days by a correction published on November 2, 1989, at 54 FR 46270. The Department has received 72 public comments in response to this proposed rule, 27 of which were received by the November 27, 1989, comment due date. Several commenters objected to the shortening of the comment period. The Department believes that the urgency of this rule justified a shortened comment period, but has considered all comments received in developing this final rule.

In general, public comment from PHAs favored adopting the rule either as proposed or with more detail on the types of activities involved and the procedures to be followed. Comment from tenant and applicant advocates generally objected to the proposed rule as being unnecessary, in conflict with statutory authority, or raising serious constitutional issues. There follows a summary of these comments and the Department's response.

Several commenters, who reacted favorably to the rule, saw it as correcting a fundamental unfairness of providing a family another certificate or housing voucher after being evicted for using its assisted unit to sell drugs. They believed that the rule would improve the credibility of the programs by preventing people who are evicted for drug-related activities from getting another certificate or housing voucher. Housing, they asserted, cannot be "decent, safe, and sanitary" when occupied by persons engaging in drug-related or violent criminal activities.

Some commenters perceived the rule as clarifying the PHA's role in screening tenants with respect to past tenant history. It was noted that, in areas with high vacancy rates, owners frequently do not screen tenants well, and that in most cases owners do not live on premises and are not directly affected by tenants' actions. These commenters believed that the rule would enable PHAs to take effective action when they receive complaints about drug-related criminal activities, and would send a clear message to the small percentage of participants and applicants involved in drug-related activities that they are not welcome in Section 8 programs.

Several commenters questioned the need for any rulemaking because owners currently can terminate an assisted tenancy if a family engages in the sale, manufacture, or distribution of drugs on the premises. It is correct that an owner can terminate a tenancy for these reasons.

Another generalized objection to the proposed rule was a belief that, despite its intent, the rule would exacerbate the problem by increasing homelessness. Commenters argued that users of controlled substances must be motivated to seek treatment, but this rule would discourage addicts from seeking treatment. Stable housing is essential to any successful diversion or treatment program. If there is to be a national policy of denying benefits to families of drug users, the commenters claimed, it should be adopted by Congress, not the Department. At the very least, if a family member seeks treatment, the family should be exempted from potential loss of subsidy benefits.

This rule is aimed at terminating tenancy for behavior which is a felony. The families that may be denied assistance under this rule are families in which a family member is engaged in serious antisocial behavior. While termination of assistance is unfortunate, it would result from behavior of family members themselves. Furthermore, the potential that the assistance may be terminated should provide increased social pressure for family members not to engage in these activities which hurt those who commit them, their families, and surrounding community. There would be no increase in homelessness because the limited amount of available assistance would be used to assist other eligible families. The rule provides the PHA with authority to terminate assistance, but leaves the PHA free to consider mitigating circumstances. Thus a PHA could take into consideration the fact that the family member is receiving treatment.

Consistency With the Anti-Drug Abuse Act of 1988

Several commenters contended that the proposed policies conflicted with section 5301 (Denial of Federal Benefits to Drug Traffickers and Possessors) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, approved November 18, 1988), because section 5301 requires a conviction and determination by a court, not an administrative agency; limits the denial of benefits to a fixed period; waives the denial of benefits if the person goes through rehabilitation; and prohibits the denial of public housing or similar benefits. Other commenters, while not claiming that section 5301 applied, wanted to know how HUD could justify those parts of the rule that would permit denial or termination of assistance to persons who have not been convicted when section 5301 does not permit judges to deny public housing and similar assistance even after a conviction for drug-related activities.

Section 5301 of the Anti-Drug Abuse Act of 1988 is a sentencing provision that has no applicability to the administration of the Department's Section 8 Programs. As a sentencing provision, it authorizes the sentencing judge in a criminal proceeding to deny certain Federal benefits to the convicted criminal. This section expresses Congressional intent that the denial of public housing and similar assistance, as well as other specified Federal benefits, may not be used by the judge in sentencing for past criminal activity. Section 5301, however, is not a generalized prohibition against conditioning initial receipt or the continued receipt of Federal housing assistance on the applicant or participant's agreement to refrain from certain behavior, in the case of this rule, from engaging in actions which would constitute a drug-related or violent felony. Nor does section 5301 purport to affect other independent authority of an agency or grantee to deny or terminate Federal benefits. Indeed, Congress, itself, in section 5101 of the Anti-Drug Abuse Act of 1988, amended the United States Housing Act of 1937 to mandate the use of lease provisions in public housing that make engaging in "criminal activity, including drug-related criminal activity" cause for termination of tenancy. (Comments claiming that the proposed rule also conflicts with section 5101 amendments are discussed later with other comments concerning the rule's consistency with the United States Housing Act of 1937.)

Rule Is Within Secretary's Rulemaking Authority

Several commenters argued that the proposed rule exceeded the Secretary's rulemaking authority because there is no express authorization in the United States Housing Act of 1937 for HUD to condition receipt of, or to terminate, Section 8 assistance on the ground that a family member is engaging in drug-related or violent criminal activities. Commenters also contended that the rule conflicted with section 8(d)(1)(A) of the United States Housing Act of 1937, which provides that the selection of tenants for a unit is the function of the Section 8 owner.

The commenters, who contended that the Secretary needed express statutory authorization to impose these conditions, relied on several Supreme Court cases involving State attempts to impose additional eligibility requirements on aid for dependent children under the Social Security Act. These cases are inapposite because they do not concern the question of a Federal agency's authority to promulgate regulations under a Federal benefit program. Rather, they are Supremacy Clause cases holding that, in the absence of congressional authorization, a State cannot impose its own eligibility criteria that would exclude persons eligible for assistance under the Federal AFDC program.

The applicable standard for determining the validity of administrative regulations is not whether there is an express authorization in the statute, but whether the regulation reasonably implements the purpose of the legislation and is not inconsistent with any constitutional or specific statutory provision. The policies in this rule are intended to discourage drug-related and violent criminal activities, which furthers the primary purpose of the United States Housing Act of 1937 to provide decent, safe, and sanitary housing for lower income families (section 2 of the United States Housing Act of 1937). The rule also furthers the declared policy of the United States Government to create a Drug-Free America by 1995 (section 5121(b) of the Anti-Drug Abuse Act of 1988).

Consistency With the United States Housing Act of 1937

Another argument, raised by some commenters, for the invalidity of this rule was that it conflicts with section 6(1)(5) of the United States Housing Act of 1937, as added by section 5101 of the Anti-Drug Abuse Act of 1988. That section, which applies only to public housing, reads as follows:

> (1) Each public housing agency shall utilize leases which—
>
> (5) provide that a public housing tenant, any member of the tenant's household, or a guest shall not engage in criminal activity, including drug-related criminal activity, on or near the premises, while the tenant is a tenant in public housing, and such criminal activity shall be cause for termination of tenancy.

It was argued that the policies in the proposed rule conflicted with the policies contained in section 6(1)(5) because the proposed rule did not limit the proscribed activities to activities occurring while tenant is a tenant of public housing, and to activities occurring on or near public housing

premises. Other commenters, while correctly noting that section 6(1)(5) did not apply to these programs, urged that the rule more closely follow the policies in that section by limiting the rule's scope to drug-related or other criminal activities occurring on or near the premises; and applying the termination of tenancy only to family members engaging in the proscribed activity.

Section 6(1)(5) clearly does not apply to the programs covered by the rule, namely, the Certificate Program, the Housing Voucher Program, and the Moderate Rehabilitation Program. Section 8(h) of the United States Housing Act of 1937 provides that section 6 and certain other provisions in that Act shall not apply to contracts for assistance under section 8. The existence of this express authority with respect to the Public Housing Program does not affect HUD's authority to promulgate policies with respect to drug-related and violent criminal activities in these programs.

The Department has not limited the proscribed activities under this rule to activities carried out on or near the premises. Section 8 certificates and housing vouchers are very mobile forms of housing assistance. The holder can lease suitable housing with Federal subsidy assistance anywhere in the PHA's jurisdiction, in the metropolitan area, or in a contiguous metropolitan area. If a PHA were permitted to terminate assistance for activities on or near the assisted premises, the deterrent effect of this policy would be substantially diminished because the family could lease housing outside the area where the family member engages in the proscribed activities. Furthermore, if the rule were limited to activities engaged in on or near the premises which are being leased with Section 8 assistance, the rule would not authorize a PHA to deny Section 8 assistance to a former public housing tenant evicted for drug-dealing in public housing (and whose tenancy in public housing was terminated under section 6(1)(5)).

Commenters also contended that the rule conflicted with section 8(d)(1)(A) of the United States Housing Act of 1937, which provides:

> (d)(1) Contracts to make payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—
>
> (A) The selection of tenants for such unit shall be the function of the owner, subject to the provision of annual contributions contract between the Secretary and the agency * * *

The Department sees no conflict with section 8(d)(1)(A). The rule does not give PHAs the authority to select tenants for an owner's unit. The PHA selects families for participation in the Certificate and Housing Voucher Programs. The selected families may then seek to rent units from owners in the local housing market. However, the PHA does not select tenants for any individual owner. The owner is free to apply the owner's normal criteria for selection of tenants, and is free to accept or reject a certificate or housing voucher holder as a tenant. The PHA has no legal authority to compel the owner to rent to a Section 8 certificate or housing voucher Department believes that this extension of the PHA's authority is needed to have a more effective policy against drugs and violent crime. As previously noted, without this authority PHA's must issue certificates and housing vouchers to families that had been evicted from public housing or by Section 8 owners for engaging in these activities.

Meaning of "Engaging In"

Many commenters requested further guidance on what "engaging" in drug related or violent criminal activities means. They asked whether a PHA's determination to terminate or deny assistance because a family member is engaging in drug-related criminal activities should be based on whether the family member is accused, indicted, convicted, or out on bail. They believed that there would be many legal challenges to this definition unless a very strict definition is used. Some commenters asked if someone is charged but acquitted for insufficient evidence could be denied assistance because of a lesser standard of proof, or whether a family could be denied assistance even though no member has been charged with a crime.

Some of these commenters argued that the rule should apply only when there is a conviction. They believed that using an administrative process to deny a family shelter, before there is a conviction, is a constitutional abridgement of a tenant's constitutional rights. Others believed that PHAs should not be required to enforce criminal codes, and that applying denial and termination only after conviction would avoid screening problems and PHA liability.

Other commenters, however, recommended that the definition of a drug-related or violent criminal activity should specify that it does not require that a family member be arrested or convicted, and that denial or termination of assistance should be permitted based on a civil eviction proceeding, or on the ground that the family vacated the premises on threat of eviction, for drug-related activities.

Some commenters believed that if a landlord does not seek an eviction, a PHA should be able to deny or terminate assistance based on reasonable cause to believe that applicant or participant is involved in drug-related activities, e.g., the execution of a search warrant and drugs are confiscated as a result of the search.

The purpose of this rule is not to punish families for past behavior, but rather to discourage such behavior by imposing an obligation on the family to not engage in the proscribed activities as a condition for receiving the housing assistance. Past behavior is relevant to questions of whether a family member engages in drug-related or violent criminal activities, but by itself, may not be determinative of that issue. A family with a member who has been convicted of drug-related criminal activities may be able to show that the family member has been rehabilitated. Thus, while conviction for the proscribed activities must be considered by the PHA, it should not be the only factor considered. A PHA should have the authority to terminate or deny assistance if it can present sufficient probative evidence that a family member is engaging in an activity that meets the elements of the criminal statute relating to a drug-related or violent criminal activity.

The PHA is not being asked to adjudicate guilt, but rather whether, under a civil standard of preponderance of the evidence, a family member, in fact, is engaging in certain activities. It is the fact of the activity rather than assessment of criminal liability that is at issue. Reference to criminal statutes is intended to provide a clear definition of those activities. The Department has revised the rule to make it clear that a PHA may deny or terminate assistance if the preponderance of evidence indicates that a Family member has engaged in such activity, regardless of whether the Family member has been arrested or convicted (see §§ 882.216(c), 882.514(g), and 887.403(c)).

Some commenters believed that the proposed rule would permit PHAs to deny or terminate assistance: for activities occurring as much as ten years ago or that were based on charges that were dismissed, or to a family of a convicted drug user who had successfully completed a rehabilitation program. Once commenter argued that if these results were possible, the rule would create a *per se* classification that could bar assistance forever based on the history of a family member. The commenter noted that the preamble to the proposed rule contained the

following moderating language, which suggested that the rule was not intended to have such harsh effects:

> These procedures would give PHA's broad discretion to consider all of the circumstances in each case, including the seriousness of the offense, the extent of participation by family members, and the effects that denial or termination would have on family members not involved in the proscribed activity. PHAs could, in appropriate cases, permit family members not involved in the proscribed activities to continue receiving assistance on the condition that family members determined to have engaged in the proscribed activities will not reside in the unit.

The commenter (who was opposed to the rule on other grounds as well) urged that the final rule should, at least, include this preamble text.

The regulation does not automatically bar assistance to a family because of past drug-related or violent criminal activity by a family member. Rather, the PHA has the authority to determine whether denial or termination is appropriate. HUD has adopted the commenter's suggestion and has added provisions similar to the above-quoted text to the rule (see §§ 882.216(c), 882.514(g) and 887.403(c)).

It was also argued that termination of assistance not based on a conviction may deny tenant due process in State court by permitting use of summary process for nonpayment of rent caused by the termination of assistance, and therefore the import of the proposed rule would be to substitute an informal hearing before a PHA for judicial proceedings and the right to trial by jury. The commenters' argument assumes that an owner, who has evidence of a lease violation related to a participant family engaging in a drug-related or violent criminal activity, will seek to have the PHA terminate family's assistance through the procedures provided in this rule, and if successful, will then terminate the family's lease based on its nonpayment of rent that will likely follow the termination of assistance. The sole issue before the landlord tenant court, they argue, would then be nonpayment of rent, not whether the family was engaged in drug-related or violent criminal activity.

The Department does not agree that giving the PHA authority to terminate assistance through an administrative procedure denies families due process in State court when an owner seeks to terminate a tenancy. Even if the commenters' scenario were accurate, the family would have received a due process hearing before the PHA. The Department believes that owners, who are private landlords, will more likely continue to rely on State courts to terminate tenancy and, if successful, may bring the State court decision to the PHA's attention for consideration of whether to terminate assistance.

Adequacy of Hearing and Review Requirements

It was claimed that the informal hearing pretermination requirements in § 882.216 do not conform to the due process requirements set out in *Goldberg* v. *Kelly* because there is no right to subpoena witness, and PHAs are not bound by an administrative determination that the PHA unilaterally decides is contrary to law. Other commenters, however, believed that providing applicants and participants access to current "due process" provisions is fair and reasonable. One commenter argued that families, whose assistance is denied or terminated, should not be given the right to confront witnesses because people will be discouraged from providing PHAs with information concerning drug-related criminal activities. The commenter cited *Goss* v. *Lopez* to support contention that the right to confront witnesses is not required.

Another objection was the lack of posttermination procedures which was claimed to be inconsistent with *Cleveland Board of Education* v. *Loudermill*. Another commenter argued that applicants, at a minimum, should be given informal hearing procedures when denied assistance on the basis of criminal activity.

Under this rule, PHAs must adopt written informal pretermination hearing procedures for participants, which fully meet the requirements of *Goldberg* v. *Kelly*. The family must be given prompt notice of the decision to deny assistance, which must briefly state the reasons for the decision and the time during which a participant family may request an informal hearing. The hearing must be conducted by a person other than the person (or a subordinate of the person) who made the decision under review. The participant has a right to be represented by counsel, must be given the opportunity to present evidence and to question any witnesses. The person conducting the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the participant must be based on the evidence presented at the hearing. Finally, a copy of the hearing decision must be furnished promptly to the participant.

The Department does not agree that these procedures are defective because they do not provide participants with the right to subpoena witnesses. The cases cited by the commenters concerned formal hearings in which the agency had and conferred subpoena authority on the parties. The Department has no subpoena power to grant either PHAs or participants with respect to these matters, nor are they needed to afford procedural due process in an administrative proceeding for termination of housing subsidy. Participants have the right to cross examine any witness upon which a PHA relies. As with other informal hearings, formal rules of evidence normally do not apply, but participants can raise issues challenging the probative value of any evidence offered by the PHA. The Department believes that the procedures strike an appropriate balance between the participant's interest in avoiding erroneous terminations of assistance, and a PHA's need to have practical and expeditious procedures for determining the facts concerning a proposed termination.

There is no need or requirement for a posttermination hearing because the pretermination fully comports with due process requirements.

An applicant for assistance also has the opportunity for informal review of a PHA's decision to deny assistance. The PHA must give an applicant for participation in the PHA's program prompt written notice of a decision denying assistance to the applicant (including a decision denying listing on the PHA waiting list, issuance of a housing voucher or certificate, or participation in the program.) As for a participant, the notice to an applicant must contain a brief statement of the reasons for the decision. The notice also must indicate that the applicant may request an informal review of the decision, and describe how to obtain the informal review. The PHA must give the applicant an opportunity for an informal review of the decision in accordance with review procedures established by the PHA. The informal review may be conducted by any person or persons designated by the PHA, other than a person who made or approved the decision under review or a subordinate of that person. The applicant must be given an opportunity to present written or oral objections to the PHA's decision. The PHA must promptly notify the applicant in writing of the final PHA decision after the informal review, including a brief statement of the reasons for the final decision.

The Department believes a weighing of the applicant's interest against a PHAs need for practical procedures warrants having simpler procedural

protections for an applicant. The applicant's risk of loss is less than a participant's. A participant risks the loss of housing assistance that is currently being received. A determination that an applicant family is eligible and placing the family on a PHA waiting list means only that the family can stand in line for assistance. There is no assurance that the family will receive a certificate or housing voucher, or that the family will find suitable housing. A more detailed presentation of the Department's position concerning the adequacy of hearing and review procedures is set out in the preamble to the final rule that adopted these procedures for the Certificate Program (49 FR 12215, 12224–12230, March 29, 1984).

A number of commenters questioned the lack of guidance in the proposed rule concerning procedural requirements when an applicant requests review of a denial of assistance or a participant requests an informal hearing with respect to a termination of assistance. It was noted that there are no specific guidelines for burden of proof under the rule, and it was asked whether the standard is preponderance of the evidence, beyond a reasonable doubt, or clear and convincing evidence? Other commenters urged that the rule specify an administrative standard of evidence, i.e., "adequate evidence that supports a reasonable belief." The Department has revised §§ 882.216(b)(6)(v), 882.514(f), and 887.405(b)(6)(v) to state that the standard of proof is a preponderance of evidence. This revision applies to all PHA decisions to terminate assistance, not only to those decisions that are based on evidence of drug-related criminal activity or violent criminal activity.

Commenters asked what form of verification and documentation would be required to determine both initial and continuing eligibility for Section 8 assistance. It was recommended that PHAs be required to have written criteria outlining what constitutes acceptable evidence that an applicant or participant is engaging in a proscribed activity, with examples being proof of conviction or written documentation from several criminal justice, social service, or other appropriate agencies of alleged drug or criminal behavior. Also, there should be standards for dealing with anonymous tips. It was also recommended that PHA administrative plans identify examples of evidence and define specific internal procedures that must be followed when there is a denial or termination.

The proposed rule did not create a new procedure for considering applicant requests for review or participant requests for a hearing because PHAs already are required to have informal review and hearing procedures (see §§ 882.216, 887.405). Those regulations have never spelled out detailed procedural requirements, but rather contain the broad elements necessary for a fair process, and require PHAs to develop written informal hearing procedures. These procedures must be described in the PHA's administrative plan, which is subject to HUD review and approval (see §§ 882.204 and 887.61). The Department believes, for the reasons discussed above, that the procedures described in the denial and termination of assistance provisions are sufficient to inform a family of the basis for the PHA's decision and to permit the family to present its objections.

A commenter recommended that, rather than allowing PHAs broad discretion to consider case circumstance, there should be a requirement for a written finding on each of the relevant circumstances in each case. The Department believes that this recommendation would be overly prescriptive. PHAs must provide written explanations of their decisions.

Commenters recommended the rule provide requirements concerning confidentiality. The Department believes that issues of confidentiality are best left to PHAs. PHAs already routinely receive information of a confidential nature in processing applications for assistance.

Type of Activities Covered

A commenter believed that the rule's definition of drug-related criminal activity appears to conflict with Federal and New York State criminal statutes because the rule implies that there may be felonious use that does not involve intent to manufacture, sell, or distribute. The commenter suggested that the terms "felonious" and "felonious criminal" should be replaced with "unlawful," which should be defined as "Determined by the PHA to have occurred in violation of Federal law or the law of a jurisdiction in which the unit is located, by a preponderance of the evidence." It was also argued that the term "felonious" should be deleted because it implies an explicit standard or level of behavior that a PHA will have to determine before taking action. Other commenters believed that there is a class of extremely undersirable behaviors that are class A misdemeanors. One commenter gave a list of such misdemeanors under Oregon State law. It was also suggested that the rule should be broadened to include any criminal activity. Others recommended the rule add, as a proscribed activity, engaging in non-desirable behavior that threatens the health and safety of other individuals, tenants, family members, guests, or PHA employees.

The Department has not adopted these suggestions. The Department believes that limiting the proscribed activities to activities that would be a felony is a reasonable means of identifying very serious objectionable behavior, as identified by Congress or State legislators. While some State laws may have misdemeanors encompassing "extremely undesirable behavior," it would be difficult to ensure that other much less serious offenses would not be included. The rule is consistent with the law to jurisdictions in which possession alone does not constitute a felony. In those jurisdictions, possession of drugs, without evidence of intent to manufacture, sell, or distribute, simply would not be a basis for denial or termination of assistance.

The proposed rule contained a limitation that when the drug-related criminal activity involved use or possession other than with intent to manufacture, sell, or distribute, the drug-related activity must have occurred within a one year period before termination or denial of assistance. A commenter stated that provision does not have the desired effect of serving as an incentive to former drug users who are "clean" or are controlling their addiction. The commenter believed that, to serve as an incentive to former drug users, the limitation should be broadened to include any person who is no longer using drugs or is currently in treatment. Another commenter recommended that the termination or denial of assistance for use or possession should apply to such use or possession within a two-year rather than a one-year period.

The one-year limit for felonious use or possession in the proposed rule was intended to create an incentive to former drug users who have stopped taking drugs and who are "clean" or are controlling their addiction. The rule continues this policy. The Department believes that this one-year limitation will be an effective inducement to individual users to cease engaging in the drug-related activity on their own or their family's initiative without any adverse action being brought by a PHA. The Department believes that providing a two-year limitation (as suggested by the public comments) would weaken the policy's deterrent effect. The Department, also, is not inclined to extend this limitation to person's engaged in the more serious activities of

felonious sale, manufacture, or distribution of controlled substances.

The one-year limitation was also intended to ensure that the determination to deny or terminate assistance is not based on a handicap status of a past drug user. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 includes within the prohibition against discrimination on the basis of a handicap, discrimination on the basis of drug addiction (other than addiction caused by current, illegal use of a controlled substance). The House Committee on the Judiciary explained the provisions concerning addiction to a controlled substance as follows:

The definition adopted by the Committee makes it clear that current illegal users or addicts to controlled substances, as defined by the Controlled Substances Act, are not considered to be handicapped persons under the Fair Housing Act. This amendment is intended to exclude current abusers and current addicts of illegal drugs from protection under this Act. The definition of handicap is not intended to be used to condone or protect illegal activity.

* * * * *

* * * (I)ndividuals who have a record of drug use or addiction but who do not currently use illegal drugs would continue to be protected if they fell under the definition of handicap. The Committee does not intend to exclude individuals who have recovered from an addi(c)tion or are participating in a treatment program or a self-help group such as Narcotic Anonymous. Just like any other person with a disability, such as cancer or tuberculosis, former drug-dependent persons do not pose a threat to a dwelling or its inhabitants simply on the basis of status. Depriving such individuals of housing, or evicting them, would constitute irrational discrimination that may seriously jeopardize their continued recovery.

Individuals who have been perceived as being a drug user or an addict are covered under the definition of handicap if they can demonstrate that they are being regarded as having an impairment and that they are not currently using an illegal drug.

* * * * *

* * * If the landlord determines, by objective evidence that is credible, and not from unsubstantiated inferences, that an applicant will pose a direct threat to the health and safety of others, the landlord may reject the applicant as a tenant. In assessing information, the landlord may not infer that a recent history of a physical or mental illness or disability, or treatment for such illnesses or disabilities, constitutes proof that an applicant will be unable to fulfill his or her tenancy obligations. (House Report, which accompanied the Fair Housing Amendments Act of 1988 (H. Rept. No. 100–711, 100th Cong., 2d Sess., June 17, 1988, at pp 22 and 30))

On further consideration, the Department believes that the one-year period, by itself, could be applied in a manner that would be inconsistent with the handicap provisions to title VIII, and has adopted the following provision as part of the meaning of drug-related criminal activity:

The felonious use or possession (other than with intent to manufacture, sell or distribute), of a controlled substance, except that such felonious use or possession must have occurred within one year before the date that the PHA provides notice to an applicant under § 882.216(a)(1), or to a participant under § 882.216(b)(3)(i) of the PHA's determination to deny admission or terminate assistance. Drug-related criminal activity does not include this use or possession, if the family member can demonstrate that he or she: (1) Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; *and* (2) has recovered from such addiction and does not currently use or possess controlled substances.

Under this provision a family could not have assistance denied or terminated, even if a PHA has evidence of a family member's felonious use or possession of a controlled substance within the past year, if the family member demonstrates that he or she: (1) Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment: and (2) has recovered from such addiction and does not currently use or possess controlled substances.

The rule is also consistent with the requirements of section 504 of the Rehabilitation Act of 1973, as amended. Section 504 applies to housing programs which receive Federal financial assistance, and prohibits recipients of such assistance from discriminating against an individual solely because the individual is handicapped. For purposes of the programs covered by this rule handicap under section 504 includes drug addiction subject to an exception for an individual whose current use of drugs prevents the individual from participating in the program or whose participation, by reason of such current drug abuse, would constitute a direct threat to property or the safety of others. The provisions of this rule are consistent with section 504, because section 504 permits housing providers to require individuals with handicaps to meet the same eligibility requirements as other applicants and participants. This rule applies the same eligibility requirement to all applicants and participants, namely that they shall not engage in drug-related or violent criminal activities.

Comments recommended that the Statement of Family Responsibility, the Certificate Program family obligations, and the Housing Voucher Program family obligations should be broadened to include compliance with the terms of the lease and should allow denial or termination of assistance for noncompliance. In the alternative, it was suggested that there should be a separate document signed by the PHA (approved by HUD) setting out responsibilities and grounds for termination and denial of assistance. The Department may consider in future rulemaking whether to make failure to comply with lease provisions as a ground for denial or termination of assistance, but does not consider that issue with the scope of this rulemaking.

Persons Covered

A commenter believed that the proscribed activities should apply to guests and other persons under the tenant's control, referring to Oregon landlord tenant law as an example. Such inclusion is not appropriate in this rule which concerns PHA's determination of a family's suitability for participation in these programs based on their behavior. It does not focus, as a lease would, on questions concerning the use of the unit. PHAs are not landlords under these programs. This rule concerns the authority of PHAs as subsidy providers. The authority of Certificate, Housing Voucher, or Moderate Rehabilitation Program landlords is not affected. Landlords may terminate tenancy for acts by guests and other persons under the tenants' control based on statutory good cause standards.

A commenter recommended that the rule should be clarified to provide that termination would not apply to extended family living in another unit in the same project. The clarification is not needed because "family" in these programs includes only individuals who are occupying the same unit.

A commenter stated that the rule does not address a PHA's ability to terminate continued assistance to participants under outstanding HAP contracts, and believed it should. Participants are subject to validly promulgated regulations. Outstanding Housing assistance payments contracts provide that the PHA has the right to terminate assistance if the family has violated family obligations. This rule establishes as a family obligation that family members shall not engage in drug-related or violent criminal activities. This rules applies to all participants as of its effective date.

Effect on Other Family Members

Some commenters cited several court decisions for the proposition that the government cannot deny children assistance for activities of their parents. These commenters believed that this rule would also deny assistance on a similarly impermissible grounds because, they asserted, it would permit denial or termination of assistance for conduct unrelated to the housing unit, over which the family would generally have no control and for conduct related to the housing unit where innocent family members were uninvolved in the wrong doing and could not have prevented it. Because Section 8 assistance is a protected property interest, they believe that such a termination of assistance would constitute an unconstitutional forfeiture.

The Department disagrees with these contentions. In the programs under this rule, the applicant or participant is the entire family, and each member must comply with the family obligations. Under the commenters' logic, PHAs could take action for breach of family obligations only if each family member breached those obligations. Furthermore, while the PHA has authority to terminate assistance, it may—on a consideration of all factors—decide to continue the assistance for family members not involved in the proscribed activities on the condition that the family members determined to have engaged in the proscribed activities will not reside in the unit.

One commenter objected to this authority to continue assistance on the condition that the family members determined to have engaged in the proscribed activities will not reside in the units, which it characterized as "permanent exclusion." The commenter believed that it would be very difficult and costly to enforce a permanent exclusion and would result in disparate treatment of similarly situated persons. Another commenter noted that under traditional housing law, if one family member fails to pay rent, the entire family is evicted. It was also recommended that permanent exclusion should be discretionary with the PHA, and that discussion of permanent exclusion should include a discussion of the practical difficulties associated with it, namely, enforcement, increased program costs, and additional administrative complexities. The Department recognizes that it may be difficult in certain cases to ensure that persons engaging in drug-related activities do not continue to reside in assisted housing when the other family members are permitted to remain. To impose an absolute requirement to terminate assistance, however, would work a hardship on some families. On balance, the Department believes that such decisions must necessarily be left to the PHA's discretion in individual cases.

It was also argued that the rule contains no standards governing the PHA's exercise of the authority to permit innocent family members to remain. The rule, the argument continued, therefore, gives inadequate notice to family members of their liability for wrongdoing of other family members and will lead to non-uniform and standardless decisionmaking by PHAs. The Department believes that with this rule family members will be on notice that they risk loss of their assistance if a family member engages in the proscribed activities.

Another commenter would also let PHAs condition continued assistance on the family entering a treatment program. Such a condition is within the PHA's discretion under this rule.

A commenter believed that the risk of losing housing because of a family member's violent criminal activity will discourage battered spouses from reporting domestic violence and using available legal remedies. The commenter recommended that rule exempt criminal violence directed against another family member, and that PHAs should have discretion to remove from a certificate or housing voucher the name of a family member that has a court order of protection with an order of exclusion against them. The Department has decided not to create a blanket exception for violence directed at another family member. The Department believes that the provisions added to make clear that the PHA has discretion to consider the effects that denial or termination would have on family members not involved in the proscribed activity, should ameliorate this concern.

Programs Covered

Some commenter recommended that the rule be applied to Section 8 New Construction or Substantial Rehabilitation. In those programs, an owner can refuse to lease to a family because of drug-related or violent criminal activities, and can terminate a tenancy when these activities constitute a lease violation.

PHA Liability

Several commenters expressed concern about a PHA's potential legal liability from an implied duty to screen applicants or a guarantee that participants are not engaging in drug-related activity. It was recommended that language be added stating that rule does not create a private cause of action for any act or failure to act on the part of a PHA, and that specific screening procedures be prescribed by HUD that distinguish between owner and PHA responsibility. The rule as stated creates no express or implied obligation on the part of PHAs to guarantee that participants are not engaging in drug-related or violent criminal activities. Furthermore, the PHA has no regulatory duty to deny or terminate assistance on these grounds. The regulations currently provide that the PHA's selection of an applicant for participation is not a representation by the PHA to the owner concerning either the family's expected behavior as a tenant or its suitability as a tenant (see §§ 882.209(a)(5) and 887.155(a)(1)(ii)).

Concern was also expressed about liability when there is a denial or termination of assistance and the accused person is ultimately acquitted. Since a criminal case must be proved beyond a reasonable doubt there may be cases in which a PHA has sufficient evidence to support termination even though a family member is ultimately acquitted in a criminal action. Acquittal by itself should not call into question the PHA's decision to deny or terminate assistance following the review and hearing procedures prescribed in the regulation. Of course, evidence adduced at a criminal trial that tended to exonerate the family member could be used by the family to convince the PHA to reconsider its decision.

Questions Concerning PHA's Ability To Do Screening and Administrative Burden

Some commenters noted that the vesting of tenant selection and property management responsibilities in the private landlord is the major strength of these programs and saw the rule as a step away from privatizing public housing. It was argued that the rule added additional layers of administrative responsibility when landlords should have the responsibility for screening tenants. Other commenters pointed out that owners must still have the major responsibility for screening applicants because PHAs do not manage the projects.

The Department agrees that having tenant selection and property management responsibilities vested in the owner is a major strength of these programs. This rule does not impair those responsibilities, nor does it transfer those responsibilities to PHAs. Owners continue to have the right to

screen tenants and to select tenants for their units. Owners can and should take action where tenants are failing to meet their family obligations under these programs. An owner, however, is not in a position to address one of the major concerns of this rule, namely, that families that are engaged in the proscribed activities can receive another housing voucher or certificate even though they have been evicted from public housing or from a Section 8 assisted unit for drug-related or violent criminal activities.

Several commenters believed that PHAs may have problems administering the rule because all applicants, not just those that were suspect, would have to be screened; PHAs would need access to criminal history information; PHAs may have to mediate/investigate disputes between landlord and participant; PHAs would have to investigate anonymous tips. They believed that PHAs would incur material expenses, including additional staff to meet increased workload; some commenters recommended that the administrative fee be increased (one commenter specified to 8.5% of 2-bdrm FMR). A commenter asked that this authority remain at PHA's sole discretion because the commenter would not exercise this authority unless the administrative fees are raised.

It was also noted that in order to comply with 8 24 CFR 100.202(c) (4) and (5), a PHA would have to screen all prospective applicants to determine if they are current illegal abusers or addicts or have been convicted of illegal manufacture or distribution of a controlled substance. The commenter argued that it would be impossible to do a search for criminal records for every applicant, and asked how would a PHA determine who will be investigated without incurring charges of discrimination.

It was pointed out that the rule does not specify how the drug-related or violent criminal activity would be discovered by the PHA. Some commenters believed that PHAs would need access to records in the National Criminal Information Center and State systems, but under State law (a commenter cited California as an example) PHAs would not have access to such records. It was noted that it is often not possible to obtain criminal records, and that when they are obtained, they are not admissible in court. Other PHA commenters noted that they are already relying on information provided by local law enforcement, fire department, and social service agencies. It was recommended that the rule include provisions that would provide PHAs with the tools and information necessary to do effective screening.

The Department recognizes that this increased authority will add to PHAs' workload, but the Department does not believe that exercising this authority will be as burdensome as some of the comment suggests. PHAs are free to establish through their administrative plan procedures they believe appropriate for carrying out this function. PHAs are not investigative entities and are not obligated to ferret out information concerning a family's criminal activities as part of a PHA's processing of an application for assistance. Initial screening of applicants could be limited to routine inquiries to the family. Under 24 CFR 100.202 (c) (4) and (5) inquiries that are part of the application process concerning whether the applicant is a current illegal abuser or addict or has been convicted of the illegal manufacture or distribution of a controlled substance would have to be directed to all applicants, but such inquiries could be standardized. Sections 100.202(c) (4) and (5) would not impose any obstacle to a PHA responding on a case-by-case basis information it might receive concerning the alleged activities of a family that is participating in the programs.

Other Information

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1991. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with provisions of 5 U.S.C. 605(b), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because this rule's primary effect is to permit PHAs to terminate ore deny assistance to families when a member or members of the family have participated in drug-related activities or in serious criminal activities.

HUD has determined, in accordance with E.O. 12612, Federalism, that this rule does not have a substantial, direct effect on the States or on the relationship between the Federal Government and the States, or on the distribution of power or responsibilities among the various levels of government because this rule would not substantially alter the established roles of HUD, the States, and local governments, including PHAs. The rule would provide PHAs with an additional ground for denying or terminating assistance, but the role of the PHA in these programs would remain unaltered.

HUD has determined that this rule is likely to have a significant impact on family formation, maintenance, and general well-being within the meaning of E.O. 12606, The Family, because the rule should improve the environment in which assisted families reside by enabling PHAs to terminate assistance to families engaging in criminal activities. It should also provide an incentive to families to discourage family members from engaging in these activities.

This rule was listed as Sequence Number 1180 in the Department's Semiannual Agenda of Regulations published on April 23, 1990, (55 FR 16229, 16243) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program number and title is: 14.156, Lower Income Housing Assistance Program (Section 8).

List of Subjects

24 CFR Part 882

Grant programs—housing and community development; Lead poisoning, Manufactured homes, Rent subsidies, Reporting and Recordkeeping requirements.

24 CFR Part 887

Grant programs—housing and community development; Housing; Low and moderate income housing; Rent subsidies; Reporting and recordkeeping requirements.

Accordingly, the Department amends 24 CFR parts 882 and 887 as follows:

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING PROGRAM

1. The authority citation for part 882 is revised to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 882.118, a new paragraph (b)(4) is added to read as follows:

§ 882.118 Obligations of the Family

* * * * *

(b) * * *

(4) Engage in drug-related criminal activity or violent criminal activity, including criminal activity by any Family member. For the purposes of this section—

(i) *Drug-related criminal activity* means one of the following:

(A) The felonious manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(B) The felonious use or possession (other than with intent to manufacture, sell or distribute), of a controlled substance, except that such felonious use or possession must have occurred within one year before the date that the PHA provides notice to an applicant under § 882.216(a)(1), or to a participant under § 882.216(b)(3)(i) of the PHA's determination to deny admission or terminate assistance. Drug-related criminal activity does not include this use or possession, if the Family member can demonstrate that he or she:

(*1*) Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; and

(*2*) Has recovered from such addiction and does not currently use or possess controlled substances.

(ii) *Violent criminal activity* includes any felonious criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

(iii) *Felonious* means that the criminal activity is classed as a felony under Federal, State, or local law.

3. In § 882.210, paragraph (b) is revised to read as follows:

§ 882.210 Grounds for denial or termination of assistance.

* * * * *

(b) the PHA may deny an applicant admission to participate in the Certificate Program or, with respect to a current participant, may refuse to issue another Certificate for a move to another unit, approve a new lease, or execute a new Contract, if the applicant or participant:

(1) Currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

(2) As a previous participant in the Section 8 program or as a participant in the Certificate Program, has not reimbursed the PHA or another PHA for any amounts paid to an owner under a housing assistance contract for rent or other amounts owed by the Family under its lease (see § 882.112(d) and § 887.209 of this chapter), or for a vacated unit (see § 882.105(b)).

(3) Has violated any Family obligation under § 882.118 or under § 887.401 of this chapter.

(4) Has engaged in drug-related criminal activity or violent criminal activity, as defined in § 882.118(b)(4).

(5) Breaches an agreement provided for in paragraph (c) of this section.

(6) Has committed any fraud in connection with any Federal housing program.

* * * * *

4. In § 882.216, paragraphs (a)(2) and (b)(6)(v) are revised and a new paragraph (c) is added to read as follows:

§ 882.216 Information review or hearing.

(a) * * *

(2) The PHA shall give the applicant an opportunity for an informal review of the decision, in accordance with review procedures established by the PHA. The informal review may be conducted by any person or persons designated by the PHA, other than a person who made or approved the decision under review or a subordinate of that person. The applicant shall be given an opportunity to present written or oral objections to the PHA decision. The PHA shall promptly notify the applicant in writing of the final PHA decision after the informal review, including a brief statement of the reasons for the final decision.

* * * * *

(b) * * *

(6) * * *

(v) The person who conducts the hearing shall issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the participant shall be based on a preponderance of the evidence presented at the hearing. A copy of the hearing decision shall be furnished promptly to the participant.

* * * * *

(c) *Considerations in certain denials and terminations.* In determining whether to deny or terminate assistance based on drug-related criminal activity or violent criminal activity:

(1) A PHA may deny or terminate assistance if the preponderance of evidence indicates that a Family member has engaged in such activity, regardless of whether the Family member has been arrested or convicted;

(2) A PHA shall have discretion to consider all of the circumstances in each case, including the seriousness of the offense, the extent of participation by Family members, and the effects that denial or termination would have on Family members not involved in the proscribed activity. PHAs, in appropriate cases, may permit the remaining members of the Family to continue receiving assistance and may impose a condition that Family members determined to have engaged in the proscribed activities will not reside in the unit. A PHA may require a Family member that has engaged in the illegal use of drugs to submit evidence of successful completion of a treatment program as a condition to being allowed to reside in the unit.

(Approved by the Office of Management and Budget under control number 2502–0123)

5. Section 882.413 is revised to read as follows:

§ 882.413 Responsibility of the Family.

(a) A family receiving housing assistance under this Program must fulfill all of its obligations under the Lease and Statement of Family Responsibility.

(b) No family member may engage in drug-related criminal activity or violent criminal activity. Failure of the Family to meet its responsibilities under the Lease, the Statement of Family Responsibility, or this section shall constitute rounds for termination of assistance by the PHA. Should the PHA determine to terminate assistance to the Family, the provisions of § 882.514(f) must be followed.

(c) For the purposes of this section —

(1) *Drug-related criminal activity* means one of the following:

(i) The felonious manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(ii) The felonious use, or possession (other than with intent to manufacture, sell, or distribute), of a controlled substance, except that such use or possession must have occurred within

one year before the date that the PHA provides notice to an applicant or participant Family of the PHA's determination to deny admission or terminate assistance. Drug-related criminal activity does not include this use or possession, if the Family member can demonstrate that he or she:

(A) Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; and

(B) Has recovered from such addiction and does not currently use or possess controlled substances.

(2) *Violent criminal activity* includes any felonious criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

(3) *Felonious* means that the criminal activity is classed as a felony under Federal, State, or local law.

6. In § 882.514, paragraph (a)(2) is redesignated as paragraph (a)(3), paragraph (f) is revised, and new paragraphs (a)(2) and (g) are added, to read as follows:

§ 882.514 Family participation.

(a) * * *

(2) A PHA may determine that an applicant Family is ineligible for participation because one or more Family members have engaged in drug-related criminal activity or violent criminal activity, as defined in § 882.413(b).

* * * * *

(f) *Families determined by the PHA to be ineligible.* If a Family is determined to be ineligible in accordance with the PHA's HUD-approved application, either at the application stage or after assistance has been provided on behalf of the Family, the PHA shall promptly notify the Family by letter of the determination and the reasons for it and the letter shall state that the Family has the right within a reasonable time (specified in the letter) to request an informal hearing. If, after conducting such an informal hearing, the PHA determines, based on a preponderance of the evidence, that the Family is ineligible, it shall notify the Family in writing. The procedures of this paragraph do not preclude the Family from exercising its other rights if it believes it is being discriminated against on the basis of race, color, religion, sex, age, handicap, familial status, or national origin. The informal review provisions for the denial of a Federal selection preference under § 882.517 are contained in paragraph (k) of that section.

(g) *Considerations in certain denials and terminations.* In determining whether to deny or terminate assistance based on drug-related criminal activity or violent criminal activity:

(1) A PHA may deny or terminate assistance if the preponderance of evidence indicates that a Family member has engaged in such activity, regardless of whether the Family member has been arrested or convicted;

(2) A PHA shall have discretion to consider all of the circumstances in each case, including the seriousness of the offense, the extent of participation by Family members, and the effects that denial or termination would have on Family members not involved in the proscribed activity. PHAs, in appropriate cases, may permit the remaining members of the Family to continue receiving assistance and may impose a condition that Family members determined to have engaged in the proscribed activities will not reside in the unit. A PHA may require a Family member that has engaged in the illegal use of drugs to submit evidence of successful completion of a treatment program as a condition to being allowed to reside in the unit.

(Approved by the Office of Management and Budget under control number 2502–0123)

PART 887—HOUSING VOUCHERS

7. The authority citation for part 887 is revised to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

8. In § 887.401, a new paragraph (b)(5) is added, to read as follows:

§ 887.401 Family responsibilities.

* * * * *

(b) * * *

(5) Engage in drug-related criminal activity or violent criminal, including criminal activity by any family member. For the purposes of this section—

(i) *Drug-related criminal activity* means one of the following:

(A) The felonious manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(B) Drug-related criminal activity also includes the felonious use, or possession (other than with intent to manufacture, sell, or distribute), of a controlled substance, except that such use or possession must have occurred within one year before the date that the PHA provides notice to an applicant or participant, under § 887.405, of the PHA's determination to deny admission or terminate assistance. Drug-related criminal activity does not include this use or possession, if the family member can demonstrate that he or she:

(*1*) Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; *and*

(*2*) Has recovered from such addiction and does not currently use or possess controlled substances.

(ii) *Violent criminal activity* includes any felonious criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

(iii) *Felonious* means that the criminal activity is classed as a felony under Federal, State, or local law.

9. In § 887.403, paragraph (b) is revised and a new paragraph (d) is added, to read as follows:

§ 887.403 Grounds for PHA denial or termination of assistance.

* * * * *

(b) *Denial of assistance.* The PHA may deny an applicant admission to participate in the Housing Voucher Program or, with respect to a current participant, may refuse to issue another housing voucher for a move to another unit, approve a new lease, or execute a new housing voucher contract, if the applicant or participant:

(1) Has violated any family obligation under § 887.401 or under § 882.118 of the chapter.

(2) Has engaged in drug-related criminal activity or violent criminal activity, as defined in § 887.401(b)(5).

(3) Has committed any fraud in connection with any Federal housing program.

(4) Currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

(5) Has not reimbursed the PHA or another PHA for any amounts paid to an owner under a housing assistance contract for rent or other amounts owed by the family under its lease (see § 887.215 and § 882.112(d) of this chapter), or for a vacated unit (see § 882.105(b)).

(6) Breaches an agreeement to pay amounts owed to a PHA, or amounts paid to an owner by a PHA. The PHA, at its discretion, may offer the applicant or participant the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement.

* * * * *

(d) *Considerations in certain denials and terminations.* In determining whether to deny or terminate assistance based on drug-related criminal activity or violent criminal activity:

(1) A PHA may deny or terminate assistance if the preponderance of evidence indicates that a family member has engaged in such activity, regardless of whether the family member has been arrested or convicted;

(2) A PHA shall have discretion to consider all of the circumstances in each case, including the seriousness of the offense, the extent of participation by family members, and the effects that denial or termination would have on family members not involved in the proscribed activity. PHAs, in appropriate cases, may permit the remaining members of the family to continue receiving assistance and may impose a condition that family members determined to have engaged in the proscribed activities will not reside in the unit. A PHA may require a family member that has engaged in the illegal use of drugs to submit evidence of successful completion of a treatment program as a condition to being allowed to reside in the unit.

10. In § 887.405, paragraphs (a)(2) and (b)(6)(v) are revised, to read as follows:

§ 887.405 Informal review or hearing.

(a) * * *

(2) The PHA must give the applicant an opportunity for an informal review of the decision, in accordance with review procedures established by the PHA. The informal review may be conducted by any person or persons designated by the PHA, other than a person who made or approved the decision under review or a subordinate of that person. The applicant must be given an opportunity to present written or oral objections to the PHA decision. The PHA must promptly notify the applicant in writing of the final PHA decision after the informal review, including a brief statement of the reasons for the final decision.

* * * * *

(b) * * *

(6) * * *

(v) The person who conducts the hearing shall issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the participant shall be based on a preponderance of the evidence presented at the hearing. A copy of the hearing decision shall be furnished promptly to the participant.

* * * * *

(Approved by the Office of Management and Budget under control number 2502-0123)

Dated: July 2, 1990.

C. Austin Fitts,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 90-16090 Filed 7-10-90; 8:45 am]

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Part V

Health and Human Services

Office of Community Services

Availability of Funds and Request for Applications Under the Office of Community Services, Office of Energy Assistance, Technical Assistance and Training Discretionary Authority; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office Of Community Services

[Program Announcement No. OCS-OEA-90-3]

Availability of Funds and Request for Applications Under the Office of Community Services, Office of Energy Assistance, Technical Assistance and Training Discretionary Authority

AGENCY: Office of Energy Assistance, OCS, FSA, HHS.

ACTION: Notice of availability of funds and request for applications under the Office of Community Services, Office of Energy Assistance's technical assistance and training discretionary authority.

SUMMARY: The Office of Community Services (OCS) and the Office of Energy Assistance (OEA) announce that applications will be accepted for new grants pursuant to the Secretary's discretionary authority under section 2609A of the Low Income Home Energy Assistance Act (the Act) of 1981 (title XXVI of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, 42 U.S.C. 8621 *et seq.*, as amended).

This program announcement consists of three parts. Part I describes the technical assistance and training program initiative, indicates who is eligible to apply, and describes the types of activities to be considered for funding; part II outlines the application requirements; and part III describes the review, selection, and award process.

DATES: The closing date for receipt of applications submitted under this program announcement is August 10, 1990.

FOR FURTHER INFORMATION CONTACT: Susan Peters, Family Support Administration, Office of Community Services, Office of Energy Assistance, 5th Floor, 370 L'Enfant Promenade SW., Washington, DC 20447 Telephone: (202) 252-5319.

SUPPLEMENTARY INFORMATION:

Part I. General Information

A. Purpose of the Technical Assistance and Training Discretionary Program

Section 2609A(a) of the Low Income Home Energy Assistance Act authorizes the Secretary of the Department of Health and Human Services to set aside up to $500,000 each fiscal year "to make grants to State and public agencies and private nonprofit organizations; or * * * to enter into contracts or jointly financed cooperative arrangements with States and public agencies and private nonprofit organizations; to provide for training and technical assistance related to the purposes of this subtitle, including collection and dissemination of information about programs and projects assisted under this subtitle, and ongoing matters of regional or national significance that the Secretary finds would assist in the more effective provision of services under this title."

B. Departmental Goals

The Secretary has established a broad Departmental goal of strengthening American families and has instituted several objectives to help realize this goal. OCS believes that three of those objectives are particularly relevant to this program, and will give special consideration to applications that address them:

1. Improve the integration, coordination and continuity of the various HHS funded services potentially available to families currently living in poverty.

2. Improve access of young children and their families living in poverty to the HHS funded services.

3. Expand the use of cost-effective human services to ensure the quality and availability of effective assistance.

C. Definitions

For the purposes of this program announcement, the following definitions apply:

State—Refers to each of the 50 States and the District of Columbia.

Indian tribe—The Final Rules for the Health and Human Services block grant programs (45 CFR 96.48) state that under the LIHEAP program, "Indian tribe" has the same meaning given this term in section 4(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638), and also includes organized groups of Indians that the State in which they reside has expressly determined are Indian tribes. Section 4(b) defines Indian tribe as—

> any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Tribal organization—The HHS block grant Final Rules (45 CFR 96.48) state that "tribal organization" has the same meaning given this term in section 4(c) of Public Law 93-638, and also includes organized groups of Indians that the State in which they reside has expressly determined are tribal organizations.

Section 4(c) defines "tribal organization" as:

> the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body [or bodies] or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: *Provided*, That in any case where a contract is let or grant made to an organization to perform services benefitting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

Territory—Refers to American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of the Pacific Islands/Palau (TTPI/Palau), and the Virgin Islands of the United States.

A provider of LIHEAP services—refers to those States, Indian tribes, tribal organizations, Territories, and local administering agencies that administer a federally funded Low Income Home Energy Assistance Program (LIHEAP). Local administering agencies include any local public or private nonprofit agency designated by a State, Territory, or Indian tribe or tribal organization to carry out the purposes of the LIHEAP.

Low-income LIHEAP household—refers to a household with income that does not exceed the greater of an amount equal to 150% of the current poverty income guidelines issued by the Department of Health and Human Services for such State or an amount equal to 60% of the State median income. It also refers to a household that is receiving Aid to Families With Dependent Children (AFDC), Supplemental Security Income (SSI), food stamp benefits or some needs-tested veterans' benefits in those States that provide categorical eligibility to such households. Attachment H to this program announcement includes an excerpt from the most recently published poverty income guidelines and State median income guidelines. Annual revisions to these guidelines are normally published in February or early March of each year and are applicable to projects implemented at the time of publication. (These revised guidelines may be obtained at public libraries, Congressional offices, or by writing the U.S. Government Printing Office at the following address: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402).

No other government agency or privately defined poverty guidelines are applicable for the determination of low income eligibility for the LIHEAP (program).

D. Applications

The Office of Energy Assistance (OEA) is soliciting applications for demonstration or training projects on the following topics/activities related to the Low Income Home Energy Assistance Program (LIHEAP). Activities listed are in no particular order of priority.

- Innovative and cost-effective approaches to service delivery to ensure the quality and availability of effective LIHEAP assistance (*e.g.*, leveraging, targeting assistance, coordination, effective intake and outreach, payment options, budget payment plans).
- Client training projects (*e.g.*, conservation education training, budget counseling, low-cost or no-cost weatherization).
- Innovative approaches to improve the access, integration, coordination and continuity of LIHEAP and other related services potentially available to low-income families (*e.g.*, case management approach to service delivery, reducing client dependency budget).

An application may contain only one project but may include multiple sites. Only one application per eligible applicant (or per eligible applicant(s) that applies jointly with a business concern or other eligible applicant) may be submitted under this program announcement.

There is no non-Federal matching requirement.

E. Eligible Applicants

Eligible applicants are States, Indian tribes, tribal organizations, Territories, public agencies and private nonprofit organizations, including Historically Black Colleges and Universities. In addition, section 2609A(b) states that "No provision of this section shall be construed to prevent the Secretary from making a grant pursuant to subsection (a) to one or more private nonprofit organizations that apply jointly with a business concern to receive such grant."

F. Availability of Funds and Duration of Award

OEA expects to award approximately 1–3 grants under this program announcement. Approximately $110,000 is available in fiscal year 1990 to fully fund one to three year projects. Applicants may apply for a project and budget period of up to three years. Full funding in FY 1990 ensures funding stability in future years, contingent only on the program performance of the grantee.

G. General Terms

Grantees are subject to the provisions of title 45 of the Code of Federal Regulations parts 16, 74, 75, 76, 80, 81, 83, 84, 91, 92 and 100. These are not the only requirements, and grantees will be specifically informed of other grant conditions on receipt of an award. Grantees will be required to submit quarterly financial reports and a final progress report. Proportional costs associated with fulfillment of the audit requirements (45 CFR parts 74 and 92) may be charged to the grant.

H. Population To Be Served

Projects proposed for funding under this announcement must result in direct benefits to low-income LIHEAP households as defined in the most recent Annual Revision of Poverty Income Guidelines published by the Department of Health and Human Services (DHHS).

Part II. Application Requirements

A. Availability of Forms

Applications for awards under this program must be submitted on the Standard Form (SF) 424. The attachments to this announcement contain all forms and instructions required for submittal of applications. The forms may be reproduced for use in submitting applications.

Copies of the **Federal Register** containing the announcement are available at most local libraries and Congressional District Offices for reproduction. If copies are not available at these sources, they may be obtained by writing or telephoning: Susan Peters, Family Support Administration, Office of Community Services, Office of Energy Assistance, 370 L'Enfant Promenade, SW., 5th Floor West, Washington, DC 20447. Telephone number (202) 252–5319. Reference program announcement OCS–OEA–90–3.

B. Application Package

1. Each application package must include an original and four (4) copies of the application. The original copy must contain on the Standard Form 424 the original signature of an official of the eligible entity having legal authority to obligate the applicant. Applicants must also be aware that the applicant's legal name as required in SF–424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6). Proof of non-profit status must be included where applicable.

Applications must be uniform in composition. They must be submitted on 8½ by 11 inch paper, and the total number of pages for the entire application package cannot exceed thirty (30) single-spaced pages. Do not include extraneous materials, such as organizational brochures or other promotional materials, slides, tapes, film clips, etc. in the proposal. They will be discarded if included.

2. Applications should be submitted in binders that will allow for easy separation and reassembly.

C. Application Content

All applications must include a cover page followed by a Table of Contents with page numbers for each section, subsection, and attachment(s). Each page of the application, including any attachment(s), must be numbered consecutively. The table of Contents should list the following items and the application should present the material in the following order:

1. Standard Form (SF) 424—
- Completed and signed SF 424;
- SF 424A, Budget Information (Non-Construction);
- SF 424B, Standard Assurances (Non-Construction).

2. Proof of non-profit status if applicable.

For each item below, the applicant should provide a thorough but succinct statement and related documentation, as required.

3. Project narrative—

(a) Provide a statement of the principal and subordinate objective(s) of the project. Special consideration will be given to applications that further the goals of the Department discussed under part I.B.

(b) Describe the target area and population to be served as well as the nature and extent of the problem to be solved.

(c) Identify the results and benefits to be derived from the project. Explain how the project will provide long term benefits to low-income LIHEAP households.

(d) Outline a plan of action pertaining to the project and detail how the proposed work will be accomplished. Describe the project tasks to be performed in order to accomplish the project objectives. Include target dates (by milestones or phasing chart) in the chronological order by which the key tasks will occur in order to accomplish the project objectives.

(e) Explain the methodology to be used for a self-assessment or third-party evaluation of the project that will objectively evaluate the extent to which the project accomplished the intended objectives.

4. Ability of applicant to perform—

(a) Describe the mission and structure of your organization. If the project involves a partnership, provide this information for all outside organizations, subcontractors, or specialists that will be used.

(b) Describe the organization's previous experience and accomplishments in organizing, administering and operating a similar project, with emphasis on experience within the past five (5) years. If the project involves a partnership, provide this information for all outside organizations, subcontractors, or specialists that will be used.

(c) Describe the organization's history of experience and accomplishments relevant to the Low Income Home Energy Assistance Program (LIHEAP), with emphasis on experience within the past three (3) years. If the project involves a partnership, provide this information for all outside organizations, subcontractors, or specialists that will be used.

5. Staffing and resources—

(a) List each outside organization, subcontractor, or specialist that will be used, or other key individuals who will work on the project, along with a short description of the nature of their effort or contribution.

(b) Describe in brief resume form the experience and skills of the project director and any other qualifying experience relevant to the project. If the project director has not yet been identified, provide a comprehensive position description which indicates the responsibilities to be assigned to the project director relevant to the project.

(c) List the name, experience and skills for all key personnel to be engaged in the project. If the key staff have not yet been identified, provide a comprehensive position description which indicates the responsibilities to be assigned relevant to the project. If the project involves a partnership, provide this information for all outside organizations, subcontractors, or specialists that will be used.

(d) Specify the percentage of time each staff member will contribute to the project. If the project involves a partnership, specify for what tasks outside organizations, subcontractors, or specialists will be used and the percentage of time they will contribute to the project.

(e) Describe the assigned responsibilities of the staff for the tasks identified for the project, and describe how these assigned responsibilities are appropriate to the tasks identified.

(f) If the project involves a partnership, provide documentation/evidence of the partner's availability for the project.

6. Those applications submitted by a provider of LIHEAP services must also provide the following:

(a) Describe the potential impact of the project on the administration and management of the provider's LIHEAP program.

(b) Describe how the project can be implemented and incorporated within the provider's LIHEAP program.

7. A signed copy of the Certification Regarding the Anti-Lobbying Provision (attachment F).

8. A self-addressed mailing label which can be affixed to a postcard to acknowledge receipt of application.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments D and E.

D. Application Submittal

An application will be considered to be received on time if sent on or before the closing date as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. Private metered postmarks will not be considered acceptable as proof of timely mailing. Applications submitted by any means other than through the U.S. Postal Service or commercial carrier shall be considered as acceptable only if physically received at the above address before close of business on or before the deadline date.

Note: Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office.

Late applications will be returned to the sender without consideration in the competition.

Applications once submitted are considered final and no additional materials will be accepted by OCS/OEA.

One signed original application and four (4) copies are required. The first page of the SF–424 must contain in the lower right-hand corner, the letters EA.

All applicants will receive an acknowledgement postcard with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgement postcard. This number must be referred to in all subsequent communication with OCS/OEA concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify FSA by telephone at (202) 252–4586.

Applications must be submitted to FSA by the closing date. Refer to **"DATES"** at the beginning of this document for the specific date.

Applications may be mailed to: Family Support Administration, Office of Grants Management, sixth Floor, OFM/DGM, 370 L'Enfant Promenade SW., Washington, DC 20447. Attention: Program Announcement OCS–OEA–90–3.

Hand-delivered applications are accepted during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Family Support Administration, Office of Grants Management, Sixth Floor, 901 D Street SW., Washington, DC 20447, Attention: Program Announcement OCS–OEA–90–3.

Part III. Review, Selection, and Award Process

All applications that meet the published deadline for receipt at FSA will be screened to determine completeness and conformity to the requirements of this announcement. Only complete and conforming applications will be reviewed and rated.

A. Screening Requirements

In order for an application to be rated, it must meet all of the following requirements:

1. The SF–424 and SF–424A must be completed according to its instructions and the SF–424B attached. The facesheet must be signed by an official having the legal authority to obligate the applicant.

2. The application contains only one project which responds to one of the areas in this announcement.

3. Only those entities specified under this announcement are eligible to apply.

Failure to comply with these requirements will result in the disqualification and return of an application.

B. Rating Criteria

Applications which pass initial screening review will be rated on a competitive basis by a panel of independent reviewers.

Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in this announcement. An overall rating will include the reviewers' judgment of each

application. This review and rating process will use the following criteria.

1. Adequacy of the Project Narrative (maximum: 60 points).

(a) Provides a comprehensive statement of the principal and subordinate objectives of the project which demonstrates the applicant's complete understanding of the purpose and requirements of the project. (0–10 points)

(b) Provides a thorough description of how the project will further the goals of Department discussed under part I.B. (0–5 points)

(c) Describes the target area and population to be served and adequately discusses the nature and extent of the problem to be solved. (0–10 points)

(d) Provides a thorough description of the results and benefits to be derived from the project. The results and benefits are reasonable and achievable and will provide long term benefits to low-income LIHEAP households. (0–10 points)

(e) A detailed and complete plan of action pertaining to the project is provided. The tasks necessary to accomplish the objectives of the project are reasonable, adequately described, and consistent with the stated project objectives. (0–13 points)

(f) The applicant proposes realistic time frames (by milestones or phasing chart) and identifies the chronological sequence by which key activities will occur in order to accomplish each task necessary to accomplish the project objectives. (0–7 points)

(g) The application includes a feasible and comprehensive plan for conducting a self-assessment or third-pary evaluation of the project that will objectively assess the degree to which the project accomplished the stated objectives. (0–5 points)

2. Ability of Applicant to Perform (maximum: 15 points).

(a) The applicant (and outside contractors, organizations, subcontractors, if applicable) demonstrates previous organizational experience and competence in performing work similar to the proposed project, with emphasis placed on experience within the past five (5) years. (0–8 points)

(b) The applicant (and outside contractors, organizations, subcontractors, if applicable) demonstrates previous organizational experience relevant to the Low Income Home Energy Assistance Program (LIHEAP), with emphasis place on experience within the past three (3) years. (0–7 points)

3. Staffing and Resources (maximum: 25 points).

(a) Information is provided as to which staff will be assigned or committed to this project.

The percentage of time each staff member will contribute to the project is adequately identified. The staff to be assigned to this project are qualified and experienced in the skills required to perform the project. The staff possess not only academic qualifications but experience in similar tasks and clearly relevant training and experience. If this project involves a partnership, this information is also provided to support the qualifications of the subcontractors, outside consultants or specialists to be committed to the project. (0–13 points)

(b) The description of how the assigned responsibilities of staff are appropriate to the tasks identified for this project is clear and logical and demonstrates that sufficient staff time will be budgeted to assure the successful accomplishment of the project. Sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project. (0–12 points)

4. For those applications submitted by a provider of LIHEAP services (maximum: 10 points).

(a) The applicant adequately describes the impact of the project on the administration and management of the applicant's LIHEAP (program). (0–5 points)

(b) The applicant adequately describes how the project activities can successfully be implemented and incorporated within their LIHEAP (program). (0–5 points)

C. Selection and Award Process

1. The results of the rating process will be used to assist the Director of the Office of Community Services and Office of Energy Assistance staff in considering competing applications. Rating scores will weigh heavily in funding decisions but will not be the only factors considered.

2. The Director of OCS may also consider other factors, including, but not limited to, comments of rating panels and public officials; program staff quality review; prior program performance of applicants; audit and investigative reports.

3. The Office of Energy Assistance reserves the option to discuss these applications with other funding sources to determine an applicant's performance record.

4. The official award document is the Notice of Grant Award, which sets forth in writing to the recipient the amount of funds awarded, other terms and conditions of the award, the effective date of the award, the budget period for which support is given, and the total project period for which support is approved.

5. This project does not have a Catalog of Federal Domestic Assistance Number.

6. This project is not subject to Federal Executive Order 12372.

Dated: July 2, 1990.

Eunice S. Thomas,

Director, Office of Community Services.

BILLING CODE 4150-04-M

ATTACHMENT A--SF 424, "APPLICATION FOR FEDERAL ASSISTANCE"

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (*give city, county, state, and zip code*):	Name and telephone number of 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:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ – ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (*cities, counties, states, etc.*):

13. PROPOSED PROJECT: 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.)

ATTACHMENT B--SF-424A, "BUDGET INFORMATION--NON-CONSTRUCTION PROGRAMS"

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)
Prescribed by OMB Circular A-102

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.

ATTACHMENT C--SF 424B, "ASSURANCES--NON-CONSTRUCTION PROGRAMS"

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

Attachment D—U.S. Departmant of Health and Human Services Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR part 76, subpart F. The regulations, published in the January 31, 1989, Federal Register, require certification by grantees 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 U.S. Department of Health and Human Services determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of the grant, or government-wide suspension or debarment.

A. 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 not 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 (2)(d), 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).

(B) The grantee shall insert in the space provided below, the site(s) for the performance of work done in connection with the specific grant (Street address, city, county, State, Zip Code):

Attachment E—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principles involved:

(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 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a government 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 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation for this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) 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.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions", provided below, without modification in all lower tier covered transactions and in all solicitations for lower tier covered actions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, 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 participation in this transaction by any Federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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ATTACHMENT F--CERTIFICATION REGARDING THE ANTI-LOBBYING PROVISIONS

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:** _____

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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

BILLING CODE 4150-04-C

Restrictions on Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Signature

Organization

Date

Attachment G—Listing of Applicable Regulations

The following DHHS regulations apply to all applicants/grantees under the Office of Community Services

Title 45 of the Code of Federal Regulations:

Part 16—Department Grant Appeals Process
Part 74—Administration of Grants (non-governmental)
Part 74—Administration of Grants (state and local governments and Indian Tribal affiliates):
Sections 74.62(a) Non-Federal Audits
74.173 Hospitals
74.174(b) Other Nonprofit Organizations
74.304 Final Decisions in Disputes
74.710 Real Property, Equipment and Supplies
74.715 General Program Income
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility for Financial Assistance
Subpart F—Drug Free Workplace Requirements
Part 80—Non-discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Non-discrimination on the basis of sex in the admission of individuals to training programs
Part 84—Non-discrimination on the Basis of Handicap in Programs
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (**Federal Register**, March 11, 1988)
Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment H—Annual Revision of Poverty Income Guidelines

100 PERCENT, 110 PERCENT, AND 150 PERCENT OF THE 1990 POVERTY INCOME GUIDELINES FOR ALL STATES (EXCEPT ALASKA AND HAWAII), AND FOR THE DISTRICT OF COLUMBIA

Size of family unit	100 percent of poverty (dollars)	110 percent of poverty (dollars)	150 percent of poverty (dollars)
1	6,280	6,908	9,420
2	8,420	9,262	12,630
3	10,560	11,616	15,840
4	12,700	13,970	19,050
5	14,840	16,324	22,260
6	16,980	18,678	25,470
7	19,120	21,032	28,680
8	21,260	23,386	31,890

For family units with more than 8 members, add $2,354 for each additional member at 110% of poverty and $3,210 at 150% of poverty.

100 PERCENT, 110 PERCENT, AND 150 PERCENT OF THE 1990 POVERTY INCOME GUIDELINES FOR ALASKA

Size of family unit	100 percent of poverty (dollars)	110 percent of poverty (dollars)	150 percent of poverty (dollars)
1	7,840	8,624	11,760
2	10,520	11,572	15,780
3	13,200	14,520	19,800
4	15,880	17,468	23,820
5	18,560	20,416	27,840
6	21,240	23,364	31,860
7	23,920	26,312	35,880
8	26,600	29,260	39,900

For family units with more than 8 members, add $2,948 for each additional member at 110% of poverty and $4,020 at 150% of poverty.

100 PERCENT, 110 PERCENT AND 150 PERCENT OF THE 1990 POVERTY INCOME GUIDELINES FOR HAWAII

Size of family unit	100 percent of poverty (dollars)	110 percent of poverty (dollars)	150 percent of poverty (dollars)
1	7,230	7,953	10,845
2	9,690	10,659	14,535
3	12,150	13,365	18,225
4	14,610	16,071	21,915
5	17,070	18,777	25,605
6	19,530	21,483	29,295
7	21,990	24,189	32,985
8	24,450	26,895	36,675

For family units with more than 8 members, add $2,706 for each additional member at 110% of poverty and $3,690 at 150% of poverty.

60 PERCENT OF ESTIMATED STATE MEDIAN INCOME ADJUSTED FOR FAMILY SIZE, BY STATE, FISCAL YEAR 1991

States	Estimated state median income 4-person families [1]	60 percent of estimated state median income 4-person families
Alabama	$33,022	$19,813
Alaska	47,247	28,348
Arizona	36,892	22,135
Arkansas	28,665	17,199
California	41,425	24,855
Colorado	39,095	23,457
Connecticut	50,720	30,432
Delaware	41,742	25,045
Dist. of Col.	38,562	23,137
Florida	37,280	22,368
Georgia	38,208	22,925
Hawaii	42,353	25,412
Idaho	31,454	18,872
Illinois	41,635	24,981
Indiana	37,939	22,763
Iowa	34,804	20,882
Kansas	35,796	21,478
Kentucky	32,088	19,253
Louisiana	32,514	19,508
Maine	35,385	21,231
Maryland	49,105	29,463

60 PERCENT OF ESTIMATED STATE MEDIAN INCOME ADJUSTED FOR FAMILY SIZE, BY STATE, FISCAL YEAR 1991—Continued

States	Estimated state median income 4-person families [1]	60 percent of estimated state median income 4-person families
Massachusetts	48,296	28,978
Michigan	41,044	24,626
Minnesota	41,076	24,646
Mississippi	29,624	17,774
Missouri	37,187	22,312
Montana	32,333	19,400
Nebraska	34,287	20,572
Nevada	39,148	23,489
New Hampshire	45,619	27,371
New Jersey	52,305	31,383
New Mexico	29,350	17,610
New York	41,700	25,020
North Carolina	35,678	21,407

60 PERCENT OF ESTIMATED STATE MEDIAN INCOME ADJUSTED FOR FAMILY SIZE, BY STATE, FISCAL YEAR 1991—Continued

States	Estimated state median income 4-person families [1]	60 percent of estimated state median income 4-person families
North Dakota	31,346	18,808
Ohio	38,145	22,887
Oklahoma	31,905	19,143
Oregon	36,623	21,974
Pennsylvania	37,855	22,713
Rhode Island	41,337	24,826
South Carolina	34,915	20,949
South Dakota	30,503	18,302
Tennessee	34,160	20,496
Texas	35,280	21,168
Utah	34,410	20,646
Vermont	36,467	21,880
Virginia	42,587	25,552

60 PERCENT OF ESTIMATED STATE MEDIAN INCOME ADJUSTED FOR FAMILY SIZE, BY STATE, FISCAL YEAR 1991—Continued

States	Estimated state median income 4-person families [1]	60 percent of estimated state median income 4-person families
Washington	39,327	23,596
West Virginia	29,743	17,846
Wisconsin	38,662	23,197
Wyoming	33,667	20,200

Note: The estimated median income for 4-person families living in the United States is $36,051 for the period October 1, 1990 through September 30, 1991.

[1] Prepared by the Bureau of Census from the March 1989 Current Population Survey, 1980 Census of Population and Housing, and 1988 per capita personal income estimates from the Bureau of Economic Analysis.

60 PERCENT OF ESTIMATED STATE MEDIAN INCOME [1]

	1-person family	2-person family	3-person family	4-person family	5-person family	6-person family
Alabama	$10,303	$13,473	$16,643	$19,813	$22,983	$26,153
Alaska	14,741	19,277	23,812	28,348	32,884	37,420
Arizona	11,510	15,052	18,594	22,135	25,677	29,218
Arkansas	8,943	11,695	14,447	17,199	19,951	22,703
California	12,925	16,901	20,878	24,855	28,832	32,809
Colorado	12,198	15,951	19,704	23,457	27,210	30,963
Connecticut	15,825	20,694	25,563	30,432	35,301	40,170
Delaware	13,024	17,031	21,038	25,045	29,052	33,060
Dist. of Columbia	12,031	15,733	19,435	23,137	26,839	30,541
Florida	11,631	15,210	18,789	22,368	25,947	29,526
Georgia	11,921	15,589	19,257	22,925	26,593	30,261
Hawaii	13,214	17,280	21,346	25,412	29,478	33,544
Idaho	9,814	12,833	15,833	18,872	21,892	24,912
Illinois	12,990	16,987	20,984	24,981	28,978	32,975
Indiana	11,837	15,479	19,121	22,763	26,406	30,048
Iowa	10,859	14,200	17,541	20,882	24,224	27,565
Kansas	11,168	14,605	18,041	21,478	24,914	28,350
Kentucky	10,011	13,092	16,172	19,253	22,333	25,414
Louisiana	10,144	13,266	16,387	19,508	22,630	25,751
Maine	11,040	14,437	17,834	21,231	24,628	28,025
Maryland	15,321	20,035	24,749	29,463	34,177	38,891
Massachusetts	15,068	19,705	24,341	28,978	33,614	38,250
Michigan	12,806	16,746	20,686	24,626	28,567	32,507
Minnesota	12,816	16,759	20,702	24,646	28,589	32,532
Mississippi	9,243	12,087	14,930	17,774	20,618	23,462
Missouri	11,602	15,172	18,742	22,312	25,882	29,452
Montana	10,088	13,192	16,296	19,400	22,504	25,608
Nebraska	10,698	13,989	17,281	20,572	23,864	27,155
Nevada	12,214	15,972	19,731	23,489	27,247	31,005
New Hampshire	14,233	18,613	22,992	27,371	31,751	36,130
New Jersey	16,319	21,340	26,362	31,383	36,404	41,426
New Mexico	9,157	11,975	14,792	17,610	20,428	23,245
New York	13,010	17,014	21,017	25,020	29,023	33,026
North Carolina	11,132	14,557	17,982	21,407	24,832	28,257
North Dakota	9,780	12,789	15,798	18,808	21,817	24,826
Ohio	11,901	15,563	19,225	22,887	26,549	30,211
Oklahoma	9,954	13,017	16,080	19,143	22,206	25,269
Oregon	11,426	14,942	18,458	21,974	25,490	29,005
Pennsylvania	11,811	15,445	19,079	22,713	26,347	29,981
Rhode Island	12,190	16,882	20,854	24,826	28,798	32,771
South Carolina	10,893	14,245	17,597	20,949	24,301	27,653
South Dakota	9,517	12,445	15,374	18,302	21,320	24,158
Tennessee	10,658	13,937	17,217	20,496	23,775	27,055
Texas	11,007	14,394	17,781	21,168	24,555	27,942
Utah	10,736	14,039	17,343	20,646	23,949	27,253
Vermont	11,378	14,879	18,379	21,880	25,381	28,882
Virginia	13,287	17,375	21,464	25,552	29,641	33,729
Washington	12,270	16,045	19,821	23,596	27,372	31,147
West Virginia	9,280	12,135	14,990	17,846	20,701	23,556
Wisconsin	12,063	15,774	19,486	23,197	26,909	30,620

60 PERCENT OF ESTIMATED STATE MEDIAN INCOME [1]—Continued

	1-person family	2-person family	3-person family	4-person family	5-person family	6-person family
Wyoming	10,504	13,736	16,968	20,200	23,432	26,664

[1] Prepared by the Family Support Administration, Office of Community Services, Office of Energy Assistance. In accordance with 45 CFR 96.85, each state's estimated median income for a 4-person family is multiplied by the following percentages to adjust for family size: 52% for one person, 68% for two persons, 84% for three persons, 100% for four persons, 116% for five persons, and 132% for six persons. For family sizes greater than six persons, add 3% to 132% for each additional family member and multiply the new percentage by the State's dollar amount for 4-person families.

Attachment I—Checklist for Use in Submitting Training and Technical Assistance Discretionary Applications

The application should contain:

A cover page followed by a Table of Contents with page numbers for each section, subsection, and attachment(s). Each page of the application, including any attachment(s), must be numbered consecutively. The application should present the material in the following order:

1. A completed, signed SF–424, "Application for Federal Assistance." The letter code for the Training and Technical Assistance Discretionary Program (EA) should be in the lower right-hand corner of the page;

2. A completed "Budget Information—Non-Construction" (SF–424A);

3. A signed Assurance—Non-Construction (SF–424B);

4. Proof of non-profit status if applicable;

5. A narrative that will include all of the following elements referenced in the **Federal Register** Notice:

(a) Project Narrative.

(b) Ability of Applicant to Perform.

(c) Staffing and Resources.

(d) Additional Information for Applications Submitted by a Provider of LIHEAP Services.

6. A signed copy of Certification Regarding Anti-Lobbying Provisions;

7. A completed Disclosure of Lobbying Activities form, if appropriate; and

8. A self-addressed mailing label which can be affixed to a postcard to acknowledge receipt of application.

Applications must be uniform in composition. They must be submitted on 8½ by 11 inch paper, and the total number of pages for the entire application package cannot exceed thirty (30) single-spaced pages. Extraneous materials, such as organizational brochures or other promotional materials, slides, tapes, film clips, *etc.*, will be discarded if included.

Each application package must include an original and four (4) copies of the application and be printed on 8½ by 11 inch paper. Applications should be submitted in binders that will allow for easy separation and reassembly.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal guidelines concerning the drug-free workplace and debarment regulations set forth in Attachments D and E.

[FR Doc. 90–15927 Filed 7–10–90; 8:45 am]

BILLING CODE 4150–04–M

federal register

Wednesday
July 11, 1990

Part VI

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Yellow-Blotched Map Turtle; Talutoma Snail; and Fringed Campion; Proposed Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB42

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Yellow-Blotched Map Turtle, Graptemys flavimaculata

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes the yellow-blotched map turtle, *Graptemys flavimaculata*, to be a threatened species under the authority of the Endangered Species Act of 1973, as amended (Act). This basking turtle is known from only the Pascagoula River system in southeast Mississippi. It is threatened by habitat modification, wanton shooting, collecting, water quality degradation, and nest predation. This proposal, if made final, would implement the protection of the Act for the yellow-blotched map turtle. The Service seeks relevant data and comments from the public.

DATES: Comments from all interested parties must be received by September 10, 1990. Public hearing requests must be received by August 27, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Complex Field Supervisor, U.S. Fish and Wildlife Service, Jackson Mall Office Center, suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Stewart at the above address (601/965-4900 or FTS 490-4900).

SUPPLEMENTARY INFORMATION:

Background

The yellow-blotched map turtle, *Graptemys flavimaculata*, was described from the Pascagoula River in George County, Mississippi (Cagle 1954). It is restricted to the Pascagoula River system in Mississippi, including the Leaf and Chickasawhay Rivers and other tributaries (Cagle 1954, Cliburn 1971, and McCoy and Vogt 1980). A survey of herpetologists and museums by the Service did not find any records of this species outside the Pascagoula River system. The only other name applied to this species is the yellow-blotched sawback turtle.

The yellow-blotched map turtle is a member of the narrow-head complex of *Graptemys*. It is a medium-sized aquatic turtle with females attaining a carapace size of at least 20.3 centimeters (cm) (8 inches) and males occasionally exceeding 12 cm (4¾ inches). The carapace is olive to light brown. Each costal scute has an irregular bright yellow or orange blotch. Juveniles and adult males have a black spine on the first four vertebral scutes. These spines become smaller and may be lost in adult females. The closely related ringed sawback *Graptemys oculifera*, and black-knobbed map turtle, *Graptemys nigrinoda*, lack the solid blotches and have ring on each costal.

The yellow-blotched map turtle requires rivers that are large enough to have open canopy allowing for several hours of sunshine daily. The preferred habitat is a moderate current, a sand or clay substrate, sand bars or beaches for nesting, and snags or other structure for basking. This species feeds largely on snails and insects (Ernst and Barbour 1972). Growth is rapid and males may mature in the second growing season. Cagle (1954) was unable to determine the age of maturity in females. Lahanas (1982) inferred that female *G. nigrinoda* mature at 8 or 9 years of age. Webb (1961) found that female *G. ouachitensis* in Lake Texoma, Oklahoma, matured at 6 or 7 years of age. Little is known about the reproduction of the yellow-blotched map turtle. The most definitive work on a related species is by Lahanas (1982) on *G. nigrinoda*. He found that this species produced 3 or 4 clutches annually with an average clutch size of 5–6 eggs. Cagle (1953) collected a *G. oculifera* female that had 3 eggs in the oviduct and 4 enlarged follicles. This turtle would probably have produced 7 eggs during the breeding season. Jones and Hartfield (1989) found a complete clutch laid by *G. oculifera* that contained 6 eggs. It is likely that *G. flavimaculata* is similar to these closely related turtles in reproductive capacity and requirements.

The Pascagoula River Basin includes 9,700 square miles (U.S. Army Corps of Engineers 1987) with a wide variety of land uses. Much of the area is in private ownership and agricultural production. The U.S. Forest Service owns significant acreage in DeSoto National Forest. The Mississippi Department of Wildlife, Fisheries, and Parks owns or manages several wildlife management areas in the basin.

Historic population status for this species is primarily limited to the work of Cliburn (1971), McCoy and Vogt (1980), and a 1989 survey conducted by biologists from the Service and the Mississippi Department of Wildlife, Fisheries, and Parks. Cliburn (1971) reported this species from Red, Black, and Tallahala Creeks of the Pascagoula River drainage. McCoy and Vogt (1980) did not find any yellow-blotched map turtles in their survey of these streams and reported the habitat to be marginal. McCoy and Vogt reported decreasing numbers at two stations on the Chickasawhay River over a three-year period. In two basking surveys on the Chickasawhay River, Service biologists in 1989 observed 43 and 60 yellow-blotched map turtles in approximately 20 river miles (Service field notes). This survey area included one of the sites where this species was reported in decline by McCoy and Vogt (1980). The Service survey was more extensive than that of McCoy and Vogt and as a result observed more yellow-blotched map turtles over the survey area. However, the number of yellow-blotched map turtles per river mile in the Chickasawhay River was three or less, a figure comparable to that observed by McCoy and Vogt.

In the basking survey conducted by Service biologists along 54 river miles of the Leaf and Pascagoula Rivers and 20 river miles of the Chickasawhay River, there were less than four yellow-blotched map turtles observed per river mile. In the lower Pascagoula River, a mark and recapture study by Service and Mississippi Department of Wildlife, Fisheries, and Parks biologists observed up to 70 yellow-blotched map turtles per river mile. The estimate for total numbers of this species, based upon the mark-recapture study, was as high as 336 per mile in the lower Pascagoula River. This figure is low when compared with estimates of 549 *G. Oculifera* (listed as threatened) per mile in good habitat and 230 per mile in poor habitat. The increase in population of the yellow-blotched map turtle seems to occur in the vicinity of Wade and proceeds downstream for a distance of about 18 river miles. In this stretch, there are several short tributaries where this species occurs. However, these populations are likely dependent upon the main river population for viability. Turtles less than four years old were seldom observed or trapped in the lower Pascagoula River. This could indicate a problem with reproduction and recruitment. If this problem exists, it may be due to limited nesting habitat or to high nest predation. The most abundant population of this species based upon observations by Service biologists occurs in the Pascagoula River between Wade and Vancleave, Mississippi.

The yellow-blotched map turtle was listed as a category 1 candidate in the notice of review published in the Federal Register on December 30, 1982 (47 FR 58454) and as a category 2 candidate in the notice of review published in the Federal Register on September 18, 1985 (50 FR 37958) and on January 6, 1989 (54 FR 554). A category 1 candidate is a taxon for which the Service currently has substantial information on hand to support the biological appropriateness of proposing to list. A category 2 candidate is a taxon for which information now in possession of the Service indicates that proposing to list the species is possibly appropriate, but for which substantial data are not currently available.

Summary of Factors Affecting the Species

Section 4(a) (1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the yellow-blotched map turtle, *Graptemys flavimaculata*, are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The yellow-blotched map turtle must have some type of structure on which it can bask and be safe from predation, and it must have suitable nesting habitat. Basking structures are logs, snags, and other debris commonly occurring in streams. These structures also serve as habitat for food organisms. Nesting is believed to occur on sand beaches well above the water level and near the vegetation line. Navigation and flood control measures often require the removal of basking structure and nesting beaches to deepen the channel and to remove restrictions to water flow. Gravel dredging removes sand and gravel nesting sites. Increased turbidity and sedimentation impact the snails and insects upon which this species feeds.

There are several channel modification projects on or planned for tributary streams that have the potential to impact the habitat of this species (USACE 1987). A clearing and snagging project has impacted 12,500 feet of the Leaf River channel at Hattiesburg. Selective snagging of 7.25 miles of Tallahala Creek to provide flood control for Laurel was approved in 1987. Flood control projects have been conducted or planned for Sowashee Creek at Meridian, Gordon's Creek and Upper Gordon's Creek at Hattiesburg, and Green's Creek at Petal. Studies for flood control projects on Mixon's Creek, Lamar County and Mill Creek at Sumrall are ongoing. Four existing reservoirs have modified portions of the drainage and affect water flows. There are authorized reservoirs on Tallahala Creek and Bowie River that have been determined not economically feasible, but have not been de-authorized. An active and extensive gravel mining operation in the Bowie River near its confluence with the Leaf River undoubtedly contributes to sedimentation in downstream reaches of the Leaf River. Turbidity and sedimentation may occur from clear cutting timber and agricultural activities.

B. Over Utilization for Commerical, Recreational, Scientific or Educational Purposes

Wanton shooting (use of basking turtles for target practice) and collecting pose a threat to the yellow-blotched map turtle. This threat becomes more serious as the population declines. An increasing public awareness of the species' plight on the part of many scientists seems to be reducing the threat from scientific and educational collecting. Collecting for commercial purposes is a more serious threat. This very attractive turtle has been advertised for retail sale at $65 each. It is very vulnerable to knowledgeable commerical collectors, who can seriously damage a local population in a short period.

C. Disease or Predation

There is no known threat from disease. This species is subject to natural predation. Lahanas (1982) found 82 percent mortality of eggs of *G. nigrinoda* from predation, primarily by fish crows. Other authors have found predation of turtle eggs ranging from 90 to 100 percent (Cagle 1950, Moll and Legler 1971, Shealy 1976, Vogt 1980). Lahanas attributed the lower predation rate he observed to his frequent presence on the nesting beaches. while conducting a mark and recapture study of the ringed sawback, Service biologists estimated, from casual observation, that 95 percent of nests were destroyed by predators. A serious threat to adult turtles is wanton shooting as discussed in Factor "B". The alteration and degradation of habitat as discussed in Factors "A" and "E" make predation, wanton shooting, and collecting more significant threats to the yellow-blotched map turtle than they would be otherwise.

D. The Inadequacy of Existing Regulatory Mechanisms

The yellow-blotched map turtle is listed as endangered under Mississippi Department of Wildlife, Fisheries, and Parks Public Notice 2779. Because of this State protection, the Lacey Act (16 U.S.C. 3401–3408) applies to the taking and transportation of this species from Mississippi. A State collecting permit is required for taking this species. Compliance with these regulations is extremely difficult to enforce due to other law enforcement priorities and the difficulty of proving a violation if the species has been removed from the river. The loss or alteration of habitat is the more serious threat to the yellow-blotched map turtle. No regulations requiring consideration of this species during project planning yet exists. Listing under the Endangered Species Act would provide much needed protection through sections 7 and 9 and the recovery process.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Water quality degradation poses a serious threat to the yellow-blotched map turtle. This impact includes bioaccumulation of toxic materials and the loss of food organisms. The total effects of pollution and siltation upon map turtles have not been fully documented. However, the effects on insect larva and snails are well documented, and this group of organisms is the primary food source of all the narrow-headed map turtles (Cagle 1953, Ernst and Barbour 1972, Lahanas 1982). The reduced population of yellow-blotched map turtles in areas that have otherwise suitable habitat, but are polluted from some source, indicates impacts to the food source. Water quality problems exist on the Leaf River from municipal runoff at Hattiesburg and dioxin contamination at New Augusta; on the Tallahala River from municipal runoff at Laurel; and on the Chickasawhay River from brine water releases from oil fields (R. Ball, Mississippi Bureau of Pollution Control, pers. comm. 1989). Permitted effluent to the Pascagoula River Basin includes ammonia, chlorine, sodium sulfate, toluene, cyclohexane, and acetone (EPA 1989).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the

preferred action is to list the yellow-blotched map turtle as threatened, defined as likely to become in danger of extinction within the foreseeable future throughout all or a significant portion of its range. This preferred action is chosen due to the restricted range, sparse populations above the Pascagoula River, and water quality problems. Endangered status is not chosen because the species exists over many river miles in the Pascagoula River system and the known threats do not place it in imminent danger of extinction. Critical habitat is not being proposed as discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. All Federal and State agencies are aware of the existence of this species and the importance of protecting its habitat. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard. Commercial collecting is a potentially significant threat (see Factor B) and specific identification of its habitat through designation of critical habitat could increase the threat to this species. Therefore, it would not now be prudent to determine critical habitat for the yellow-blotched map turtle.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Federal involvement is expected to include the U.S. Army Corps of Engineers through its flood control projects and permits for water related activities, and the Environmental Protection Agency through the Clean Water Act provisions for pesticide registration, wastewater treatment, and permitted effluent discharge.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, is part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect: or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or suvival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided in section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to Complex Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The author of this proposed rule is James H. Stewart (see **ADDRESSES** section) at 601/965–4900, FTS 490–4900.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625. 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "REPTILES," to the List of Endangered and Threatened Wildlife.

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
REPTILES							
Turtle, yellow-blotched map (=sawback).	*Graptemys flavimaculata.*	U.S.A. (MS)	Entire	T		NA	Na

Dated: June 8, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90–15940 Filed 7–10–90; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

50 CFR Part 17

RIN 1018–AB42

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Tulotoma Snail

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes the tulotoma snail, *Tulotoma magnifica*, to be an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act). This freshwater snail is currently known from four limited areas in the Coosa River system, Alabama. Habitat modification for navigation and hydropower represent major threats to this species. This proposal, if made final, would implement the protection of the Act for tulotoma. The Service seeks relevant data and comments from the public.

DATES: Comments from all interested parties must be received by September 10, 1990. Public hearing requests must be received by August 27, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to Complex Field Supervisor, U.S. Fish and Wildlife Service, Jackson Mall Office Center, 300 Woodrow Wilson Avenue, Suite 316, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul D. Hartfield at the above address, (telephone 601/965–4900 or FTS 490–4900).

SUPPLEMENTARY INFORMATION:

Background

Tulotoma magnifica was described from the Alabama River in 1834 as *Paludina magnifica* by T.A. Conrad. An additional three species in the genus *Paludina* were described from the Alabama-Coosa River System between 1834 and 1841. Haldeman erected *Tulotoma* as a subgenus of *Paludina* in 1840 based on shell and opercle characters of the Alabama-Coosa species. All four species of *Tulotoma* were differentiated by only minor differences in shell size, shape and sculpture and the genus is now considered to be monotypic by most authors (Clench 1962, Burch 1982).

However, Patterson (1965) documented differences in chromosome numbers between two tulotoma populations and suggested that species status of the several forms might be valid. She compared chromosome data on snails from the Coosa River at Wetumpka, Alabama (2N=26) with similar data from an earlier study on specimens from the Coosa River near Wilsonville, Alabama (2N=24). A Service study (Hershler 1989) examined snail chromosome preparations from the Coosa River at Wetumpka, over 50 miles south of Wilsonville, and from Kelly Creek, a tributary of the Coosa River approximately 18 miles north of Wilsonville. For both populations, the chromosome number was 2N=26, sugggesting that the earlier study, which was based on a less accurate paraffin section technique, was probably incorrect.

Based on these results and the general consensus of the taxonomic community, the Service considers the genus *Tulotoma* to be monotypic. This species has been previously known by the

common name of the Alabama live-bearing snail. This rule uses the common name tulotoma, as recommended by Turgeon et al. (1988), in support of the effort to standardize nomenclature of mollusks.

The historic range of tulotoma was from the Coosa River in St. Clair County, Alabama, to the Alabama River in Clarke and Monroe Counties, Alabama. Historic collecting localities in the Coosa River system included numerous sites on the river as well as the lower reaches of several large tributaries. This snail has only been recorded from two localities in the Alabama River system, the type locality near Claiborne, Monroe County, Alabama, and Chilachee Creek southwest of Selma, Dallas County, Alabama. Other than isolated archaeological relics, the species has never been recorded from the Tombigbee, Black Warrior, Cahaba, or the Tallapoosa drainages. Archaeological records from these drainages are doubtful since tulotoma were Indian food items with shells of ornamental value and were likely to be transported outside of their natural range. Collections from these drainages since the mid-19th century have not verified the presence of this species.

Tulotoma is a gill-breathing, operculate snail in the family Viviparidae. The shell is globular, reaching a size somewhat larger than a golf ball, and typically ornamented with spiral lines of knob-like structures. Its adult size and ornamentation distinguish it from all other freshwater snails in the Coosa-Alabama River system. Tulotoma is also distinguished by its oblique aperture with a concave margin (Burch 1982).

Tulotoma occurs in cool, well-oxygenated, clean, free-flowing waters, with the habitat including both the mainstem river and the lower portions of large tributaries (Hershler 1989). This species is generally found in riffles and shoals and has been collected by Service divers (1989) at depths over 5 meters (15 feet) with strong currents. The species is strongly associated with boulder/cobble substrates and is generally found during daylight hours clinging tightly to the underside of large rocks. Other aspects of its biology are virtually unknown, apart from the fact that it broods young and filter-feeds, as do other members of the Viviparidae.

The current known range of tulotoma includes four localized populations in the lower, unimpounded portions of Coosa River tributaries: Kelly Creek, St. Clair and Shelby Counties; Weogufka and Hatchet Creeks, Coosa County; and Ohatchee Creek, Calhoun County. A single population continues to survive in the Coosa River between Jordan Dam and Wetumpka, Elmore County. All of these locations, with the exception of Ohatchee Creek, where only a few snails have been observed, appear to have self-sustaining populations. All five populations are separated by large reaches of impounded river and are probably genetically isolated. The snail has apparently been extirpated in the Alabama River.

Decline of tulotoma has been evident for at least 50 years. The snail could no longer be found in the Alabama River at Claiborne by the mid-1930's (Goodrich 1944; Clench 1962), nor has it been found elsewhere in the Alabama River drainage in the past 50 years. Reduction of numbers of all prosobranch snails in the Coosa River was obvious by 1944 (Goodrich 1944). Prior to 1988, the last live collections of tulotoma were those of Athearn (Stein 1976) and Yokley (U.S. Army Corps of Engineers 1981). Athearn located three populations in the upper Coosa River drainage between 1955–1963. Two of those sites, Big Canoe and Choccolocco Creeks, have since been flooded by impoundments. Tulotoma still occur at the third site, Kelly Creek. Yokley found a single live individual in the Coosa River above Lay Reservoir and below Kelly Creek. During a 1988 search of the Lay Reservoir site by Service biologists, neither the species nor suitable habitat was found and it was concluded that the single individual collected by Yokley had most likely washed in from Kelly Creek.

Tulotoma (*Tulotoma magnifica*) was listed as a category 2 candidate (a taxon for which data in the Service's possession indicate listing is possibly appropriate) in the notice of review published in the Federal Register on January 6, 1989 (54 FR 554).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the tulotoma snail *(Tulotoma magnifica)* are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Historically, the tulotoma was locally abundant in the main channels of the Coosa and Alabama Rivers and the lower reaches of some of their tributaries from St. Clair/Talladega Counties to Clarke/Monroe Counties, Alabama, a distance of approximately 350 river miles. It has apparently been extirpated from the Alabama River and is now known from approximately three miles of the main channel of the Coosa River and in localized portions of four tributaries. It has apparently been extirpated from three of the seven known historic tributary populations. Of the extant populations, one, Ohatchee Creek, is considered to be marginal or declining due to the low numbers of snails recently observed. This represents at least a 98 percent range reduction in main channel habitat, and an approximately 50 percent reduction in known tributary habitat.

The range reduction of tulotoma can be attributed to extensive channel modifications in the Coosa-Alabama River system for navigation and hydropower. Dredging of the Alabama River channel began in 1878 and continues to the present day. Locks and dams on that river were completed in the 1960's, impounding tulotoma habitat from the lowermost known site near Claiborne, Alabama, to the confluence of the Coosa and Tallapoosa Rivers. The Coosa River has been impounded for hydropower from just above its confluence with the Tallapoosa for approximately 230 river miles by a series of six large dams constructed between 1914 and 1966. Most Alabama and Coosa River tributaries within the historic tulotoma range have been affected in their lower reaches by backwater from the impoundments.

Additional impacts on the species include pollution, siltation and hydropower discharge. Hurd (1974) noted industrial and municipal waste problems in the Coosa Drainage as well as the effects of excessive siltation. Service biologists in a 1989 survey noted that tulotoma habitat in the river channel and tributaries affected by reservoir backwater may be limited by siltation.

Hydropower discharge regimes through Jordan Dam may affect the last known main channel tulotoma population. Currently, Jordan Dam discharges 4500 cubic feet per second (cfs) into the Coosa River for only a 2.25-hour period daily. Between releases, there is an estimated flow of 188 cfs due to seepage. It has been estimated that less than four percent of the Coosa River's annual discharge is passed into the natural river channel below Jordan Dam (U.S.F.W.S. 1989). The remaining annual flow is discharged to the Coosa

River about four miles upstream of its confluence with the Tallapoosa River via a hydropower canal at Walter Bouldin Dam. This bypasses approximately 14 miles of Coosa River natural channel, a portion of which supports a population of tulotoma. Any decrease in discharge will likely lead to the extirpation of tulotoma at this location. Water quality problems, low dissolved oxygen and elevated temperatures have been associated with current Jordan Dam discharge regimes (U.S.F.W.S. 1989) and may be a limiting factor to the tulotoma population.

Each of the five known tulotoma populations may be vulnerable to localized water quality changes due to construction activities. Siltation from bridge and road construction through or above tulotoma habitat could result in adverse impact. There are pending permit applications to the U.S. Army Corps of Engineers to construct two lakes upstream of the Kelly Creek population. This could potentially affect the species through the inundation of undiscovered populations or potential habitat, sedimentation of known habitat during construction, reduced flow during and after construction, and altered water temperatures.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The species is currently not of commercial value; any collecting is likely to be for scientific purposes. However, the localized populations would be susceptible to over collecting should this ornate snail become important to the commercial pet trade.

C. Disease or Predation

Unusual levels of disease or predation were not apparent during recent observations of the extant populations.

D. The Inadequacy of Existing Regulatory Mechanisms

Existing laws are inadequate to protect this species. It is not officially recognized by Alabama as needing any special protection. The species is not given any special consideration under other environmental laws when project impacts are reviewed.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Known tulotoma populations are isolated, localized and restricted. There is little, if any, possibility of genetic exchange between populations. Over time, this isolation may result in genetic drift with each population becoming unique and vulnerable to environmental disturbance. As noted above, the Ohatchee Creek population is very small and as such is more susceptible to environmental changes. The life history and biology of this species is virtually unknown.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the tulotoma as endangered. Endangered status was chosen because of the irretrievable loss of over 90 percent of the historic habitat, and the vulnerability and isolation of existing populations. Critical habitat is not proposed for reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extend prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species due to the lack of benefit of such designation and the potential for collecting, should this species become commercially important. No additional benefits would accrue from a critical habitat designation that would not accrue from the listing. All involved parties and the principal landowner have been notified of the location and importance of protecting this species' habitat. Precise locality data are available to appropriate agencies through the Service office described in the **ADDRESSES** section. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not now be prudent to determine critical habitat for the tulotoma.

Available Conservation Measures

Conservation measures provided to the species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement is expected to include the Environmental Protection Agency through the Clean Water Act's provisions for pesticide registration and waste management actions. The Corps of Engineers will include this species in project planning and operation and during the permit review process. The Federal Energy Regulatory Commission will consider the species when licensing or relicensing hydropower plants. The Federal Highway Administration will consider impacts of bridge and road construction when known habitat may be impacted. Continuing urban development within the drainage basins may involve the Farmers Home Administration and their loan programs.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Complex Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary authority of this proposed rule is Paul D. Hartfield (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) for animals by adding the following, in alphabetical order under "SNAILS," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Snails							
•	•	•	•	•	•	•	
Snail, tulotoma (=Alabama live-bearing).	*Tulotoma magnifica*	U.S.A. (AL)	Entire	E		NA	NA
•	•	•	•	•	•	•	

Dated: June 6, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90–15941 Filed 7–10–90; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

[RIN 1018–AB41]

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant Silene Polypetala (Fringed Campion)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Silene polypetala* (fringed campion), a plant belonging to the pink (carnation) family, to be an endangered species pursuant to the Endangered Species Act of 1973 (Act), as amended. Fringed campion occurs in two separate geographic areas—one being a four-county area at the south boundary of the Piedmont region in central Georgia, west of Macon; and the second being a two-county area near the confluence of the Flint and Apalachicola Rivers on each side of the Georgia-Florida line. In recent years fringed campion has been found at 14 sites. The plant appears to be extirpated from a former site in Jackson County, Florida. Threats to the plant include logging or its side effects, encroachment by Japanese honeysuckle and residential development. This proposal, if made final, would implement the protection and recovery provisions afforded by the Act for fringed campion. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by September 10, 1990. Public hearing requests must be received by August 27, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 3100 University Boulevard, South, Suite 120, Jacksonville, Florida 32216. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: David J. Wesley, Field Supervisor, at the above address (telephone: 904–791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

Silene polypetala (fringed campion) is a perennial herb belonging to the pink or carnation family (Caryophyllaceae). It was first collected in central Georgia by Walter (1788), who named it *Cucubalus polypetalus*. Unfortunately, because most of Walter's specimens were destroyed, botanists mistakenly applied this name to other plants until 1948. Later, the Delaware physician William Baldwin collected specimens that Nuttall (1818) named *Silene Baldwynii* (sic), giving the locality as "the banks of Flint River, Florida," perhaps actually in central Georgia (Faust 1980, Allison 1988). Small (1933) and Hitchcock and Maguire (1947) spelled the name *Silene baldwinii*. Fernald and Schubert (1948) created the new combination *Silene polypetala* after they examined Walter's surviving specimens and determined that Walter's specific epithet had priority over Nuttall's. The common name "fringed campion" is from Duncan and Foote (1975), who illustrated this species with a color photograph.

Fringed campion is a perennial herb that spreads vegetatively by long, slender stolon-like rhizomes and leafy offshoots, both terminating in overwintering rosettes. The rosette and lower stem leaves are obovate, 3–9 centimeters (1–4 inches) long, and opposite. Each rosette has one to several flowering shoots, each of which is unbranched or sparingly branched, erect or ascending, and up to 4 decimeters (16 inches) tall. The flowers are arranged in groups of 3–5 in a terminal cyme with leafy bracts. The calyx is tubular, 2–3 centimeters long, 5-lobed, and covered with long, weak hairs. The five separate petals are each divided into a lower part about as long as the calyx and a triangular upper part that extends 3–4 centimeters from the calyx. The wide apex of each petal is fimbriate (divided into slender segments) giving the flower a fringed appearance. The petals are pink or white. Flowering is in late March to May (Kral 1983, Hitchcock and Maguire 1947, Faust 1980).

This handsome wildflower is cultivated as a garden plant. F.C. Galle (Callaway Gardens, *in litt.* 1977) collected cuttings from a wild population in the 1950's, found that it is "very easy to propagate from cuttings," maintained stock at Callaway's nursery, established it on their wildflower trail, and distributed plants to other gardens around the United States. The ease of propagation was confirmed by Pinnell (1987).

By 1843, both A.W. Chapman and F. Rugel had collected fringed campion near the confluence of the Flint and Apalachicola Rivers at the Florida-Georgia boundary. In 1894, E.F. Andrews discovered a locality for fringed campion in the drainage of the Ocmulgee River near Macon, Georgia. By 1956, botanists including R. McVaugh, R. Thorne, W. Duncan, H. Hume, and R.K. Godfrey had established the approximate distribution of the fringed campion; since then, Henry Daniel, Robert Lane, W. Zack Faust, and Angus Gholson, Jr. (Faust 1980) have conducted field work on the plant. Allison (1988) conducted a survey that was specifically intended to seek out new localities for this and other plants of rich woods on and near north-facing slopes along the Flint and Chattahoochee river systems in southwestern Georgia. The survey successfully located new localities for *Rhododendron prunifolium* (plumleaf azalea) and the endangered *Trillium reliquum* (relict trillium), but did not substantially expand the known range of fringed campion, which is clearly a rare and narrowly distributed species. Allison's search was aided by responses to a call for information placed by Thomas Patrick (Georgia Freshwater Wetlands and Heritage Inventory) in the newsletter of the Garden Club of Georgia.

Fringed campion occurs in two distinct geographic areas. The northern portion of its range is in central Georgia,

from near Macon in Bibb County west through Crawford, Taylor, and Talbot Counties, where the Piedmont meets the Coastal Plain's Fall Line Sandhills. All the known sites are on Piedmont soils, even though one site (in western Taylor County) appears to be in the sandhills on a standard physiographic map. The sites are near Pine Mountain, but separate from it (Wharton 1978, fig. 1).

Allison (1988) counted at least 610 fringed campion rosette-clusters at nine sites in the Georgia Piedmont; the largest site had at least 225 rosette-clusters. Because the plant spreads vegetatively, in any population the number of rosette clusters probably far exceeds the number of genotypes. In central Georgia, fringed campion occurs "in various situations within hardwood forest. Often on fairly steep slopes of deep ravines or north-facing hillsides. Sometimes on nearly level ground, particularly in 'flatwoods' developed on Iredell soils" (Allision 1988). Piedmont "flatwoods" are bottomland hardwood forests on level sites, with basic or circumneutral soils on mafic or ultramafic volcanic rock. Three sites are on "flatwoods," five sites are on gentle to strongly north-facing slopes, and one site is on gentle east-facing slopes. A tenth site was discovered in 1989; only sketchy information is available on it (T. Patrick, Georgia Freshwater Wetlands and Natural Heritage Inventory, pers. comm. 1989). All of the sites on which fringed campion occurs appear to be consistently moist, either from downslope seepage or from location in a bottomland.

The Georgia Piedmont deciduous hardwood forests in which fringed campion occurs have northern red and white oaks, mockernut and pignut hickories, tulip tree, beech, maples, and loblolly and shortleaf pines. Understory species include oak-leaf hydrangea, blue palmetto (*Sabal minor*) and *Rhododendron minus* (Faust 1980). At one site in Talbot County, Georgia, fringed campion is known to occur with the endangered relict trillium (*Trillium reliquum*) (Allison 1988). At another site, fringed campion occurs with *Scutellaria ocmulgee*, a candidate for Federal listing.

The southern portion of fringed campion's range is along the east side of the Flint and Apalachicola Rivers at the boundary between Decatur County, Georgia and Gadsden County, Florida, with two sites in Georgia (Faust 1980, Allison 1988), and two in Gadsden County, Florida, in and near Chattahoochee. A specimen was collected on the west side of the Apalachicola River, Jackson County, in 1937 (Kent Perkins, Herbarium, Univ. of Florida, *in litt.* 1990). Field work in Jackson County in recent years has not yielded any localities (Deborah White, Florida Natural Areas Inventory, Tallahassee, Florida, pers. comm. 1990). A distribution map that places fringed campion's range near the Suwannee River in Florida (Hitchcock and Maguire 1947) is evidently incorrect; no herbarium specimens are known to support such a distribution (W. Thomas, *in litt.* 1990, checked the New York Botanical Garden herbarium).

Near the Georgia-Florida border, fringed campion occurs in rich wooded ravines with southern magnolia, tulip tree, maples, beech, spruce pine, and sugarberry (*Celtis laevigata*). Understory trees include oakleaf hydrangea and redbud (*Cercis candensis*). Herbs include giant chickweed (*Stellaria pubera*) and bloodroot (*Sanguinaria canadensis*), both northern species. The endangered Florida torreya (*Torreya taxifolia*) occurs in these ravines. Allison counted at least 250 rosette-clusters of fringed campion at the two southwest Georgia sites. Faust (1980) found about 625 plants in the same ravines; the difference in numbers may be due to the severe 1968 drought (Allison 1988). One Florida population of fringed campion had about 250 plants in 1980, and was normally about this size (Faust 1980, reporting data from A. Gholson, Jr.). The size of the second Florida population is unknown.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to the Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report as a petition in the context of section 4(c)(2) (now section 4(b)(3)) of the Act, as amended, and of its intention to review the status of the plant taxa contained within. On June 16, 1976, the Service published a proposed rule (41 FR 24524) to determine some 1,700 U.S. vascular plant species recommended by the Smithsonian report to be endangered species pursuant to section 4 of the Act. This proposal was withdrawn in 1979 (44 FR 12382). *Silene polypetala* was included in the Smithsonian Report; the July 1, 1975 notice; the June 16, 1976 proposal; and the 1979 withdrawal.

On December 15, 1980, the Service published a notice of review for plants (45 FR 82480), which included *Silene polypetala* as a cateogry 2 candidate (a taxon for which data in the Service's possession indicate listing is possibly appropriate). A supplement to the notice of review published on November 28, 1983 (48 FR 53640) changed *Silene polypetala* to a category 1 candidate (a taxon for which data in the Service's possession indicates listing is warranted), based on the status survey by Faust (1980). Updated notices of review publsihed September 27, 1985 (50 FR 39526) and February 21, 1990 (55 FR 6184) retained *Silene polypetala* as a cateogry 1 candidate.

Section 4(b)(3)(B), of the Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Silene polypetala* because the Service had accepted the 1975 Smithsonian report as a petition. In October of 1983, 1984, 1985, 1986, 1987, 1988, and 1989, the Service found that the petitioned listing of this species was warranted but precluded by other listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. Publication of this proposal constitutes the final petition finding required by the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Silene polypetala* (Walter) Fernald & Schubert (fringed campion) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Three known sites are in residential areas and may be lost to house construction or landscaping (the owner of at least one site is interested in conserving fringed campion and *Scutellaria ocmulgee*). Two sites may suffer loss of at least some plants due to recent logging upslope from the populations, which may disrupt downslope seepage of water or decrease

summer shade. However, because these sites are now small remnants of mature forest surrounded by regeneration, they are not threatened by cutting for many years. Six more sites may be subject to eventual clearcutting. Two sites can be considered secure.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The two secure sites are moderately well known to botanists. There is no evidence that overcollection for scientific or educational purposes has occurred, although reported numbers of plants at these sites were much higher in 1980 (650 plants) than in 1988 (250 plants) (Faust 1980, Allison 1988). Although fringed campion is a desirable garden species, overutilization of fringed campion for horticultural purposes is not known to have occurred, perhaps because it is easily propagated from cuttings, making digging up of wild plants unnecessary and unproductive.

C. Disease or Predation

Several populations in Talbot and Taylor Counties, Georgia "displayed moderate to heavy grazing, presumably by deer. This could greatly limit the potential for population expansion and dispersal by sexual means, particularly as most of these populations are rather small" (Allison 1988).

D. The Inadequacy of Existing Regulatory Mechanisms

Georgia's Wildflower Preservation Act of 1973 protects fringed campion as an endangered species; the act prohibits cutting, digging, pulling up, or otherwise removing any protected plant from public land without a permit from the Georgia Department of Natural Resources, and provides for permits for transporting, carrying, or conveying protected plants taken from private land belonging to another person. Violations are punishable as a misdemeanor. The only occurrences of this plant on public land are at two sites administered by the U.S. Army Corps of Engineers in southern Georgia; the Corps is capable of prohibiting take of this plant from its lands by regulation. Listing fringed campion as an endangered or threatened species will add the substantial penalties provided by the Endangered Species Act to State and agency penalties.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

At four sites that are vulnerable to logging, Japanese honeysuckle (*Lonicera japonica*), a noxious weed, is already present or is encroaching. Japanese honeysuckle often destroys populations of forest-floor herbs; in addition, because Japanese honeysuckle can thrive in the wake of logging, its presence in these areas appears to greatly exacerbate the threat from logging. The small number of populations of this plant, and the likelihood that each population contains few individuals and fewer genotypes greatly exacerbates the degree of threat to fringed campion from the other factors.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Silene polypetala* (fringed campion) as endangered.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for fringed campion. As discussed under Factor B in the Summary of Factors Affecting the Species, fringed campion is a handsome wildflower and a desirable garden plant. Although overutilization and take are not presently considered to threaten this species, the protected populations are small and are in a habitat with a number of other sensitive species that could be adversely affected by take or by excessive numbers of visitors. One unprotected site of fringed campion is shared with the federally endangered *Trillium reliquum* (relict trillium), which is considered vulnerable to take (U.S. Fish and Wildlife Service 1988).

Publication of critical habitat descriptions and maps would make fringed campion and other plant species in the habitat more vulnerable and increase enforcement problems. Involved parties and principal landowners are aware of the locations of this species and the importance of protecting its habitat. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard, which will almost certainly include provisions to ensure that this species is not harmed by herbicide use. Therefore, it would not be prudent to determine critical habitat for fringed campion.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Environmental Protection Agency (EPA) is establishing a national system to prevent the use of herbicides (including herbicides used in forestry) from jeopardizing endangered species; the State of Florida's Department of Agriculture and Consumer Services is establishing its own herbicide regulatory system under a program approved by the EPA. Herbicide restrictions, if they are adopted to protect fringed campion, may have some impact on private landowners in this area.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate

or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. (If a plant is listed as a threatened species rather than as an endangered species, seeds from cultivated specimens of that species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers). In addition, for endangered plants, the 1988 amendments to the Act (Pub. L. 100–478) prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances.

It is anticipated that trade permits would be sought and issued because fringed campion has a limited popularity in cultivation. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, VA 22203–3507 (703/358–2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to fringed campion;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Jacksonville, Florida, Field Office (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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U.S. Fish and Wildlife Service. 1988. Determination of endangered status for the relict trillium. **Federal Register** 53(64): 10879–10884.

Author

The primary author of this proposed rule is Mr. David Martin (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.12(h) for plants by adding the following, in alphabetical order under Caryophyllaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Caryophyllaceae—Pink family:						
* * * * * *						
Silene polypetala	Fringed campion	U.S.A. (FL, GA)		NA	NA	
* * * * * *						

Dated: May 22, 1990.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90–15942 Filed 7–10–90; 8:45 am]

BILLING CODE 4310–55–M

federal register

Wednesday,
July 11, 1990

Part VII

Office of Management and Budget

Budget Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two revised deferrals of budget authority now totalling $2,547,688,227.

The deferrals affect programs in International Security Assistance and the Department of State. The details of the deferrals are contained in the attached report.

Dated: June 26, 1990.

George Bush

The White House,

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

DEFERRAL NO.	ITEM	BUDGET AUTHORITY
	Funds Appropriated to the President:	
	International Security Assistance:	
D90-1C	Economic support fund.....	2,472,859
	Department of State:	
	Bureau of Refugee Programs:	
	United States emergency refugee and	
D90-6B	migration fund.....	74,829
	Total, deferrals.....	2,547,688

SUMMARY OF SPECIAL MESSAGES
FISCAL YEAR 1990
(in thousands of dollars)

	RESCISSIONS	DEFERRALS
Sixth special message:		
New items	---	---
Revisions to previous special messages	---	408,950
Effects of the sixth special message	---	408,950
Amounts from previous special messages	226,883	10,662,589
TOTAL amount proposed to date in all special messages	226,883	11,071,539

Deferral No. D90-1C

Supplemental Report
Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D90-1B transmitted to Congress on April 18, 1990.

This revision increases by $383,950,000 the previous deferral of $2,088,909,227 in the Economic support fund, resulting in a total deferral of $2,472,859,227. The increase results from funds made available by the Supplemental Appropriations Act (P.L. 101-302).

Deferral No. 90-1C

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	New budget authority..... * $ 3,981,325,500 (P.L. 101-167 and P.L. 101-302)
BUREAU: International Security Assistance	Other budgetary resources..... 242,885,375
Appropriation title and symbol: Economic support fund 1/ 119/01037 1101037 11X1037 110/11037	Total budgetary resources..... * 4,224,210,875
	Amount to be deferred: Part of year..... * $ 2,472,859,227 2/
	Entire year..... _____
OMB identification code: 11-1037-0-1-152	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other _____
Type of account or fund: [X] Annual *September 30, 1990 [X] Multi-year: September 30, 1991 (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

Coverage:

Appropriation	Account Symbol	OMB Identification Code	Deferred Amount Reported
Economic support fund.....	11x1037	11-1037-0-1-152	$ 20,830,727
Economic support fund.....	119/01037	11-1037-0-1-152	270,000,000
Economic support fund.....	110/11037	11-1037-0-1-152	* 2,182,028,500
			* 2,472,859,227

JUSTIFICATION: This action defers funds pending approval of specific loans and grants to eligible countries by the Secretary of State after review by the Agency for International Development and the Treasury Department. This interagency review process will ensure that each approved program is consistent with the foreign and financial policies of the United States and will not exceed the limits of available funds. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ These accounts were the subject of a similar deferral in 1989 (D89-1A).

2/ The deferred amount has been reduced to $1,004,862,620 due to subsequent releases.

* Revised from previous report.

Deferral No. D90-6B

Supplemental Report
Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D90-6A transmitted to Congress on January 29, 1990.

This revision to a deferral of the Department of State, U.S. Emergency Refugee and Migration Assistance Fund, increases the amount previously reported as deferred from $49,829,000 to $74,829,000. This increase of $25,000,000 results from funds made available by the Supplemental Appropriations Act (P.L. 101-302).

Deferral No. 90-6B

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of State	New budget authority..... * $ 74,785,000 (P.L. 101-167 and P.L. 101-302)
BUREAU: Bureau of Refugee Programs	Other budgetary resources..... 44,000
Appropriation title and symbol: United States emergency refugee and migration assistance fund 1/ 11X0040	Total budgetary resources..... * 74,829,000 Amount to be deferred: Part of year..... * $ 74,829,000 2/ Entire year.....
OMB identification code: 11-0040-0-1-151	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other _____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multi-year: (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

JUSTIFICATION: Section 501(a) of the Foreign Relations Authorization Act, 1976 (Public Law 94-141) and Section 414(b) (1) of the Refugee Act of 1980 (Public Law 96-212) amended Section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund not to exceed $50,000,000 to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) expressly waived the provision that placed a limit on the amounts in the Fund.

Executive Order No. 11922 of June 16, 1976, allocated all funds appropriated to the President for the Emergency Fund to the Secretary of State but reserved for the President the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

These funds have been deferred pending Presidential decisions required by Executive Order No. 11922. Funds will be released as the President determines assistance to be furnished and designates refugees to be assisted by the Fund. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1989 (D89-9A).

2/ The deferred amount has been reduced to $42,879,000 due to subsequent releases.

* Revised from previous report.

[FR Doc. 90-16112 Filed 7-10-90; 8:45 am]
BILLING CODE 3110-01-C

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