AUTHENTICATED
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6-18-92
Vol. 57 No. 118

# federal register

Thursday
June 18, 1992

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
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SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

6-18-92
Vol. 57 No. 118
Pages 27141-27344

# federal register

Thursday
June 18, 1992

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## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

### 7 CFR Part 729

### Commodity Credit Corporation

### 7 CFR Part 1446

### Peanuts

**AGENCY:** Agricultural Stabilization and Conservation Service, and Commodity Credit Corporation, USDA.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule amends regulations at 7 CFR part 729 with respect to: (1) The definition in § 729.103 of "actual undermarketings" of quota peanuts, (2) the method for making required reductions in a farm's poundage quota pursuant to § 729.204, and (3) the temporary transfer of a farm's poundage quota pursuant to § 729.212. Additionally, this interim rule amends regulations at 7 CFR part 1446 with respect to: (1) The "disaster transfer" of peanuts for pricing purposes, pursuant to § 1446.307, from an additional loan pool to a quota loan pool, (2) in § 1446.309, the conditions under which loan additional peanuts may be sold under the "immediate buyback" provisions, (3) the requirements in § 1446.410 for granting an extension of time to a handler to export or crush contract additional peanuts, and (4) the provisions in §§ 1446.703 and 1446.704 that relate to the handling of appeals and requests for reconsideration.

The final rule for the 1991 through 1995 crops of peanuts was issued on August 13, 1991. Several of the issues addressed in this interim rule were restricted by the final rule to the 1991 crop of peanuts. Accordingly, this action is necessary to provide applicable rules for 1992 through 1995 crops of peanuts with respect to those issues that are addressed in this interim rule.

**DATES:** This interim rule is effective June 18, 1992. Comments must be received on or before July 20, 1992 in order to be assured of consideration.

**ADDRESSES:** Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, DC 20013, or deliver to room 5750, South Building, 14th Street and Independence Avenue, SW., Washington, DC. All written comments received in response to this request will be made available for public inspection in room 5750, South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m. on regular workdays.

**FOR FURTHER INFORMATION CONTACT:** Jack S. Forlines, Deputy Director, Tobacco and Peanuts Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013, telephone 202–720–0156.

**SUPPLEMENTARY INFORMATION:** This interim rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and has been classified not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions. Furthermore, it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this interim rule applies are: Commodity Loans and Purchases—10.051.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Commodity Credit Corporation and the Agricultural Stabilization and Conservation Service are not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

The information collection requirements contained in the regulations of 7 CFR parts 729 and 1446 for the poundage quota program and the price support program were approved by the Office of Management and Budget (OMB), as required by 44 U.S.C. chapter 35, and assigned OMB control numbers 0560–0006, 0560–0014, and 0560–0033. OMB has approved the collection requirements through May 31, 1992. A request for an extension of the approval of the information collection requirements has been submitted to OMB and it is anticipated that approval will be forthcoming. This interim rule does not change the information collection as approved by OMB. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #050–0006), Washington, DC 20503.

### Background

On January 16, 1992, a notice was published in the Federal Register (57 FR 1879) seeking public comments on several issues relating to the peanut poundage quota and price support programs. This interim rule implements regulations for each of those issues except with respect to whether, for the 1992 through 1995 crops of peanuts, export credit would be granted for peanut products that are made from "additional" peanuts and exported to Canada or Mexico. This issue will be the subject of a separate notice that will be published in the Federal Register at a later date. In addition, this interim rule: (1) Implements the provisions in section 122 of the Food, Agriculture, Conservative, and Trade Act Amendments of 1991 (Pub. L. 102–237) with respect to the transfer of undermarketings when poundage quotas are transferred between eligible farms, and (2) amends the regulations at 7 CFR part 1446 with respect to: (a) Eligibility

to make a "disaster transfer" of peanuts from an "additional" loan to a "quota" loan, and (b) with respect to reconsideration or appeal of the assessment of penalties for violations of the provisions of the peanut price support program.

Since peanut farmers are now preparing to plant their 1992 crop of peanuts and need to be informed of program provisions as soon as possible and since this rule may affect those plans, it has been determined that it would be impracticable and contrary to the public interest to delay implementation of this rule. The interim rule is subject to change upon consideration of the comments submitted in response to this rule.

The January 16 issues covered regulations in 7 CFR parts 729 and 1446. The comments received on the two parts and new issues addressed in the present rule are discussed separately as follows:

*1. Summary of Comments to Part 729*

Fourteen respondents commented on the issues relating to part 729 (the poundage quota regulations) that were addressed in the January 16, 1992, notice.

Section 729.103—Actual Undermarketings

Thirteen comments were submitted concerning the determination of "undermarketings" of quota peanuts for a farm.

Four respondents stated that the "total marketings of quota peanuts" should include, to the extent the quota is undermarketed, any peanuts that were marketed as additional peanuts that could have been marketed as quota peanuts.

Seven respondents stated generally that the quota should not be considered undermarketed to the extent that there were additional peanuts that could have been marketed as quota peanuts except that, in those cases in which the producer is required by a contract for additional peanuts to deliver a specific amount of additional peanuts and to the extent that such amount is produced on the farm, any peanuts delivered under the contract should not be considered as peanuts that "could have been marketed as quota peanuts." However, if the recommendation of these 7 respondents was adopted, the producers, who are required by their contracts for additional peanuts to deliver a specific amount of additional peanuts would receive undue preferential treatment when compared with those producers who market additional peanuts without having contracts.

One respondent stated that for purposes of determining whether the quota for a farm had been undermarketed, the "total marketings of quota peanuts" from the farm should take into account only the actual marketings of quota peanuts. But, if this recommendation was adopted, in a year of short supply producers could increase their undermarketings by simply marketing peanuts as additional peanuts with high pool dividends. This would, at a minimum, adversely affect the producers who marketed all of their eligible peanuts as quota peanuts. It would also effect the marketing of quota peanuts in subsequent years.

Another respondent addressed the issue but without making a specific recommendation.

Under this interim rule, for the 1992 through 1995 crops of peanuts, "actual undermarketings" will be defined, as a part of the definition of "undermarketings" in § 729.103(b), as the pounds by which the farm's effective quota exceeds the larger of: (1) The sum of peanuts retained on the farm for seed or other uses, Segregation 2 or Segregation 3 peanuts that were transferred from an additional loan to a quota loan, Segregation 2 or Segregation 3 peanuts that were produced for seed and marketed as quota peanuts for seed, and the production of other Segregation 1 peanuts on the farm, or (2) the pounds of peanuts marketed, or which are "considered marketed" under the definition for "market" in § 729.103, from the farm as quota peanuts. This is essentially the same definition that has been in effect for recent years. In a year of short supply when additional peanuts virtually will be as valuable as quota peanuts, this definition will prevent producers from marketing peanuts as additional peanuts rather than as quota peanuts in order to increase the farm's undermarketings.

Section 729.204—Quota Reduction for Nonproduction

Two methods of making quota reductions for nonproduction were described in the **Federal Register** of January 16, 1992, namely, a "factor method" and a "poundage method". Essentially, the "poundage" method for calculating the quota reduction for nonproduction in 2 of 3 years would make the reduction in an amount equal to the sum of the nonproduction for the 2 years of the 3 when the nonproduction was the least amount of nonproduced pounds. In the "factor" method, the average percentage of nonproduction in the 2 years having the greatest percentage of nonproduction of the 3 years would be used and would be applied against the current quota amount to determine the reduction for nonproduction. There were 14 comments received with respect to quota reductions for nonproduction.

Eleven respondents recommended that the "poundage method" should be used to reduce the farm's quota for nonproduction because it was more consistent with the "fair and equitable" provision of section 358–1(b)(3) of the Agricultural Adjustment Act of 1938, as amended (the 1938 Act).

Two respondents recommended that the "factor method" should be used for making quota reductions. One of these respondents indicated, without specifying why, the "factor method" was more consistent with the 1938 Act.

One respondent recommended that the "factor method" should be used for making quota reductions in Texas because this would increase the amount of quota lost by nonproduction and would be more consistent, said the respondent, with the "Texas only provision" in the 1990 Farm Bill in which special quota distribution rules were created for certain counties in Texas with a history of high production of additional peanuts.

Section 358–1(b)(3) of the 1938 Act provides that "Insofar as practicable and on such fair and equitable basis as the Secretary may by regulations prescribe, the farm poundage quota established for a farm for any of the 1991 through 1995 marketing years shall be reduced to the extent that the Secretary determines that the farm poundage quota established for the farm for any 2 of the 3 years preceding the marketing year for which the determination is being made was not produced or considered produced, on the farm." Using the "poundage method" will result in a reduction in quota that is exactly equal to the deficiency in production that resulted in the need to reduce the quota and therefore appears to be a better method of implementing the statute. Contrariwise, while there is some logic to the use of the "factor method", using that method will result in a reduction in quota that may be substantially greater than the deficiency in production that resulted in the need to reduce the quota.

Section 729.212—Transfer of Undermarketings

Transfer of undermarketings was not an issue for which public comments were requested in the **Federal Register** on January 16, 1992. However, a technical amendment to section 358b(a) of the 1938 Act enacted in Public Law 102–237 specified that undermarketings

of peanut poundage quota could be transferred when poundage quotas are transferred between eligible farms. Accordingly, § 729.212 is amended by this interim rule to implement that new statutory provision. The revision of § 729.212 includes a provision that would prohibit a fall transfer of poundage quota unless it is determined that the producers made a good faith effort to produce a normal crop of peanuts on the farm. The existing rule prohibits a transfer if the production, despite the good faith effort of the producer, was greater than the farm's effective quota minus the farm's effective undermarketings.

*2. Summary of Comments to Part 1446*

A total of 19 respondents submitted comments with respect to those 2 issues involving 7 CFR part 1446 of the 3 part 1446 issues addressed in the Federal Register of January 16, 1992. Those two issues are: (1) The conditions under which loan additional peanuts may be sold under the "immediate buyback" provisions in § 1446.309 and (2) the requirements for granting an extension of time under § 1446.410 for a handler to export or crush additional peanuts. The third issue, involving whether disposition credit will be granted for peanut products made from 1992 and subsequent crops contract additional peanuts and exported to Canada or Mexico, is not addressed in this rule.

Section 1446.309—Immediate Buyback

Nineteen comments were submitted with respect to whether, when a producer has given the statutorily required written consent for loan additional peanuts to be sold upon delivery for domestic edible use under the "buyback" provisions, additional restrictions should be required by regulation before such peanuts may be purchased as an "immediate buyback."

Seven respondents opposed any additional restrictions. Two respondents stated that "immediate buybacks" should not be permitted until the producer for the type of peanuts contracted, has delivered the full quantity the producer has contracted for sale as contract additional peanuts. These respondents emphasized that these restrictions would not apply to "immediate buybacks" of any type of additional peanuts that were produced without a contract.

Ten respondents stated that "immediate buybacks" should not be permitted until the full contracted quantity of additional peanuts has been delivered, regardless of the type of peanuts offered for the buyback.

However, while these recommendations were intended to protect handlers with contracts for the purchase of additional peanuts, 9 of the respondents recommended that in any case, upon mutual agreement of the producer and handler who have entered into a contract for additional peanuts, the producer, at least in some instances, should be able to market the contracted peanuts through the additional loan method and the handler should be able to make an "immediate buyback" of such peanuts. Six of the 9 respondents indicated that this choice should be available only when prescribed determinations are made by the Secretary that there is a shortage with respect to the National quantity of peanuts that will be available for domestic edible uses. This choice of shifting from the contract to an "immediate buyback" would afford the contracting parties an opportunity to respond to changing marketing conditions to the mutual benefit of all concerned parties.

Respondents supporting additional restrictions suggested that the absence of restrictions would increase the potential for Commodity Credit Corporation losses on the peanut price support program. They also suggested that restrictions would prohibit producers from entering the loan pool in years of short supply to the possible detriment of producers who use the loan pool to market their additional peanuts rather than contracting their additional peanuts for export or for crushing into oil and meal.

In view of the significant support by respondents for additional restrictions by regulations on the conditions by which loan additional peanuts may be purchased as an "immediate buyback", this interim rule provides that peanuts of a type that have been contracted by a producer for export or crush may not be diverted from the contract to an additional loan and offered for purchase by a handler as an "immediate buyback" at the time of delivery by the producer for an additional loan. This means that as long as the producer's marketing card shows undelivered contracted pounds, peanuts delivered into the additional loan of the same type contracted from the farm by the producer for export or crush will not be considered eligible for an "immediate buyback."

Section 1446.410—Extension of Time

Sixteen respondents submitted comments with respect to whether an extension of time should be granted for a handler to dispose of contract additional peanuts without requiring an explanation from the handler to show that conditions beyond the handlers control will prevent compliance with the prescribed disposition date.

Three respondents indicated that an extension of the final disposition date should not be contingent on an explanation. However, one of these respondents indicated that the peanut lots, for which an extension in requested, should be designated by September 15.

One respondent indicated that an extension of the final disposition date should be contingent on a full explanation by the handler as to why the handler is unable to meet the final disposition date.

Twelve respondents indicated that an extension of the final disposition date should be contingent upon an explanation but indicated varying explanations that should be required. Also, most of these respondents indicated that a failure to obtain a market should be an acceptable reason for granting an extension.

Additionally, one of the 16 respondents also indicated that provisions should be made through an appeal process for granting an extension of time after the final disposition date has passed and 4 of the 16 respondents indicated that the October 15 final disposition date should be extended. Of the 4, there were 2 who recommended October 31 as the final disposition date, while 1 recommended November 30 and another recommended December 31.

In view of the comments, and in order to remove a requirement that was viewed as being too restrictive, this interim rule provides that an extension of time to export or crush contract additional peanuts may be granted upon timely written request from the handler. Requiring an explanation does not seem to provide any material program benefit and explanations would be difficult to verify. Accordingly, under this interim rule, an explanation of a reason that will prevent timely export or crush will not be required as a condition for granting an extension of time.

*3. New Issues in 7 CFR Part 1446*

As indicated above, this interim rule addresses two additional issues relating to part 1446 that were not addressed in the January 16, 1992, notice.

Section 1446.307—Disaster Transfer

Section 1446.307 provides the conditions for approving a "disaster transfer" of Segregation 2 and Segregation 3 peanuts from an additional loan to a quota loan. Generally, such transfer may be

approved to the extent the effective farm poundage quota exceeds the sum of the amount of peanuts retained on the farm for seed or other uses and the production of Segregation 1 peanuts on the farm. CCC will incur a loss on each ton of peanuts that is transferred from an additional loan to a quota loan under the disaster transfer provisions. The loss will range between $350 and $550 on each ton that is transferred.

Under the "fall transfer" provision of 7 CFR part 729, peanut poundage quota may be transferred to a farm by lease, owner, or operator to the extent needed to market the entire production of peanuts on the farm as quota peanuts. If the harvest of peanuts has not been completed, the quantity of peanut poundage quota that may be transferred is determined on the basis of estimated production. When peanuts are graded as Segregation 2 or Segregation 3 after a fall transfer of poundage quota has been approved, the poundage quota that has been transferred to the farm may be used to effect a disaster transfer with resulting loss to CCC.

The purpose of the disaster transfer is to prevent an economic disaster to the producer who has a poundage quota and plants peanuts with the expectation of marketing the peanuts as quota peanuts but, because of conditions beyond the producers control, is prevented from marketing some of the peanuts as quota peanuts because the peanuts are graded as Segregation 2 or Segregation 3 peanuts that are ineligible for marketing as quota peanuts. The current difference between an additional loan and a quota loan is more than $500 per ton of peanuts.

A producer should not produce peanuts in excess of a farm's poundage quota with the expectation that such peanuts could be marketed as quota peanuts. Therefore, CCC should not be expected to suffer the loss that will be incurred by transferring Segregation 2 or Segregation 3 peanuts from an additional loan to a quota loan through the use of quota that was transferred to the farm under the "fall transfer" rules. Accordingly, this interim rule amends § 1446.307 to limit a disaster transfer to the amount by which the poundage quota, that was in effect on the farm before the "fall transfer" of quota, is greater than the sum of peanuts retained on the farm for seed or other purposes and the production of Segregation 1 peanuts on the farm. In the event the farm has Segregation 2 or Segregation 3 peanuts, however, it may be that the farm will qualify as having undermarketings which can be carried forward.

Sections 1446.703 and 1446.704—Reduction of Penalties and Appeals

This rule also adopts new penalty procedures for part 1446. Existing rules in part 1446 provide for an initial determination by a CCC official and an appeal to the Executive Vice President, CCC. The amendments reflect the recent establishment of the National Appeals Division (NAD). The NAD was established pursuant to section 1126 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624). NAD handles matters relating to the activities of the Agricultural Stabilization and Conservation Service and the CCC. NAD operates pursuant to provisions in 7 CFR part 780. Because NAD is independent of the program divisions, the revised rules provide that penalty reductions, where justified, may be made by the CCC official that initially considers the case. Reductions may also be made by the NAD or by the Executive Vice President, CCC, or by the designee of the Executive Vice President, CCC.

List of Subjects

*7 CFR Part 729*

Poundage quotas, Peanuts, Penalties, Reporting and recordkeeping requirements.

*7 CFR Part 1446*

Loan programs—Agriculture, Peanuts, Price support programs, Reporting and recordkeeping requirements, Warehouses.

Accordingly, the regulations set forth in chapters VII and XIV of title 7 are amended as follows:

## PART 729—[AMENDED]

1. In chapter VII, the regulations at 7 CFR part 729 are amended as follows:

a. The authority citation for 7 CFR part 729 continues to read as follows:

**Authority:** U.S.C. 1301, 1357 *et seq.*, 1372, 1373, 1375; 7 U.S.C. 1445c–3.

b. In § 729.103, paragraph (b), the definition of "Undermarketings" is amended by revising paragraph (i) to read as follows:

**§ 729.103 Definitions.**

* * * * *

*Undermarketings.* (i) *Actual.* The pounds by which a farm's effective quota exceeds the larger of:

(A) The sum of:

(*1*) Peanuts retained on the farm for seed or other uses,

(*2*) Segregation 2 or Segregation 3 peanuts that were transferred from an additional loan to a quota loan,

(*3*) Segregation 2 or Segregation 3 peanuts that were produced for seed and marketed as quota peanuts for seed, and

(*4*) The production of Segregation 1 peanuts on the farm, excluding such peanuts retained on the farm for seed or other uses, or

(B) The pounds of peanuts marketed or considered marketed from the farm as quota peanuts.

* * * * *

**§ 729.204 [Amended]**

c. In § 729.204, paragraph (d)(2) is amended by removing in the second sentence the words "with respect to the 1991 crop,".

d. In § 729.212, paragraphs (a)(2) and (e)(1)(iii)(B) are revised to read as follows:

**§ 729.212 Transfer of quota by sale, lease, owner, or operator.**

* * * * *

(a) * * *

(2) *Temporary.* A temporary transfer is for one year and shall be based with respect to the 1992 and subsequent crops on a part or all of the farm's effective quota. The maximum quota that may be temporarily transferred from a farm in the current year is the farm's effective quota. A temporary transfer, to the extent permitted by this section, may be by:

(i) *Lease.* The lease and transfer of a farm's effective quota.

(ii) *Owner.* The owner transferring effective quota to another farm owned or operated by such owner.

(iii) *Operator.* The operator transferring effective quota to another farm owned or operated by such operator.

* * * * *

(e) * * *

(1) * * *

(iii) * * *

(B) The county committee determines that the producers on the farm made a good faith effort to produce a normal crop of peanuts on the acreage devoted to peanuts.

* * * * *

## PART 1446—AMENDED

2. In chapter XIV, the regulations at 7 CFR part 1446 are amended as follows:

a. The authority citation for 7 CFR part 1446 continues to read as follows:

**Authority:** 7 U.S.C. 1359a, 1375, 1421 *et seq.*; 15 U.S.C. 714b and 714c.

b. In § 1446.307, paragraph (b) is revised to read as follows:

**§ 1446.307 Disaster transfer of Segregation 2 or Segregation 3 peanuts from additional loan to quota loan.**

* * * * *

(b) *Limitation of amount eligible for transfer.* The amount of such transfer made in accordance with this section may not exceed the effective farm poundage quota minus the sum of:

(1) Peanuts retained on the farm for seed or other uses,

(2) Production of Segregation 1 peanuts on the farm, and

(3) Amount of peanuts equal to the amount of quota transferred to the farm through a fall transfer pursuant to part 729 of this title.

* * * * *

c. In § 1446.309, paragraph (a) is amended by removing from the beginning of paragraph (a)(1) the word "If" and adding in its place the words "Except as provided in this section, if" and by adding new paragraph (a)(7) to read as follows:

**§ 1446.309 Immediate buyback and sale of loan peanuts to the storing handler.**

(a) * * *

(7) *Additional restrictions on "immediate buyback" sales.*

(i) Additional peanuts of the type contracted for export or crushing from a farm may not be purchased from such farm under the "immediate buyback" provisions of this section until all of the producer's contracts for additional peanuts for the relevant crop year have been satisfied for the type to be used for the buyback, as evidenced by a contract balance of zero for that type of peanuts on the farm's marketing card;

(ii) An immediate buyback that otherwise is prohibited by paragraph (a)(7)(i) of this section may be permitted by CCC in the case of any producer on a farm who does not share in the additional peanuts for which there is a contract.

(iii) An agreement between the handler and producer to void a contract that was approved in accordance with this part shall not reduce the balance shown on the producer's marketing card for contract additional peanuts and until such contract is renewed and satisfied the producer's additional peanuts of the same type as were covered by that contract shall not be eligible for that crop year for purchase under an "immediate buyback."

* * * * *

d. In § 1446.410, paragraph (b) is revised to read as follows:

**§ 1446.410 Disposition date.**

* * * * *

(b) *Extension of final disposition date.* The final disposition date for an individual handler may be extended by the marketing association to November 30 of the year following the calendar year in which the crop was grown if, by September 15 preceding the final disposition date, the handler files a written request with the marketing association that specifies the number of pounds for which an extension is requested.

e. In § 1446.703, paragraph (b) is amended by revising the paragraph heading and the introductory paragraph to read as follows:

**§ 1446.703 Assessment of penalties against handlers.**

* * * * *

(b) *Amount of penalty.* Except when reduced in accordance with this part, the penalty amount for any violation of this part shall be equal to 140 percent of the national average quota support rate for the applicable crop year times the quantity of peanuts:

* * * * *

f. Section 1446.704 is revised to read as follows:

**§ 1446.704 Reductions of penalties, reconsideration and appeals.**

(a) *Reduction of penalties.* (1) *By CCC Contracting Officer.* To the extent permitted by the provisions of paragraph (a)(4) of this section, the CCC Contracting Officer may reduce the amount of penalty that is otherwise determined or assessed in accordance with this part. Such reduction may be made before the penalty is assessed or may be made upon a request for reconsideration by the handler to whom the penalty is assessed.

(2) *By Director, National Appeals Division or by the Executive Vice President, CCC.* To the extent permitted by the provisions of paragraph (a)(4) of this section, the Director, National Appeals Division, upon an appeal by the handler to whom the penalty is assessed, or the Executive Vice President, CCC, or the Executive Vice President's designee, may reduce the amount of penalty that has been assessed in accordance with this part.

(3) *Reduction criteria.* A penalty that is determined or assessed in accordance with this part may be reduced by the CCC Contracting Officer or by the Director, National Appeals Division, or the Executive Vice President, CCC, or the Executive Vice President's designee, if such person determines that:

(i) The violation for which the penalty was assessed was minor or inadvertent;

(ii) A reduction in the amount of the penalty would not impair the effective operation of the peanut program; and

(iii) The assessment of penalty was not made for failure to export contract additional peanuts.

(4) *Reduction limits.* (i) If the reduction criteria in paragraph (a)(3) of this section has been met, the CCC Contracting Officer or the Director, National Appeals Division, or the Executive Vice President, CCC, or the Executive Vice President's designee, as applicable, may reduce the penalty by such amount as such person considers appropriate (including a full reduction of the entire penalty) after taking into account the severity of the violation and the violation history of the handler.

(ii) If one of the criteria in paragraphs (a)(3)(i) and (ii) of this section has not been satisfied and the remaining criteria has been satisfied, the penalty shall not be reduced to less than an amount which is equal to 40 percent of the national average quota support rate for the applicable crop year times the quantity of peanuts involved in the violation.

(iii) There shall not be a limit on the amount by which an assessment of liquidated damages may be reduced by the CCC Contracting Officer or the Director, National Appeals Division or the Executive Vice President, CCC, or the Executive Vice President's designee.

(b) *Request for reconsideration.* A handler who is dissatisfied with a penalty that has been assessed against such handler by the CCC Contracting Officer pursuant to this part may file a written request for reconsideration or reduction of the penalty that has been assessed. Such request for reconsideration or reduction must be made within 15 days after the date of the notice of assessment.

(c) *Appeal.* If handler is dissatisfied with the determination of the CCC Contracting Officer with respect to a request for reconsideration or reduction of a penalty that has been assessed against such handler, the handler may appeal such determination to the Director, National Appeals Division. Any appeal of such determination of the CCC Contracting Officer must be submitted in writing to the Director, National Appeals Division, within 15 days after the date of notice of such determination by the CCC Contracting Officer. The appeal may be to contest liability for the penalty, to request that the penalty be reduced, or both. An appeal shall be conducted in accordance with the regulations set forth in part 780 of this title.

Signed at Washington, DC on June 12, 1992.

**John A. Stevenson,**

*Acting Administrator, Agricultural Stabilization and Conservation Service and Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 92-14287 Filed 6-12-92; 4:08 pm]

BILLING CODE 3410-05-M

## FEDERAL ELECTION COMMISSION

### 11 CFR Part 106

**[Notice 1992-9]**

### Allocation of Joint Federal and Non-Federal Expenses

**AGENCY:** Federal Election Commission.

**ACTION:** Final rule: Announcement of effective date.

**SUMMARY:** On March 13, 1992 (57 FR 8990), the Commission published the text of revised regulations at 11 CFR part 106, governing allocation of expenses that jointly benefit federal and non-federal candidates. These regulations implement 2 U.S.C. 441a and 441b, provisions of the Federal Election Campaign Act of 1971, as amended. 2 U.S.C. 431 *et seq.* The Commission announces that amendments to 11 CFR 106.5(d), dealing with the ballot composition ratio by which state and local political party committees allocate their joint expenditures, are effective retroactive to January 1, 1991. The remaining amendments, which concern the "window" for transfers between non-federal and federal accounts, and the period for recalculating federal/non-federal ratios in connection with fundraising events, are effective as of June 18, 1992.

**EFFECTIVE DATE:** Amendments to 11 CFR 106.5(d) are effective retroactively to January 1, 1991. Other amendments to 11 CFR 106.5(f), (g) and 106.6(d) and (e) are effective as of June 18, 1992.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219-3690 or toll free (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** Section 438(d) of Title 2, United States Code, requires that any rule or regulation prescribed by the Commission to implement Title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days prior to final promulgation. The revisions to 11 CFR part 106 were transmitted to Congress on March 9, 1992. Thirty legislative days expired in the Senate on May 15, 1992, and in the House of Representatives on May 19, 1992.

Amendments to 11 CFR 106.5(d), which deals with the ballot composition ratio by which state and local political party committees allocate their administrative and generic voter drive expenditures, are effective retroactive to January 1, 1991, the effective date of the allocation rules. Committees may add the new non-federal point(s) authorized by these amendments to their ballot composition ratios prospectively at any time. However, if a committee wishes to apply the adjusted ratio retroactively, and to make a transfer from its non-federal to its federal account to reflect this retroactive application, this action must be taken no later than July 20, 1992.

To report this transfer, the committee should file an amended Schedule H1 showing the revised ratio with its next due report, and include a note citing these new rules as the basis for the change. An entry should be made on Schedule H3 at the time the transfer is made, along with an entry on Schedule H4 adjusting the allocated total of administrative and generic voter drive disbursements from January 1, 1991, through the date of the transfer. The H4 entry should have a "total amount" of $0, with equal nonfederal (positive) and federal (negative) entries, to reflect the shift in the amount allocated between these accounts. This approach is consistent with that taken in Advisory Opinion 1991-15, which involved a similar situation. That opinion includes sample forms illustrating how these changes should be reported.

The remaining amendments, which concern the "window" for transfers between non-federal and federal accounts, and the period for recalculating federal/non-federal ratios in connection with fundraising events, are effective as of June 18, 1992. These latter amendments apply to all party committees, including national party committees; nonconnected committees; and those separate segregated funds that are covered by the allocation rules.

### Announcement of Effective Date

11 CFR 106.5(d), as published at 57 FR 8990, is effective retroactive to January 1, 1991. 11 CFR 106.5(f) and (g), and 106.6(d) and (e), also published at 57 FR 8990, are effective as of June 18, 1992.

Dated: June 15, 1992.

**Joan D. Aikens,**

*Chairman Federal Election Commission.*

[FR Doc. 92-14363 Filed 6-17-92; 8:45 am]

BILLING CODE 6715-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 92-NM-03-AD; Amendment 39-8252; AD 92-11-02]**

### Airworthiness Directives; Aerospatiale Model SN 601 Corvette Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to Aerospatiale Model SN 601 Corvette series airplanes, that requires repetitive high frequency eddy current inspections of the canopy inner skin for evidence of cracks, and modification, if necessary. This amendment is prompted by the detection of a structural crack on a fatigue test airframe. The actions specified by this AD are intended to prevent a reduction in the structural integrity of the fuselage.

**DATES:** Effective July 23, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 23, 1992.

**ADDRESSES:** The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060, Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Hank Jenkins, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2141; fax (206)227-1320.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to Aerospatiale Model SN 601 Corvette series airplanes was published in the **Federal Register** on February 12, 1992 (57 FR 5081). That action proposed to require repetitive high frequency eddy current inspections of the canopy inner skin for evidence of cracks, and modification, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and public interest require the adoption of the rule as proposed.

The FAA estimates that 1 airplane of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $275.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

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

**92-11-02. Aerospatiale:** Amendment 39-8252. Docket 92-NM-03-AD.

*Applicability:* Aerospatiale Model SN 601 Corvette series airplanes, certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent a reduction in the structural integrity of the fuselage, accomplish the following:

(a) Prior to the accumulation of 14,100 flight cycles or within the next 100 flight cycles after the effective date of this AD, whichever occurs later, perform a high frequency eddy current inspection to detect cracks in the left-hand (LH) and right hand (RH) side canopy inner skins forward of Frame 10 at the height of Stringer 4, in accordance with Aerospatiale Service Bulletin 53-26, dated January 24, 1991.

(b) Repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 5,600 flight cycles.

(c) If cracks are detected as a result of the inspection required by paragraph (a) or (b) of this AD, prior to further flight, install Modification 1395 in accordance with Aerospatiale Service Bulletin No. 53-14, Revision 1, dated January 24, 1991.

(d) Accomplishment of Modification 1395, in accordance with Aerospatiale Service Bulletin No. 53-14, Revision 1, dated January 24, 1991, constitutes terminating action for the inspection requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The inspections shall be done in accordance with Aerospatiale Service Bulletin 53-26, dated January 24, 1991. The modifications shall be done in accordance with Aerospatiale Service Bulletin No. 53-14, Revision 1, dated January 24, 1991, which includes the following list of effective pages:

| Page numbers | Revision level | Date |
|---|---|---|
| 1, 3 | 1 | January 24, 1991. |
| 2, 4-6 | Original | June 23, 1983. |

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060, Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(h) This amendment becomes effective on July 23, 1992.

Issued in Renton, Washington, on April 28, 1992.

**N.B. Martenson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92-14292 Filed 6-17-92; 8:45 am]

BILLING CODE 4910-13-M

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### 14 CFR Part 39

**[Docket No. 91-NM-70-AD; Amendment 39-8263; AD 92-12-03]**

## Airworthiness Directives; Boeing Model 727 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, that currently requires inspection, repair if necessary, and modification of certain fuselage frames. This amendment reduces the threshold for the initial inspection, and expands the area requiring modification. This amendment is prompted by reports of cracking on airplanes that had accumulated less than the current threshold of 40,000 cycles. The actions specified by this AD are intended to prevent loss of structural integrity of the fuselage that could result in airplane depressurization.

**DATES:** Effective July 23, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 23, 1992.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket 91-NM-70-AD, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stanton R. Wood, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2772; fax (206) 227-1181.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 90-06-16, Amendment 39-6545 (56 FR 19328, April 26, 1991), which is applicable to all Boeing Model 727 series airplanes, was published in the Federal Register on January 8, 1992 (57 FR 652). The action proposed to reduce the threshold for the initial inspection to detect fatigue cracking of certain fuselage frames, and to expand the area requiring modification.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The Air Transport Association (ATA) of America, on behalf of its member operators, requests that the provision to retrofit the structure adjacent to Stringer (S)-28 be withdrawn from proposed paragraph (e), since the number of cracks found at S-28 has been significantly lower than the number of cracks found at the S-26 and S-27 locations. Several members have already accomplished the retrofit of the S-26 and S-27 structure, and do not believe that reworking the S-28 structure is necessary, since continued repetitive inspections of this area will provide an acceptable level of safety. While they support the FAA policy of emphasizing modification of aircraft structure over continued inspection, these commenters consider that the inspection process remains as the primary method of ensuring airworthiness. The commenter points out that the Airworthiness Assurance Task Force (AATF) recommends modification over continued inspection of aircraft structure by reviewing criticality/airworthiness, ease of inspection, and in-service findings; however, the commenters consider that the proposed retrofit of S-28 fails to meet all three criteria, when retrofit to the S-26 and S-27 structure has already been accomplished. Further, the commenters maintain that airplanes that have already been modified in accordance with AD 90-06-16 are not an airworthiness concern and do not require repetitive inspections. The FAA does not concur with the commenters' request. Although the commenters correctly point out that fewer cracks have been found in the S-28 area, the fact remains that cracking does occur in this area. The FAA, in concert with the AATF, considers three criteria for those situations where repetitive inspections of a crack-prone area may be permitted to continue indefinitely, even though a positive fix to the problem exists: (1) The area is easily accessible, (2) the cracking is easily detectable, and (3) the consequences of the cracking are not likely to be catastrophic. In consideration of the cracking that may occur at S-28, the FAA has determined that the circumstances warranting continual repetitive inspections "fail" these three criteria. In this case, the FAA has determined that long term continued operational safety of these airplanes will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. The modification requirement of this AD is in consonance with these considerations.

One commenter asserts that previously modified airplanes should not be required to accomplish the preventative modification at S-28 within 7,500 flight cycles after the effective date of this AD. If the FAA insists upon mandating this retrofit, then the commenter requests that the compliance period be consistent with the time frame required for the "aging aircraft structural modifications," required by AD 90-06-09, Amendment 39-6488 (55 FR 8370, March 7, 1990). The FAA does not concur. The compliance time was selected specifically to allow accomplishment of the modification during normally scheduled heavy maintenance checks. The FAA has determined that the compliance time, as proposed, is appropriate in that the modification can be accomplished in a timely manner and affected operators would not be required to disrupt normal maintenance to arrange for special scheduling.

One commenter questions the reasoning for the proposed repetitive inspection interval of "30 months or 4,000 flight cycles," as specified in proposed paragraph (b). This commenter states that, based on average utilization rates for the majority of the affected fleet, a more accurate calendar time that would parallel 4,000 flight cycles is 36 months, rather than 30 months. For this reason, the commenter requests that the calendar time interval be extended to 36 months. The FAA concurs with this request, and paragraph (b) of the final rule has been revised accordingly. The FAA has determined that this extension will not adversely affect safety.

Another commenter requests that Boeing Drawing 65C35998 be referred to as an approved means of compliance with the repair requirements of proposed paragraph (c). The commenter states that the drawing appears to deal directly with the frame cracking issue. The FAA does not concur. While the drawing may be used for certain airplanes at particular frames, it cannot be considered as an acceptable means of repair for most cases. In situations where the drawing is applicable, it may be approved as an alternative method of compliance with the requirements of this AD, as provided by paragraph (g) of the final rule.

One commenter suggests that the economic analysis paragraph of the preamble be revised to include the cost of modification. This commenter considers that the total cost impact estimate, which was indicated in the cost analysis paragraph in the preamble to the notice, was too low. The "16 hours per airplane" cited in the notice only includes the time necessary to perform the required inspections. The commenter states that the mandatory preventative modification requires an additional 60 to 88 work hours per airplane, raising the total cost to U.S. operators to approximately $6 million, rather than $1,031,360. The FAA partially concurs. Upon further review of the necessary work involved with the actions that would be required by this AD, the FAA finds that the mandatory preventative modification itself will only require an additional 18 to 28 work hours per airplane, depending upon the airplane's configuration. The number of work hours quoted by the commenter is excessive, because it includes work required by previous AD's. Based on this new data, the economic analysis paragraph, below, has been revised accordingly.

Boeing Commercial Airplane Group requests that Revision 1 of Boeing Alert Service Bulletin 727-53A0195, dated September 19, 1991, be listed as the only service bulletin reference in proposed paragraph (a), since it corrects errors and omissions found in the inspection instructions of the original 1989 issue of the service bulletin. The FAA partially concurs. Revision 1 of the service bulletin contains essentially the same material as was in the original issue, but adds procedures for modification of the fuselage frame adjacent to Stringers S-28 left and S-28 right. Therefore, the FAA has revised paragraphs (a), (c), and (d) of the final rule to cite Revision 1 of the service bulletin as an additional source for service information.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 1,695 Boeing Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,172 airplanes of U.S. registry will be affected by this AD, that it will take approximately 16 work hours per airplane to accomplish the required inspection, and that the average labor rate is $55 per work hour. The required modification will take approximately 18 to 28 hours per airplane to accomplish, depending upon the airplane's configuration, at an average labor charge of $55 per work hour. The cost of parts is expected to be negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be between $2,191,640 and $2,836,240. These amounts represent a cost per airplane of between $1,870 and $2,420, depending upon the airplane's configuration.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. app. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

### § 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39.6545 (56 FR 19328, April 26, 1991), and by adding a new airworthiness directive (AD), amendment 39–8263, to read as follows:

**92–12–03. Boeing:** Amendment 39–8263. Docket 91–NM–70–AD. Supersedes AD 90–06–16, Amendment 39–6545.

*Applicability:* Model 727 airplanes, certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent cracking in the fuselage aft lower lobe frames between body stations (BS) 950 and BS 1166, accomplish the following:

(a) Conduct a detailed visual inspection of the fuselage frames in accordance with Part I of the Accomplishment Instructions for Boeing Alert Service Bulletin 727–53A0195, dated May 4, 1989; or Revision 1, dated September 19, 1991; prior to the time specified in subparagraph (a)(1) or (a)(2) of this AD, whichever occurs first.

(1) Prior to the time specified in subparagraph (a)(1)(i) or (a)(1)(ii) of this AD, whichever occurs later:

(i) Within the next 3,000 flight cycles or 15 months after April 24, 1990 (the effective date of AD 90–06–16, Amendment 39–6545), whichever occurs first; or

(ii) Prior to the accumulation of 40,000 flight cycles.

(2) Prior to the time specified in subparagraph (a)(2)(i) or (a)(2)(ii) of this AD, whichever occurs later:

(i) Within the next 3,000 flight cycles or 24 months after the effective date of this AD, whichever occurs first; or

(ii) Prior to the accumulation of 28,000 flight cycles.

(b) Repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 4,000 flight cycles or 36 months, whichever occurs first.

(c) If any cracks are detected, repair prior to further flight, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–53A0195, dated May 4, 1989; or Revision 1, dated September 19, 1991. Skin repairs must be accomplished in accordance with Section 53–30–3 of the Boeing 727 Structural Repair Manual.

(d) Accomplishment of repairs in accordance with Boeing Alert Service Bulletin 727–53A0195, dated May 4, 1989; or Revision 1, dated September 19, 1991; constitutes terminating action for the inspections required by paragraphs (a) and (b) of this AD for the repaired areas only.

(e) Accomplish the preventive modification in accordance with Part I, Paragraph B., of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–53A0195, Revision 1, dated September 19, 1991, prior to the time specified in subparagraph (e)(1) or (e)(2) of this AD, whichever occurs later:

(1) Within the next 7,500 flight cycles or 45 months after the effective date of this AD, whichever occurs first; or

(2) Prior to the accumulation of 47,500 flight cycles.

(f) Accomplishment of the preventive modification required by paragraph (e) of this AD constitutes terminating action for the inspections required by this AD for the modified area only.

(g) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(h) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(i) The inspections, repairs, and modifications shall be done in accordance with Boeing Alert Service Bulletin 727–53A0195, dated May 4, 1989; or Boeing Alert Service Bulletin 727–53A0195, Revision 1, dated September 19, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(j) This amendment becomes effective on Juy 23, 1992.

Issued in Renton, Washington, on May 12, 1992.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate Aircraft Certification Service.*

[FR Doc. 92–14291 Filed 6–17–92; 8:45 am]

BILLING CODE 4910–13–M

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**14 CFR Part 39**

**[Docket No. 91–NM–232–AD; Amendment 39–8260; AD 92–11–10]**

## Airworthiness Directives; McDonnell Douglas Model DC–9–20, –30, –40, –50, and C–9 (Military) Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 series airplanes, that currently requires repetitive inspections to detect cracks of the forward slat drive drums' bellcrank shafts, and replacement, if necessary. That action was prompted by a number of reports of slat drive bellcrank failures resulting in

slat malfunction. This amendment requires replacement of the slat drive drums' bellcrank shafts with an improved part within a specific time period, thus terminating the need for repetitive inspections. The actions specified by this AD are intended to prevent slat asymmetry and potential reduction of lift and lateral control of the airplane at takeoff rotation, as well as the potential for rejected takeoffs from speeds beyond $V_1$ (the critical engine failure speed).

**DATES:** Effective July 23, 1992.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of July 8, 1991 (56 FR 28479, June 21, 1991).

**ADDRESSES:** The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager of Technical Publications—Technical Administrative Support, C1–L5B (54–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Hempe, Aerospace Engineer, Los Angeles Aircraft Certification Office, Airframe Branch ANM–120L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5224; fax (310) 988–5210.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 91–13–09, Amendment 39–7040 (56 FR 28479, June 21, 1991), which is applicable to certain McDonnell Douglas Model DC–9 series airplanes, was published in the **Federal Register** on December 26, 1991 (56 FR 66812). That action proposed to require replacement of the slat drive drums' bellcrank shafts with an improved part within a specific time period, thus terminating the need for the required repetitive inspections of the shafts.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the rule as proposed.

The Air Transport Association (ATA) of America, on behalf of its member operators requests that the proposed compliance time of 18 months for replacement of the slat drive drum bellcrank shafts be extended to 3 years or 100,000 landings, whichever occurs later, based on general concerns about parts availability and costs. The commenter objects to the proposed compliance time because it does not consider parts status and the extended down time required to accomplish parts replacement. One member operator expresses a specific concern about parts availability, stating that the manufacturer currently has a limited number of the parts (approximately 100) and that approximately 400 ship sets would be needed to accomplish the required task. The FAA does not concur that an adjustment to the compliance is necessary based on any parts availability problem. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of installing the modification in the affected fleet in an orderly and timely manner. As for parts availability, the manufacturer has recently advised the FAA that it has 208 parts available (130 parts for sale and 78 parts reserved for airlines.) In addition, the vendor supplying the titanium forgings to the manufacturer for manufacturing has 774 parts in its stock. Parts can be produced at a rate of 100/month with a 12-week lead time. If the manufacturer had to produce all 844 parts (worst case scenario), it could accomplish this in approximately 12 months, which is well within the proposed compliance time of 18 months.

The ATA also requests that the proposed compliance time of 18 months for the replacement of the slat drive drum bellcrank shaft be extended so that it can be accomplished during regularly scheduled maintenance. This commenter believes that the repetitive inspections currently required by the existing AD will provide an acceptable level of safety in the interim, since these inspections already have proven to be successful in maintaining a very high state of readiness and safety. Another commenter states that it is currently inspecting 13 bellcrank shafts (6.5 airplanes) at every 750 cycles and had planned to replace these during scheduled "Q" checks, which are normally scheduled beyond the proposed 18-month compliance time. This commenter notes that an extended compliance time would allow the affected operators to replace the part within a scheduled "Q-check" and not require an additional heavy maintenance visit. The FAA concurs that the compliance time for replacement may be adjusted somewhat based on these commenters' concerns. It should be noted that the FAA's decision to require the replacement action within 18 months is based on the fact that the visual inspection method of non-destructive testing (currently required by the existing AD) does not maintain the highest level of confidence (approximately 90% probability) of finding a detectable crack, without disassembling the area of inspection and using a more accurate inspection method. The FAA never considered that such visual inspections would constitute long term safety. Due to the numerous failures of the subject part in service, and due to a better understanding of the human factors associated with numerous repetitive inspections, the FAA determined that long term operational safety can only be positively assured by replacement of the part within a minimum amount of time, thereby removing the source of the problem. However, in consideration of the composition of materials being inspected, the repetitive inspection intervals, and the proposed compliance time for replacement, the FAA does acknowledge that the visual inspection method will provide an adequate level of safety in the interim, until replacement is accomplished. Upon reconsideration of an appropriate compliance time for replacement, the FAA recognizes the importance of accomplishing the replacement during a period of regularly scheduled maintenance, when necessary special equipment and trained personnel would be available. Therefore, the FAA has revised paragraph (f) of the AD to specify that replacement of the slat drive drum bellcrank shaft is required within 18 months or 2,250 flight cycles after the effective date of the AD, whichever occurs later. The intent of this revision to the compliance time is to provide affected operators with more flexibility in scheduling time for the required replacement.

One commenter is concerned with regard to the requirements of this proposed AD, and the current requirements of AD 90–18–03, Amendment 39–6701 (55 FR 34704, August 24, 1990), which mandates various structural modifications described in McDonnell Douglas Report Number MDC–K1572, "DC–9/MD–80 Aging Aircraft Service Action Requirement Document" (MDC–K1572). Specifically, this commenter points out

that the proposed AD would require replacement of the slat drive drum bellcrank shaft within 18 months, whereas AD 90–18–03 requires replacement within 4 years or 100,000 flight hours, whichever occurs later. The commenter believes that, if McDonnell Douglas plans to revise Document MDC–K1572 to coincide with the compliance time proposed in this AD action, then this proposed action should be canceled, thereby eliminating a duplication of AD's. The FAA does not concur that cancellation of this proposed action is necessary. The FAA is aware of the inconsistency regarding compliance times for replacement of the bellcrank shafts as set forth in this AD action and as currently required by AD 90–18–03. In fact, a statement to this effect was contained in the preamble to the notice. The FAA reiterates that this new AD action will supersede the specific requirements of AD 90–18–03 with regard to bellcrank shaft replacement (and the compliance time for such replacement) by requiring replacement within 18 months or 2,250 flight hours, whichever occurs later, in accordance with procedures described in McDonnell Douglas Alert Service Bulletin, Revision 3, dated May 15, 1991. This inconsistency between the two AD's will exist only temporarily, however. McDonnell Douglas has advised the FAA that, with the next revision of Document MDC–K1572, all references to Service Bulletin 27–250, Revision 2, dated January 3, 1990 (mandated by AD 90–18–03), will be deleted and replaced with references to Revision 3 of that Service Bulletin; further, the "incorporation threshold" for replacement of the bellcrank shaft will be revised in Document MDC–K1572 to correspond with the compliance time of this amendment. At that time, the FAA intends to revise AD 90–18–03 to cite the latest revision of Document MDC–K1572 as the appropriate source of service information, and thereby eliminate the inconsistency between that AD and this amendment with regard to the bellcrank shaft replacement requirements.

The same commenter requests a clarification of paragraph (e) of the proposed notice. Paragraph (e) states that both the slat drive mechanism and the slat drive bellcrank shaft need to be replaced in order to terminate the requirements of the AD. However, this proposed requirement is contradictory to "Condition I" specified in McDonnell Douglas Service Bulletin 27–196, Revision 2, dated December 17, 1990, which states that only the slat drive mechanism needs to be replaced if inspections occur at intervals not to exceed 1,600 cycles. If this inspection is not being conducted, then only the bellcrank shaft needs to be replaced in order to terminate the requirements of the proposed notice. The FAA does not concur. Paragraph (e) of the AD (which was also mandated by AD 91–13–09) strictly addresses "Condition II" specified in both McDonnell Douglas Service Bulletin 27–196, Revision 2, dated December 17, 1990, and McDonnell Douglas Alert Service Bulletin 27–250, Revision 3, dated May 15, 1991. The AD references the accomplishment of Condition II as one way to terminate the requirements of the AD, by replacing both of the applicable parts. "Condition I" is not addressed in paragraph (e) of this AD.

The same commenter requests that the rule be revised to state that, even if the bellcrank shaft has been replaced and, thus, the repetitive inspections terminated, a one-time inspection of the actuator slat drive shafts [such as is required by paragraph (a) of the rule] must be accomplished, unless it can be shown that such an inspection has already been performed. The commenter considers that this would be beneficial in those cases in which an airplane is purchased and AD compliance information is not available from the previous operator. The FAA does not concur that such a requirement is necessary. Section 121.380(a)(2)(v) of the Federal Aviation Regulations (FAR) requires that operators (those operating under FAR part 121) maintain records indicating the current status of applicable airworthiness directives, including the method of compliance; § 121.380a(b) of the FAR requires that those records be transferred with the airplane at the time of sale. If records of compliance with an AD are lost prior to a transfer or sale of an airplane, then the operator would have to reestablish compliance with the AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 685 Model DC–9–20, –30, –40, –50, and C–9 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 422 airplanes of U.S. registry will be affected by this AD. The requirements of this amendment will not add any new additional economic burden on affected operators, other than the costs that are associated with replacing the bellcrank shafts at an earlier time than would have been required by AD 90–18–03 (replacement is now required within 18 months or 2,250 flight cycles, rather than 4 years or 100,000 flight cycles). However, for the convenience of affected operators, the current costs associated with this amendment are reiterated in their entirety (as follows):

The costs associated with the currently required inspections entail 1.5 work hours per airplane per inspection, at an average labor rate of $55 per work hour. (This figure does not include the time necessary for gaining access and closing up.) Based on these figures, the total cost impact of the AD on U.S. operators, with regard to the inspections, is estimated to be $34,815, or $82.50 per airplane per inspection.

The costs associated with the required replacement entail approximately 118 work hours per airplane (59 work hours per slat drive unit), at an average labor rate of $55 per work hour. (This figure does not include the time necessary for gaining access and closing up.) Required parts will cost approximately $7,658 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators, with regard to the replacement requirement, is estimated to be $5,970,456, or $14,148 per airplane. This "total cost" figure assumes that no operator has yet accomplished the required replacement of the bellcrank shaft.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

**List of Subjects in 14 CFR Part 39**

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. app. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

### § 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–7040 (56 FR 28479, June 21, 1991), and by adding a new airworthiness directive (AD), amendment 39–8260, to read as follows:

**92–11–10. McDonnell Douglas:** Amendment 39–8260. Docket 91–NM–232–AD. Supersedes AD–91–13–09, Amendment 39–7040.

*Applicability:* Model DC–9–20, –30, –40, –50, and C–9 (Military) series airplanes; which correspond to factory serial numbers listed in McDonnell Douglas Service Bulletin 27–196, Revision 1, dated September 28, 1984, or Revision 2, dated December 17, 1990; McDonnell Douglas Service Bulletin 27–250, dated August 29, 1984, or Revision 1, dated October 18, 1984, or Revision 2, dated January 3, 1990; and McDonnell Douglas Alert Service Bulletin A27–250, Revision 3, dated May 15, 1991; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To detect cracks and prevent failure of the slat drive mechanism and its interrelated structure, accomplish the following:

(a) Within 20 days or 135 landings, whichever occurs first after January 10, 1985 (the effective date of AD 84–24–03, Amendment 39–4956), inspect the left and right actuator slat drive mechanism in accordance with McDonnell Douglas Service Bulletin 27–196, Revision 1, dated September 28, 1984, or Revision 2, dated December 17, 1990.

(1) If no cracks are found, no further inspection is required.

(2) If a crack is found, and the crack is less than one inch in length, continue to inspect the actuator slat drive shaft at intervals not to exceed 1,600 landings in accordance with the service bulletin.

(3) If a crack is found, and the crack is one inch or greater in length, prior to further flight, replace the actuator slat drive shaft in accordance with Condition II specified in the service bulletin. Such replacement constitutes terminating action for the inspections required by paragraph (a)(2) of this AD.

(b) Within 20 days or 135 landings, whichever occurs first after January 10, 1985, inspect the forward slat drive drums' bellcrank shafts that have accumulated 4,000 or more landings since new or last overhaul.

(1) If no cracks are detected, continue to inspect the slat drive drum bellcrank shaft for cracks at intervals not to exceed 1,500 landings as shown in Figure 1 of McDonnell Douglas Service Bulletin 27–250, dated August 29, 1984; Revision 1, dated October 18, 1984; or Revision 2, dated January 3, 1990.

(2) If cracks are found, prior to further flight, replace the slat drive drum bellcrank shaft in accordance with Condition II of the service bulletin. Such replacement constitutes terminating action for the repetitive inspection requirements of paragraph (b)(1) of this AD.

(c) Within 500 landings after July 8, 1991 (the effective date of AD 91–13–09, Amendment 39–7040), or at the next scheduled inspection in accordance with paragraph (b) of this AD, whichever occurs earlier, inspect the slat drive drums' bellcrank shafts for cracks, in accordance with McDonnell Douglas Alert Service Bulletin A27–250, Revision 3, dated May 15, 1991. This inspection constitutes terminating action for the repetitive inspection requirements of paragraph (b)(1) of this AD.

(1) If no cracks are found, repeat the inspection of the slat drive drum bellcrank shaft for cracks at intervals not to exceed 750 landings, in accordance with the alert service bulletin.

(2) If cracks are found, prior to further flight, replace the slat drive drum bellcrank shaft with a new drum shaft, P/N 5920212–505, in accordance with Condition II specified in the alert service bulletin. Such replacement constitutes terminating action for the repetitive inspection requirements of paragraph (c)(1) of this AD.

(d) If cracks are found in locations in the slat drive shaft(s) other than those specified in McDonnell Douglas Service Bulletin 27–196, Revision 1 or 2; and McDonnell Douglas Alert Service Bulletin A27–250, Revision 3; prior to further flight, replace or rework the cracked component(s) in a manner approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate.

(e) Replacement of both the actuator slat drive mechanism and the slat drive drum bellcrank shaft in accordance with Condition II of the following service bulletins, as applicable, constitutes terminating action for the requirements of this AD:

| McDonnell Douglas service bulletin number | Revision level | Date |
|---|---|---|
| 27–196 | Revision 1 | September 28, 1984. |
| | Revision 2 | December 17, 1990. |
| 27–250 | Original | August 29, 1984. |
| | Revision 1 | October 18, 1984. |
| | Revision 2 | January 3, 1990. |
| A27–250 | Revision 3 | May 15, 1991. |

(f) Within 18 months or 2,250 flight cycles after the effective date of this AD, whichever occurs later, replace the slat drive drum bellcrank shaft with a new drum shaft, P/N 5920212–505, in accordance with Condition II specified in McDonnell Douglas Alert Service Bulletin 27–250, Revision 3, dated May 15, 1991. Such replacement constitutes terminating action for the repetitive inspection requirements of paragraphs (b)(1) and (c)(1) of this AD.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(h) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

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

(i) Upon the request of an operator, an FAA Maintenance Inspector, subject to prior approval by the Manager, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, may adjust the inspection times specified in this AD to permit compliance at an established inspection period of that operator if the request contains substantiating data to justify the change for that operator.

(j) The inspection and replacement requirements shall be done in accordance with McDonnell Douglas Service Bulletin 27–196, Revision 1, dated September 28, 1984, or Revision 2, dated December 17, 1990; McDonnell Douglas Service Bulletin 27–250, dated August 29, 1984, or Revision 1, dated October 18, 1984, or Revision 2, dated January 3, 1990; and McDonnell Douglas Alert Service Bulletin A27–250, Revision 3, dated May 15, 1991. This incorporation by reference was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, as of July 8, 1991 (56 FR 28479, June 21, 1991). Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager of Technical Publications—Technical Administrative Support, C1–L5B (54–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(k) This amendment becomes effective on July 23, 1992.

Issued in Renton, Washington, on May 29, 1992.

**Bill R. Boxwell,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92–14285 Filed 6–17–92; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 92-NM-19-AD; Amendment 39-8272; AD 92-13-02]

## Airworthiness Directives; Aerospatiale Model SN 601 Corvette Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to Aerospatiale Model SN 601 Corvette series airplanes, that requires repetitive eddy current inspections of the fuselage skin sheets, and modification of any cracked parts, if necessary. A terminating action is also provided, which, if accomplished, will eliminate the need for repetitive inspections. This amendment is prompted by reports of corrosion on the fuselage skin panels. The actions specified by this AD are intended to prevent structural failure of the fuselage and associated decompression of the passenger cabin.

**DATES:** Effective July 23, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 23, 1992.

**ADDRESSES:** The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Lium, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-1112; fax (206) 227-1320.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to Aerospatiale Model SN 601 Corvette series airplanes was published in the **Federal Register** on March 5, 1992 (57 FR 7894). That action proposed to require repetitive eddy current inspections of the fuselage skin sheets, and modification of any cracked parts, if necessary. A terminating action is also provided, which, if accomplished, will eliminate the need for repetitive inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and public interest require the adoption of the rule as proposed.

The FAA estimates that 1 airplane of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $165.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

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

**92-13-02. Aerospatiale:** Amendment 39-8272. Docket 92-NM-19-AD.

*Applicability:* Aerospatiale Model SN 601 Corvette series airplanes, certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent structural failure of the fuselage and associated decompression of the passenger cabin, accomplish the following:

(a) Prior to the accumulation of 18,200 landings, or within 100 landings after the effective date of this AD, whichever occurs later, inspect the skin panels between Frame FR17 and FR19, on the right side below stringer 11, to detect cracks, using an eddy current procedure, in accordance with Aerospatiale Corvette Service Bulletin 53-24, dated January 25, 1991.

(b) If no cracks are found as a result of the inspection required by paragraph (a) of this AD, repeat the eddy current inspection thereafter at intervals not to exceed 7,300 landings.

(c) If any crack is found as a result of any inspection required by this AD, prior to further flight, install Modification 1399, in accordance with Aerospatiale Corvette Service Bulletin 53-15, dated January 22, 1991.

(d) Installation of Modification 1399, in accordance with Aerospatiale Corvette Service Bulletin 53-15, dated January 22, 1991, constitutes terminating action for the requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from Standardization Branch, ANM-113.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The inspections and modifications shall be done in accordance with Aerospatiale Corvette Service Bulletin 53-24, dated January 25, 1991; and Aerospatiale Corvette Service Bulletin 53-15, dated January 22, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(h) This amendment becomes effective on July 23, 1992.

Issued in Renton, Washington, on May 28, 1992.

Bill R. Boxwell,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92-14360 Filed 6-17-92; 8:45 am]

BILLING CODE 4910-13-M

## 14 CFR Part 39

**[Docket No. 91-NM-166-AD; Amendment 39-8254; AD 92-11-04]**

## Airworthiness Directives; British Aerospace Model ATP Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION.** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to British Aerospace Model ATP series airplanes, that requires the installation of modified earthing arrangements to the pitot static and stall warning systems and overhead stowage units; modification of the roof and sidewall light wiring and a standby compass check; and installation of a warning placard. This amendment is prompted by reports of standby compass deviations exceeding the required tolerance when certain airplane electrical equipment is operated. The actions specified by this AD are intended to prevent inaccurate navigation when using the standby compass.

**DATES:** Effective July 23, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 23, 1992.

**ADDRESSES:** The service information referenced in this AD may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplance Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to British Aerospace Model ATP series airplanes was published in the **Federal Register** on February 12, 1992 (57 FR 5098). That action proposed to require the installation of modified earthing arrangements to the pitot static and stall warning systems and overhead stowage units; modification of the roof and sidewall light wiring and a standby compass check; and installation of a warning placard.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and public interest require the adoption of the rule as proposed.

The FAA estimates that 8 airplanes of U.S. registry will be affected by this AD, that it will take approximately 229 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $1,523 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $112,944.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **"ADDRESSES."**

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

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

**92-11-04. British Aerospace:** Amendment 39-8254. Docket 91-NM-166-AD.

*Applicability:* British Aerospace Model ATP airplanes; as listed in British Aerospace Service Bulletin ATP-24-34, dated April 25, 1991, and British Aerospace Service Bulletin ATP-33-8, Revision 2, dated April 11, 1991; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent inaccurate navigation when using the standby compass, accomplish the following:

(a) Within 14 days after the effective date of this AD, fabricate and install a temporary placard near the standby magnetic compass, worded as follows:

"WARNING: OPERATION OF CABIN ROOF AND SIDEWALL LIGHTING, PITOT HEAT, AND STALL WARNING SYSTEMS MAY INDUCE EXCESSIVE ERROR IN THE MAGNETIC COMPASS READINGS."

(b) Within 8 months after the effective date of this AD, accomplish the following:

(1) Modify the earthing arrangements to the pitot static and stall warning systems (Modification 10194A) and to the overhead stowage units (Modification 10194B), as applicable, in accordance with British Aerospace Service Bulletin ATP-24-34, dated April 25, 1991.

(2) Modify the roof and sidewall light wiring (Modification 35113A) in accordance with British Aerospace Bulletin ATP-33-8, Revision 2, dated April 11, 1991.

(3) Accomplish a compass swing of the standby compass in accordance with British Aerospace Service Bulletin ATP-24-34, dated April 25, 1991.

(4) Remove the temporary placard installed in accordance with paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

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

(e) The modifications shall be done in accordance with British Aerospace Service Bulletin ATP–24–34, dated April 25, 1991; and British Aerospace Service Bulletin ATP–33–8, Revision 2, dated April 11, 1991. These service bulletins contain the following list of effective pages:

| Service bulletin No. | Page No. | Revision level | Date |
|---|---|---|---|
| ATP–24–34 | 1–3, 5–21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47, 49, 51, 53–54 | Original | Apr. 25, 1991. |
| | 4, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, 52 | (These pages are not used). | |
| ATP–33–8 revision 2 | 1 | 2 | Apr. 11, 1991. |
| | 2–5, 19–20, 31, 33 | 1 | Sept. 5, 1990. |
| | 6–18, 21, 23, 25, 27, 29, 35, 37, 39–40 | Original | Apr. 29, 1990. |
| | 22, 24, 26, 28, 30, 32, 34, 36, 38 | (These pages are not used). | |

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, D.C. 20041–0414. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

(f) This amendment becomes effective on July 23, 1992.

Issued in Renton, Washington, on April 29, 1992.

N. B. Martenson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92–14290 Filed 6–17–92; 8:45 am]

BILLING CODE 4910–13–M

## 14 CFR Part 39

**[Docket No. 92–NM–104–AD; Amendment 39–8273; AD 92–13–03]**

## Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires either modification or replacement of the flap control module quadrant. This amendment is prompted by several incidents of inadvertent slat deployment during flight at cruise altitude. The actions specified in this AD are intended to prevent inadvertent slat deployment during flight at cruise altitude, which could create significant vibrations and cause damage to the elevators.

**DATES:** Effective July 6, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 6, 1992.

Comments for inclusion in the Rules Docket must be received on or before August 17, 1992.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–104–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–0001, Attention: Business Unit Manager, Technical Publications—Technical Administrative Support, C1–L5B. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Maurice Cook, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM–121L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5226; fax (310) 988–5210.

**SUPPLEMENTARY INFORMATION:** There have been several incidents of inadvertent slat deployment, caused by either inadvertent bumping of the slat/flap handle or an improper positioning of the slat/flap handle, on certain Model MD–11 airplanes during flight at cruise altitude. The FAA has been advised by the manufacturer that insufficient latching capability of the flap control module caused the inadvertent movement of the flap handle. Additionally, a design review conducted by the manufacturer revealed that a false detent can exist at the flap detent and gate assembly interface, thus decreasing the latching capability. This false detent, coupled with a down force on the handle, could allow the handle to move backward through the gate and extend the slats. If the slats are inadvertently deployed, the airplane can potentially enter the stall buffet flight

regime, which could cause vibration in the horizontal stabilizer and the elevators. Such vibrations have occurred on at least two Model MD–11 airplanes on which the slats were deployed inadvertently. Subsequent ground inspections of these airplanes detected damage to the outboard portion of the composite elevators and revealed that, during one incident, parts of the elevator trailing edge had fallen off the airplane. Inadvertent slat deployment during flight at cruise altitude could result in the airplane entering the stall buffet flight regime, which could create significant vibrations and cause damage to the elevators.

The FAA has reviewed and approved McDonnell Douglas MD–11 Service Bulletin 27–18, dated August 30, 1991, that describes procedures for replacement of certain components of the flap control module quadrant. The FAA has also reviewed and approved McDonnell Douglas MD–11 Service Bulletin 27–18 Revision 1, dated October 16, 1991, that also describes procedures for replacement of certain components of the flap control module quadrant, but includes procedures for an optional modification of the module, as well. The modification involves trimming the radius of the gate and the quadrant in the flap control module, which flattens the surface, thus eliminating the false detent. Either the modification or replacement procedures will delete the false detent and minimize inadvertent flap handle movement and slat extension.

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD–11 series airplanes of the same type design, this AD is being issued to prevent inadvertent slat deployment during flight at cruise altitude, which could result in the airplane entering the stall buffet flight regime, and subsequently creating significant vibrations and causing damage to the elevators. This AD requires either the modification or replacement of the flap control module quadrant. The actions are required to be accomplished in accordance with the service bulletin described previously.

The requirements of this rule are considered interim action until the manufacturer completes a design review of the slat/flap system, at which time, the FAA may consider further rulemaking.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

**Comments Invited**

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–104–AD." The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

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

**92–13–03. McDonnell Douglas:** Amendment 39–8273. Docket 92–NM–104–AD.

*Applicability:* Model MD–11 series airplanes, as listed in McDonnell Douglas MD–11 Service Bulletin 27–18, Revision 1, dated October 16, 1991; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent inadvertent slat deployment during flight at cruise altitude, which could create significant vibrations and cause damage to the elevators, accomplish the following:

(a) Within 15 days after the effective date of this AD, accomplish the requirements of either sub-paragraph (a)(1) or (a)(2) of this AD:

(1) Replace the quadrant, gate, and spacer on the flap control module, and re-identify the module, in accordance with paragraph C. of McDonnell Douglas MD–11 Service Bulletin 27–18, dated August 30, 1991 or "Option I" of paragraph C. of McDonnell Douglas MD–11 Service Bulletin 27–18, Revision 1, dated October 16, 1991.

(2) Modify the quadrant and gate on the flap control module, and replace a spacer on the flap control module, and re-identify the module, in accordance with "Option II" of paragraph C. of McDonnell Douglas MD–11

Service Bulletin 27–18, Revision 1, dated October 16, 1991.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

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

(d) The replacement and modification shall be done in accordance with McDonnell Douglas MD–11 Service Bulletin 27–18, dated August 30, 1991; or McDonnell Douglas MD–11 Service Bulletin 27–18, Revision 1, dated October 16, 1991; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–0001, Attention: Business Unit Manager, Technical Publications—Technical Administrative Support, C1–L5B. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment becomes effective on July 6, 1992.

Issued in Renton, Washington, on June 2, 1992.

Bill R. Boxwell,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92–14289 Filed 6–17–92; 8:45 am]

BILLING CODE 4910–13–M

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## 14 CFR Part 39

**[Docket No. 92–NM–33–AD; Amendment 39–8279; AD 92–13–09]**

## Airworthiness Directives; Canadair, Ltd., Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A) Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain Canadair Model CL–600, CL–601, and CL–601–3A series airplanes, that currently requires inspections for potential crossed wiring in the engine fire extinguishing system and the engine fire detection and warning system, and correction of any discrepancies. This amendment requires modification of the engine fire extinguishing system. This amendment is prompted by a report indicating that any disconnection and subsequent reconnection of the wiring or warning system wiring harnesses may lead to inadvertent crossed wiring. The actions specified by this AD are intended to prevent severe damage to an airplane in the event of an engine fire.

**DATES:** Effective July 23, 1992.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of February 11, 1992 (57 FR 3006, January 27, 1992).

**ADDRESSES:** The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Raymond O'Neill, Aerospace Engineer, Propulsion Branch, ANE–174, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581–1145; telephone (516) 791–7421; fax (516) 791–9024.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 92–03–06, Amendment 39–8161 (57 FR 3006, January 27, 1992), which is applicable to certain Canadair Model CL–600, CL–601, and CL–601–A series airplanes, was published in the Federal Register on March 16, 1992 (57 FR 9078). [A correction of the rule was published in the Federal Register on April 2, 1992 (57 FR 11352).] The action proposed to require modification of the engine fire extinguishing system.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Paragraph (d) of the final rule has been revised to clarify the procedure for requesting alternative methods of compliance with this AD. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 100 airplanes of U.S. registry will be affected by this AD. The actions previously required by AD 92–03–06 necessitated 2 work hours to accomplish, at an average labor charge of $55 per work hour; the total cost to affected U.S. operators was approximately $11,000, or $110 per airplane. The modification that will be required by this AD will require an additional 6 work hours to accomplish, at an average labor charge of $55 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Therefore, the additional cost to U.S. operators with regards to the required modification action is estimated to be $33,000, or $330 per airplane. Based on these figures, the total cost impact of this AD is estimated to be $44,000, or $440 per airplane. The total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

## PART 39–AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by removing amendment 39–8161 (57 FR 3006, January 27, 1992), and by adding a new airworthiness directive (AD), amendment 39–8279, to read as follows:

**92–13–09. Canadair, Ltd.:** Amendment 39–8279. Docket 92–NM–33–AD. Supersedes AD 92–03–06, Amendment 39–8161.

*Applicability:* Model CL–600–1A11 series airplanes, serial numbers 1004 to 1085, except serial number 1037; Model CL–600–2A12 series airplanes, serial numbers 3001 to 3066; and Model CL–600–2B16 series airplanes, serial numbers 5001 to 5049; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent severe damage to an airplane in the event of an engine fire, accomplish the following:

(a) Within 30 days after February 11, 1992 (the effective date of AD 92–03–06, Amendment 39–8161), accomplish the following:

(1) For Model CL–600–1A11 series airplanes: Perform an inspection for potential crossed wiring in the engine fire extinguishing system, and inspect the electrical connectors for unlocked or inoperative pins, in accordance with Canadair Alert Service Bulletin A600–0581, dated September 8, 1989.

(2) For Model CL–600–2A12 and CL–600–2B16 series airplanes: Perform an insepction for potential crossed wiring in both the engine fire detection and warning system and the engine fire extinguishing system, and inspect the electrical connectors for unlocked or inoperative pins, in accordance with Canadair Alert Service Bulletin A601–0309, dated September 8, 1989.

(b) If any wiring discrepancies are detected as a result of the inspections required by paragraph (a) of this AD, prior to further flight, correct the discrepancies and replace any discrepant electrical connectors found, in accordance with Canadair Alert Service Bulletin A600–0581, dated September 8, 1989 (for Model CL–600–1A11 series airplanes); or Canadair Alert Service Bulletin A601–0309, dated September 8, 1989 (for Model CL–600–2A12 and CL–600–2B16 series airplanes); as applicable.

(c) Within 120 days after the effective date of this AD, or the next time the fire bottles are removed from the airplane, whichever occurs first, modify the engine fire extinguishing warning harnesses and perform a functional test, in accordance with Canadair Alert Service Bulletin A600–0581, dated September 8, 1989 (for Model CL–600–1A11 series airplanes); or Canadair Alert Service Bulletin A601–0309, dated September 8, 1989 (for Model CL–600–2A12 and CL–600–2B16 series airplanes); as applicable.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

**Note:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspection and modification shall be done in accordance with Canadair Alert Service Bulletin A600–0581, dated September 8, 1991 (for Model CL–600–1A11 series airplanes); or Canadair Alert Service Bulletin A601–309, dated September 8, 1989 (for Model CL–600–2A12 and CL–600–2B16 series airplanes); as applicable. This incorporation by reference was approved previously by the Director of the Federal Register as of February 11, 1992 (57 FR 3006, January 27, 1992). Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(g) This amendment becomes effective on July 23, 1992.

Issued in Renton, Washington, on June 3, 1992.

**Bill R. Boxwell,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92–14287 Filed 6–17–92; 8:45 am]

BILLING CODE 4910–13–M

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## 14 CFR Part 71

**[Airspace Docket No. 91–ASO–15]**

### Alteration of VOR Federal Airway V–157

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment alters the description of Federal Airway V–157 located in the States of North Carolina and South Carolina. The airway's continuity is interrupted by a 130–mile gap between Florence, SC, and Kinston, NC. This action connects the airway south of Florence, SC, with the continuation of the airway north of Kinston, NC, by extending V–157 over that 130–mile segment. Elimination of this gap will improve flight planning.

**EFFECTIVE DATE:** 0901 u.t.c., August 20, 1992

**FOR FURTHER INFORMATION CONTACT:** Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace–Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

**SUPPLEMENTARY INFORMATION:**

### History

On September 17, 1991, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the description of V–157 located in the States of North Carolina and South Carolina (56 FR 47038). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received came from the Department of the Air Force which commented that the airway alteration would increase the traffic flow in the vicinity of the Echo Military Operations Area between Fayetteville and Kinston, NC. The FAA does not believe that the alteration of V–157 will interfere with any military operations, because instrument flight operations are not permitted to penetrate military operations areas when they are being utilized by military training aircraft. Furthermore, an airway, V–54, already exists along the route over which V–157 will be extended. Except for editorial changes, this amendment is the same as that proposed in the notice. VOR Federal airways are published in § 71.123 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The amended designation of the airway listed in this document will be published subsequently in § 71.123 of the Handbook.

### The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the description of V–157 located in the States of North Carolina and South Carolina. Federal Airway V–157, which extends from Key West, FL, to Albany, NY, had a 130–mile gap between Florence, SC, and Kinston, NC, prior to

this Final rule. This action improves flight planning by eliminating the gap.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Aviation safety, VOR Federal airways, Incorporation by reference.

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

**PART 71—[AMENDED]**

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 49 U.S.C. 106(g) 14 CFR 11.69.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

*Section 71.123 Domestic VOR Federal Airways*

* * * * *

V–157 [Revised]

From Key West, FL; Miami, FL; INT Miami 337° and La Belle, FL, 124° radials, La Belle; Lakeland, FL; Ocala, FL; Gainesville, FL; Taylor, FL; Waycross, GA; Alma, GA; Allendale, SC; Vance, SC; Florence, SC; Fayetteville, NC; Kinston, NC; Tar River, NC; Lawrenceville, VA; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; Patuxent; Kenton, DE; Woodstown, NJ; Robbinsville, NJ; INT Robbinsville 044° and LaGuardia, NY, 213° radials; LaGuardia; INT LaGuardia 032° and Deer Park, NY, 326° radials; INT Deer Park 326° and Kingston, NY, 191° radials; Kingston, NY; to Albany, NY. The airspace within R–2901A and R–6602A is excluded. The airspace at and above 7,000 feet MSL which lies within the Lake Placid MOA is excluded during the time the Lake Placid MOA is activated. The airspace within R–4005 and R–4006 is excluded.

Issued in Washington, DC, on June 10, 1992.

**Harold W. Becker,**

*Manager, Airspace–Rules and Aeronautical Information Division.*

[FR Doc. 92–14341 Filed 6–17–92; 8:45 am]

BILLING CODE 4910–13–M

**DEPARTMENT OF THE TREASURY**

**Customs Service**

**19 CFR Part 141**

**[T.D. 92–58]**

**RIN 1515–AB05**

## Priority Status in Bankruptcy Proceedings

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations to provide that to the extent that a broker or a surety pays duties on behalf of an importer which files for bankruptcy protection, the broker or surety shall be entitled to assume the priority status of Customs under section 507(a)(7) of the Bankruptcy Code for that portion of the duties which the broker or surety has paid. The assignment of this priority status will minimize the risk incurred by a broker or a surety in assuming liability for duties and thus encourage early payment of duties to Customs.

**EFFECTIVE DATE:** July 20, 1992.

**FOR FURTHER INFORMATION CONTACT:** John Lehman, Office of Chief Counsel (202) 566–5476.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Bankruptcy Code provides in 11 U.S.C. 507(a)(7) for seventh priority status in a bankruptcy proceeding for allowed unsecured claims of governmental units. Priority status of claims by Customs for duties arising out of the importation of merchandise prior to the filing of bankruptcy are specifically provided for in three instances: (1) Merchandise is entered for consumption within one year before the date of the filing of the petition; (2) merchandise covered by an entry liquidated or reliquidated within one year before the date of the filing of the petition; (3) merchandise entered for consumption within four years before the date of the filing of the petition, but unliquidated on that date where the failure to liquidate was due to a pending investigation or need for information. 11 U.S.C. 507(a)(7). Such claims are given seventh priority along with governmental claims for taxes for income or gross receipts, property tax, withholding tax, and excise tax generally assessed one year prior to the filing of the bankruptcy petition.

Presently, brokers or sureties which pay Customs duties on behalf of an importer which files for bankruptcy protection are relegated to the status of unsecured creditor. On March 6, 1991, Customs published a Notice of Proposed Rulemaking in the **Federal Register** (56 FR 9311), which announced a proposal to amend the Customs Regulations in such a way that a broker or surety which had paid Customs duties on behalf of an importer who then declared bankruptcy would be assigned the priority status conferred by section 507(a)(7) of the Bankruptcy Code upon Customs for unsecured claims for duties.

**Analysis of Comments**

In response to a request for comments on the proposed amendment, Customs received numerous replies. The vast majority were limited to simple expressions of support for the proposal and did not address any particular aspect of the proposal. However, some did raise specific points which are addressed below.

*Comment:* Two commenters expressed concern that section 507(d) of the Bankruptcy Code would preclude Customs from allowing a broker or surety to assert Customs priority in a bankruptcy action.

*Response:* The Bankruptcy Code provides in section 507(d) that an entity that is subrogated to the rights of a holder of a claim of a kind specified in subsection (a)(6) (subsequently changed to (a)(7) in Public L. No. 98–353, but not so reflected in section 507(a)) is not subrogated to the right of the holder of such a claim to priority under such subsection. Indeed, this language would preclude assertion of priority status by any entity other than Customs under a theory of subrogation.

In this amendment, Customs is not attempting to use the theory of subrogation to enable brokers and sureties to assert its priority. Instead, Customs is assigning its priority rights in any bankruptcy action to brokers and sureties to the extent that the broker or surety has paid the duties that were due on the imported merchandise. By stating that this is an assignment of rights in the amendment, Customs intends to preclude possible questions of agency intent in the future.

*Comment:* One commenter suggested that the wording of the amendment be changed to cover other expenses incurred by brokers and sureties.

*Response:* Customs does not believe that it would be possible to assign anything more than duties paid by brokers or sureties. The reason for this is that the priority provisions applicable to a claim of Customs under the Bankruptcy Code only cover the payment of duties. Because Customs has not received priority rights in other obligations of the bankrupt, it cannot assign them to anyone.

*Comment:* One commenter asked whether a broker or surety would be entitled to priority status even if Customs was not owed any money by the importer at the time of the bankruptcy filing. This situation could arise where the broker or surety pays an amount owed as duties on behalf of an importer who subsequently files for bankruptcy.

*Response:* This comment raises the question about the ability of Customs to assign a claim which has been satisfied by the broker or surety. Under the Bankruptcy Code, Customs has a priority status for unpaid duties. If those duties have been paid by another party, can the claim for that obligation be assigned to another party? Customs believes that question can be answered affirmatively. Even if another party pays duties which are owed by an importer, the importer is still primarily responsible for payment of those duties. The language as set forth in the amendment states that the priority which is assigned to the broker or surety is the priority for the duties owed. Since the importer is liable for the duties until it pays them, the fact that the broker or surety advanced a similar amount to Customs should not defeat the assignment of the importer's obligation in the event of a bankruptcy filing by the importer.

*Comment:* Some comments expressed concern that the background statement of the proposal contained the language to the effect that in paying the duties for the importer, the broker or surety was "assuming liability" for the duties of the importer. The comments stated that it would not be fair for Customs to hold a broker liable for any of the importer's liabilities.

*Response:* Customs agrees. The use of the phrase "assuming liability" referred only to the fact that by paying the duties on behalf of the importer, the broker or surety has assumed that liability of the importer, and not that Customs would hold the broker or surety liable for any debt owed by the importer. The only situations in which Customs would hold a broker liable for duties would be when the entry is made by the broker as importer of record.

*Comment:* A commenter expressed confusion over the use of the phrase "on a pro rata basis" in the proposed change to § 141.1(c), and asked for a clarification.

*Response:* Customs agrees that there might be some question in the future over the construction of that phrase and the phrase "pro rata" might be confusing to some readers. Customs intent is to permit brokers or sureties to be able to avail themselves of the priority Customs has under the Bankruptcy Code only to the extent that the broker or surety has voluntarily paid the duties owed by the importer. Accordingly, the language of the amendment will be changed to clearly state that the priority which Customs is assigning is a priority for that portion of Customs claim which the broker or surety has paid.

*Comment:* One commenter suggested that, because the Bankruptcy Code is a creature of Congress, rather than amending its regulations, Customs should attempt to have Congress amend the Code to expressly grant brokers or sureties the priority Customs will be assigning them.

*Response:* Customs agrees that legislative action would be the best means of achieving the desired objective. Should the brokers and sureties feel that this regulatory action will be ineffectual, Customs encourages them to pursue legislative alternatives.

**Determination**

After consideration of all the comments received in response to the Notice of Proposed Rulemaking, and further review of the matter, it has been determined to adopt the regulations in final form with the modifications discussed.

**Regulatory Flexibility Act**

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendment will not have a significant impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 or 604.

**Executive Order 12291**

Because this document does not result in a "major rule" as defined by Executive Order 12291, the regulatory analysis and review prescribed by the Executive Order is not required.

**Drafting Information**

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

**List of Subjects in 19 CFR Part 141**

Customs duties and inspection; Imports.

**Amendment to the Regulations**

Part 141 Customs Regulations (19 CFR part 141) is amended as set forth below:

## PART 141—ENTRY OF MERCHANDISE

1. The authority citation for part 141 is revised in part to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

* * * * *

Section 141.1 also issued under 11 U.S.C. 507(a)(7)(F), 31 U.S.C. 191, 192;

* * * * *

2. In § 141.1, paragraph (c) is revised to read as follows:

§ 141.1 Liability of importer for duties.

* * * * *

(c) *Claim against estate of importer.* The claim of the Government for unpaid duties against the estate of a deceased or insolvent importer has priority over obligations to creditors other than the United States. To the extent that a broker or a surety pays duties on behalf of an importer which files for bankruptcy protection, the broker or surety shall be entitled to assume the priority status of Customs under section 507(a)(7) of the Bankruptcy Code for that portion of Customs claim which the surety or broker has paid.

Dated: May 13, 1992.

**Carol Hallett,**

*Commissioner of Customs.*

**John P. Simpson,**

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 92-14373 Filed 6-17-92; 8:45 am]

BILLING CODE 4820-02-M

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### 29 CFR Part 1910

**[Docket No. H-225D]**

### Occupational Exposure to Formaldehyde

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Final rule; corrections.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is correcting errors that appeared in the final rule on occupational exposure to formaldehyde which was published on May 27, 1992 (57 FR 22290).

**EFFECTIVE DATE:** June 26, 1992.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department Of Labor, room N–3647, 200 Constitution Avenue NW., Washington, DC 20010. Telephone: (202) 523–8151.

**SUPPLEMENTARY INFORMATION:**

### Background

On May 27, 1992, the Occupational Safety and Health Administration amended its standard on occupational exposure to formaldehyde. The amendments lowered the permissible exposure limit for formaldehyde from 1 part per million (ppm) to 0.75 ppm, measured as an 8-hour time-weighted average (TWA). The amendments also added medical removal protection provisions for employees suffering from certain adverse effects from formaldehyde exposure. In addition, changes were made to the standard's hazard communication and employee training provisions.

### Need for Corrections

In addition to the amendments and revisions mentioned above, for the convenience of the public, OSHA republished the entire formaldehyde standard as revised. However, during the process of preparing the document for republication, certain information was inadvertently omitted or not revised in accordance with the amended standard. This notice amends the standard to correct the omissions and make the necessary technical revision.

### Correction of Publication

Accordingly, the publication on May 27, 1992 of the final rule on occupational exposure to formaldehyde which appeared at 57 FR 22290 is corrected as follows:

**§ 1910.1048 [Corrected]**

1. On page 22307, third column, in instruction paragraph 2., the following instruction is added after the seventh line: "and the OMB control number for the section is added".

2. On page 22309, third column, the OMB control number for § 1910.1048 is added at the end of the column to read as follows:

(Approved by the Office of Management and Budget under control number 1218–0145)

3. On page 22316, first column, the OMB control number for § 1910.1048 is added preceding Appendix A to read as follows:

(Approved by the Office of Management and Budget under control number 1218–0145)

4. On page 22316, first column, on the line next to the end of the column, for OSHA TWA, "1 ppm" is corrected to read "0.75 ppm".

This document was prepared under the direction of Dorothy L. Strunk, Acting Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, D.C. this 12th Day of June, 1992.

**Dorothy L. Strunk,**

*Acting Assistant Secretary of Labor.*

[FR Doc. 92–14236 Filed 6–17–92; 8:45 am]

BILLING CODE 4510–26–M

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 100, 110, and 165

**[CGD1 91–165]**

### Temporary Regulations, Boston Harbor, July 4–16, 1992

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary regulations in Boston Harbor for port activities associated with Boston Harborfest and Sail Boston 1992 occurring July 4–16, 1992. This document contains the temporary regulations necessary to conduct these activities in a safe and orderly manner and includes: regulated areas with special local regulations for minimum wake zones and for a two-day offshore sailing regatta; anchorage regulations for the tall ship parade and departure; and safety zone regulations for the CONSTITUTION Turnaround, a fireworks display, a tall ship rally, parade, and departure, and the restart of the Grand Regatta. These temporary regulations are issued to promote the safe navigation of vessels in Boston Harbor in anticipation of the significant increase to the volume of vessel traffic expected to attend these celebrations by controlling vessel activity in the harbor during major waterside events and by limiting access to the areas where participating vessels are operating, anchored, or moored.

**DATES:** These rules are effective as listed below:

33 CFR 100.T01–165–1 (Regulated Area, Hull Gut/Boston Main Channel), from 8 a.m. July 9, 1992 to 4 p.m. July 16, 1992.

33 CFR 100.T01–165–2 (Regulated Area, Challenge Cup Sailboat Racing Regatta), from 9 a.m. to 3 p.m. July 13, 1992; from 9 a.m. to 3 p.m. July 14, 1992; and from 9 a.m. to 3 p.m. July 15, 1992 (rain date).

33 CFR 110.134 (Temporary Anchorage Regulations, Boston Harbor Mass.), from 2 p.m., July 4, 1992 to 6 p.m. July 16, 1992.

33 CFR 165.T01–165–4 (Safety Zone, CONSTITUTION Turnaround), from 10 a.m., July 4, 1992 to 2 p.m. July 4, 1992 and from 10 a.m., July 5, 1992 to 2 p.m July 5, 1992 (rain date).

33 CFR 165.T01–165–6 (Safety Zone, Tall Ship Rally), from 10 a.m., July 10, 1992 to 12 noon, July 10, 1992.

33 CFR 165.T01–165–7 (Safety Zone, Grand Parade of Sail), from 6 a.m., July 11, 1992 to 8 p.m. July 11, 1992.

33 CFR 165.T01–165–8 (Safety Zone, Reserved Channel), from 4:30 p.m., July 11, 1992 to 9:30 a.m. July 16, 1992.

33 CFR 165.T01–165–9 (Safety Zone, Fireworks Extravaganza), from 5:30 p.m. July 12, 1992 to 11 p.m. July 12, 1992 and from 5:30 p.m. July 15, 1992 to 11 p.m., July 15, 1992 (rain date).

33 CFR 165.T01–165–11 (Safety Zone, Farewell Departure), from 8 a.m., July 16, 1992 to 6 p.m. July 16, 1992.

33 CFR 165.T01–165–12 (Safety Zone, Grand Regatta Restart), from 11:30 a.m., July 16, 1992 to 6 p.m., July 16, 1992.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander S. Garrity, Marine Safety Officer Boston, (617) 223–3020.

**SUPPLEMENTARY INFORMATION:**

### Drafting Information

The principal persons involved in drafting this document are LCDR S. Garrity, Project Officer, Marine Safety Office Boston, and LCDR J. Astley, Project Counsel, First Coast Guard District Legal Office.

### Regulatory History

On April 9, 1992, the Coast Guard published a Notice of Proposed Rulemaking entitled, "Temporary Regulations, Boston Harbor, July 2–17, 1992." The Coast Guard received two letters commenting on the proposal. A public hearing was not requested and one was not held.

### Background and Purpose

At the request of the organizers as contained in applications for marine events associated with Harborfest and Sail Boston 1992, the Coast Guard is establishing temporary regulations in Boston Harbor for the period of July 4–16, 1992. These regulations are prompted by the high degree of control necessary to ensure the safety of participating and spectator vessels for the major

waterside events occurring in Boston Harbor during these two celebrations. Major waterside events include the CONSTITUTION Turnaround, a tail ship rally, a tall ship parade in and departure from Boston Harbor with designated anchorage areas for spectator vessels, an offshore sailing regatta, a fireworks display in celebration of the tall ships' visit to Boston, and the restart of the Grand Regatta. These regulations provide specific guidance on vessel movement controls, temporary anchorage regulations, and safety zones that will be in effect in Boston Harbor during the period specified.

Chronologically, the events planned for this period are as follows:

*(1) CONSTITUTION Turnaround, July 4, 1992*

On the morning of July 4, 1992, the USS CONSTITUTION will get underway in the Boston Main Channel, Boston Inner Harbor, to make its annual turnaround cruise. For the cruise, CONSTITUTION will depart its berth at Pier 1, Charlestown Navy Yard and proceed outbound in the Boston Main Channel to the vicinity of Castle Island. After passing Castle Island, the CONSTITUTION will turn to port, proceed inbound in Boston Harbor, and at noon, when abeam Fort Independence, Castle Island, fire a twenty-one gun salute, honoring our Nation's birthday. Following the salute, the CONSTITUTION will return to the Charlestown Navy Yard and safely moor. The cruise will be conducted between 10 a.m. and 2 p.m. During this event, the Coast Guard will establish a safety zone in the Boston Main Channel, Boston Inner Harbor, from the Charlestown Navy Yard to Spectacle Island, including the waters on either side of the channel to the shoreline. The safety zone will be in effect for the duration of the event while CONSTITUTION is underway from the time the vessel departs the Charlestown Navy Yard to the time it returns and is safely moored. The zone includes special regulations requiring spectator craft to maintain at all times at least 300 yards safe distance from CONSTITUTION, to select and remain in positions outside the channel, and not to maneuver between anchored vessels. A rain date of July 5, 1992, is planned, with all times remaining the same. This zone is needed to protect the USS CONSTITUTION, persons viewing the transit, and any other vessel or land structure from a safety hazard associated with the limited maneuverability of CONSTITUTION while underway in Boston Harbor for its turnaround cruise. Implementation of this zone will close the affected portion of the Boston Main Channel to navigation by all vessels while the zone is in effect, and vessel movements within the zone will be as directed by on-scene Coast Guard patrol personnel.

In support of this event, the Gridley Locks at the Charles River Dam and the Earhart Dam, Mystic River will be closed to navigation between 9:45 a.m. and 2 p.m.

*(2) Hull Gut and Boston Main Channel Regulated Area, July 9–16, 1992*

To accommodate the number of patrol craft necessary to control vessel movements during the tall ships' visit to Boston for Sail Boston 1992, the Coast Guard is establishing temporary mooring sites off Hull Gut Channel at USCG Station Point Allerton, Hull, MA, and in the Little Mystic Channel, Charlestown, MA. The sites will be equipped with enough floating docks to berth the additional Coast Guard and Coast Guard Auxiliary vessels brought on scene to assist in safety patrols to be conducted during this period of increased activity. To protect these vessels while they are at berth, the Coast Guard is establishing a regulated area in two separate locations. The first of these locations is in the vicinity of Hull Gut Channel, off USCG Station Point Allerton, Hull, MA; and the second, in the Boston Main Channel in the vicinity of Little Mystic Channel. Special regulations will be in effect for vessels transiting through the regulated area locations. The Hull Gut location extends across Hull Gut Channel, bounded north by the northern tip of Peddocks Island and bounded south by Hull Gut Channel, Lighted Buoy "4." The Boston Main Channel location extends across Boston Main Channel from Charlestown to East Boston, bounded north by the northeastern corner of Massport Pier 49, Charlestown and bounded south by the southeastern corner of Pier 11, Charlestown Navy Yard. The regulated area remains in effect from 8 a.m., July 9, 1992, to 4 p.m., July 16, 1992. During the effective period, the Coast Guard will require vessel operators to proceed at speeds which will create minimum wake and not to exceed five (5) miles per hour. On-scene Coast Guard patrol personnel will enforce restrictions on vessel movements through the regulated area.

*(3) Tall Ship Rally, July 10, 1992*

Event organizers estimate that approximately 200 tall ships will visit Boston for the events associated with the Sail Boston 1992 celebration. Since Sail Boston 1992 expects to limit participation in its Grand Parade of Sail on July 11th to 126 vessels, organizers will conduct a Tall Ship Rally on July 10, 1992 for tall ships visiting Boston excluded from participating in the tall ship parade. The rally will consist of approximately 75 vessels sailing together as a group in the inner harbor between the President Roads Anchorage and Rowe's Wharf. The rally will be conducted between 10 a.m. and 12 noon.

During this event, the Coast Guard is establishing a safety zone in Boston Harbor to include President Roads, Boston Main Channel, and the Fort Point Channel. The safety zone extends from the USCG Support Center Boston to Deer Island, including the waters on either side of the channel to the shoreline. The safety zone will be in effect for the duration of the event while the tall ships are underway for the rally. The zone includes special regulations requiring spectator craft to maintain at all times at least 300 yards safe distance from rally participants, to select and remain in positions outside the channel, not to maneuver between anchored vessels, and not to block the entrance into Fort Point Channel. This zone is needed to protect tall ship rally participants, persons viewing the tall ship rally, and any other vessels or land structures from a safety hazard associated with the limited maneuverability of participating vessels underway in Boston Harbor for the tall ship rally.

*(4) Temporary Anchorage Regulations, July 10–11, 1992; July 15–16, 1992*

In anticipation of the movement of hundreds of tall ships and thousands of spectator craft through Boston Harbor for the Sail Boston 1992 Grand Parade of Sail and Farewell Departure, the Commander, First Coast Guard District is modifying the existing Boston Harbor anchorage regulations, as contained in 33 CFR 110.134, to establish temporary anchorages, designated spectator areas, and rules to govern those areas during the tall ships' visit to Boston. The existing Boston Harbor anchorage regulations specify five Federal anchorages in Boston Harbor, which are as follows: Bird Island Anchorage, President Roads Anchorage, Long Island Anchorage, Castle Island Anchorage, and Explosives Anchorage. These areas are depicted numerically on Charts 13270 and 13272 as Anchorages 1–5. The attached chartlets marked, "Boston Harbor Existing Anchorage Areas," show these areas as they presently exist.

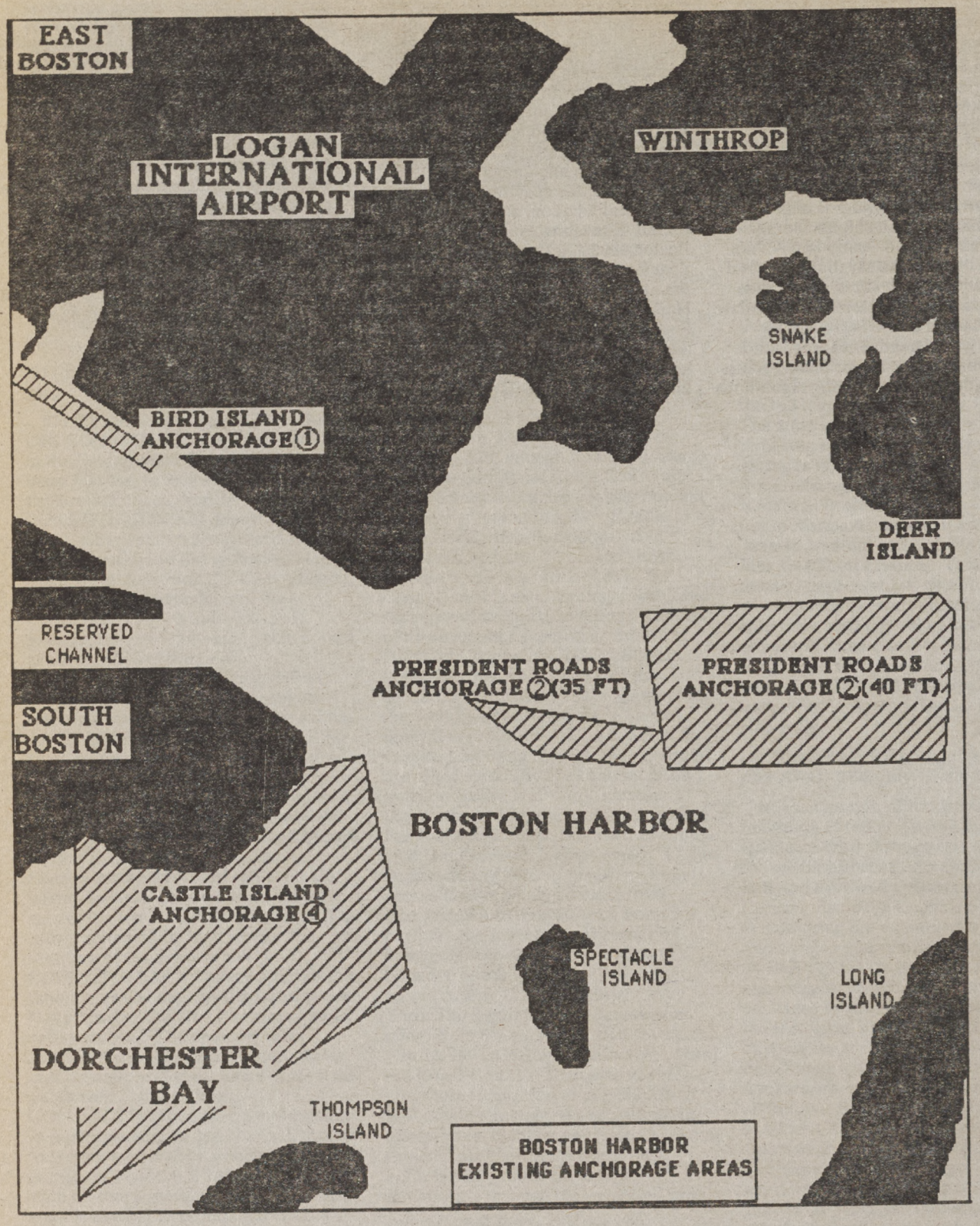
Past experience from Boston tall ship visits in 1976 and 1980 has proven that five anchorages will not accommodate

the volume of vessel traffic that can be expected to arrive in port for the Sail Boston 1992 tall ship parade and departure. Accordingly, the First District Commander, through temporary modifications to the existing Boston Harbor anchorage regulations, is establishing a total of fourteen designated spectator areas for the parade and departure. Additionally, the First District Commander is also establishing two tall ship anchorage areas (one in Broad Sound and Nahant Bay, the other in the Mystic River) and restrict access to the President Roads 40-ft anchorage, (as deemed appropriate by the Captain of the Port (COTP) Boston), Long Island Anchorage, and Explosives Anchorage for these events. Modifications to the existing regulations will include specific provisions to govern the use of each area and general provisions with which vessel operators using the areas must comply.

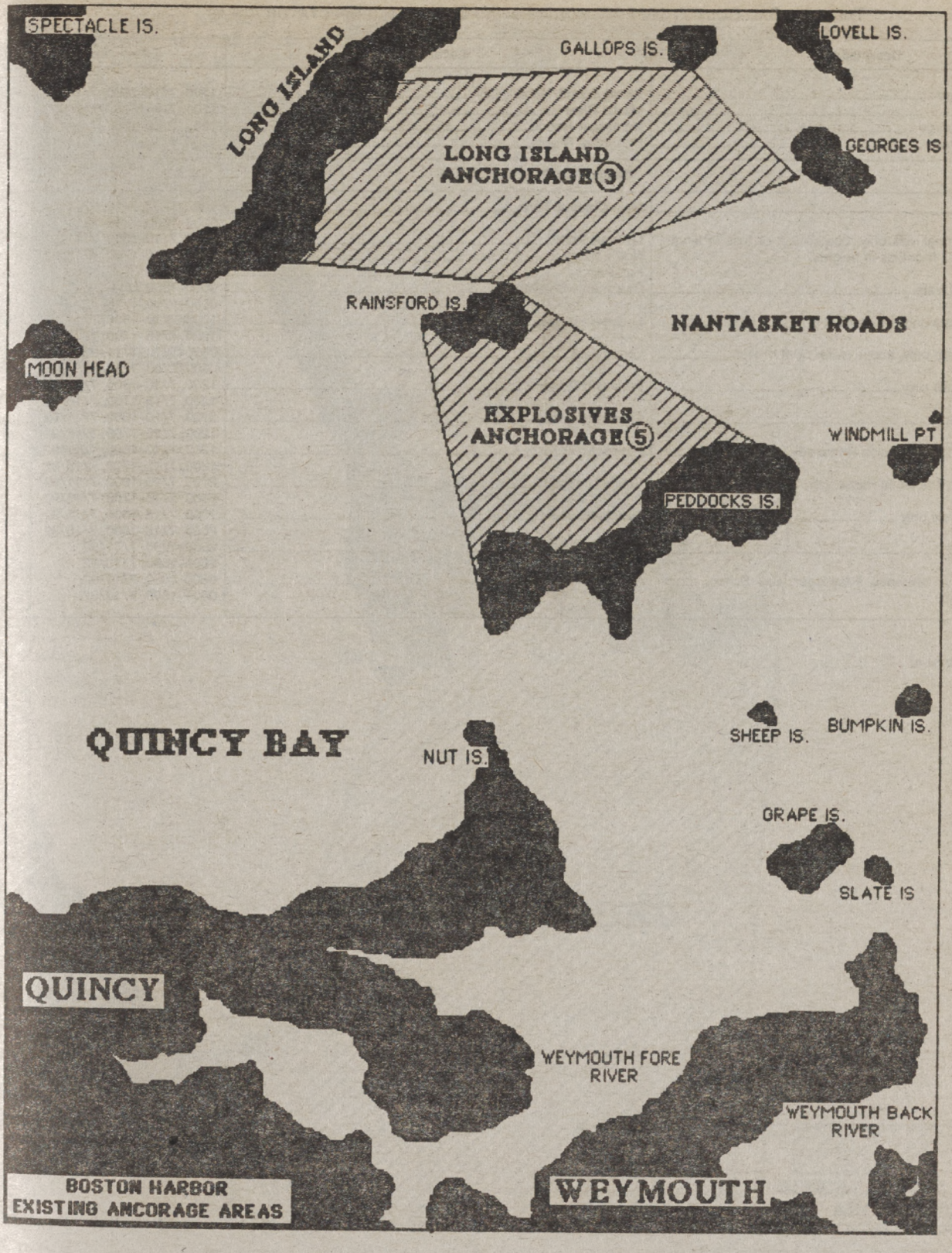
Listed below in Table I is a condensed summary of the anchorage areas that will be established for the tall ship parade and departure. The summary contains each anchorage area designation, the specific use of that area, its general location, and its effective period. The table is marked, "Sail Boston 1992 Anchorages and Designated Spectator Areas," and it corresponds to the attached chartlets marketed "Boston Harbor Temporary Anchorages and Spectator Areas for Tall Ship Parade and Departure." The temporary anchorage regulations work in concert with safety zone regulations to ensure the safe anchoring, coordinated movement, and mooring of participating parade vessels and the effective control of the huge spectator fleet these events will attract. Violators of safety zone regulations in effect during the tall ship parade and departure, including the rules implemented for temporary anchorages and spectator areas, will be prosecuted and may be assessed civil penalties of up to $25,000.

In addition to anchorages and designated spectator areas the Coast Guard is establishing for these events, a limited number of mooring areas are available through the Boston Harbormaster.

BILLING CODE 4910-14-M


EAST BOSTON
LOGAN INTERNATIONAL AIRPORT
WINTHROP
SNAKE ISLAND
BIRD ISLAND ANCHORAGE (1)
DEER ISLAND
RESERVED CHANNEL
PRESIDENT ROADS ANCHORAGE (2)(35 FT)
PRESIDENT ROADS ANCHORAGE (2)(40 FT)
SOUTH BOSTON
BOSTON HARBOR
CASTLE ISLAND ANCHORAGE (4)
SPECTACLE ISLAND
LONG ISLAND
DORCHESTER BAY
THOMPSON ISLAND
BOSTON HARBOR EXISTING ANCHORAGE AREAS

8 A

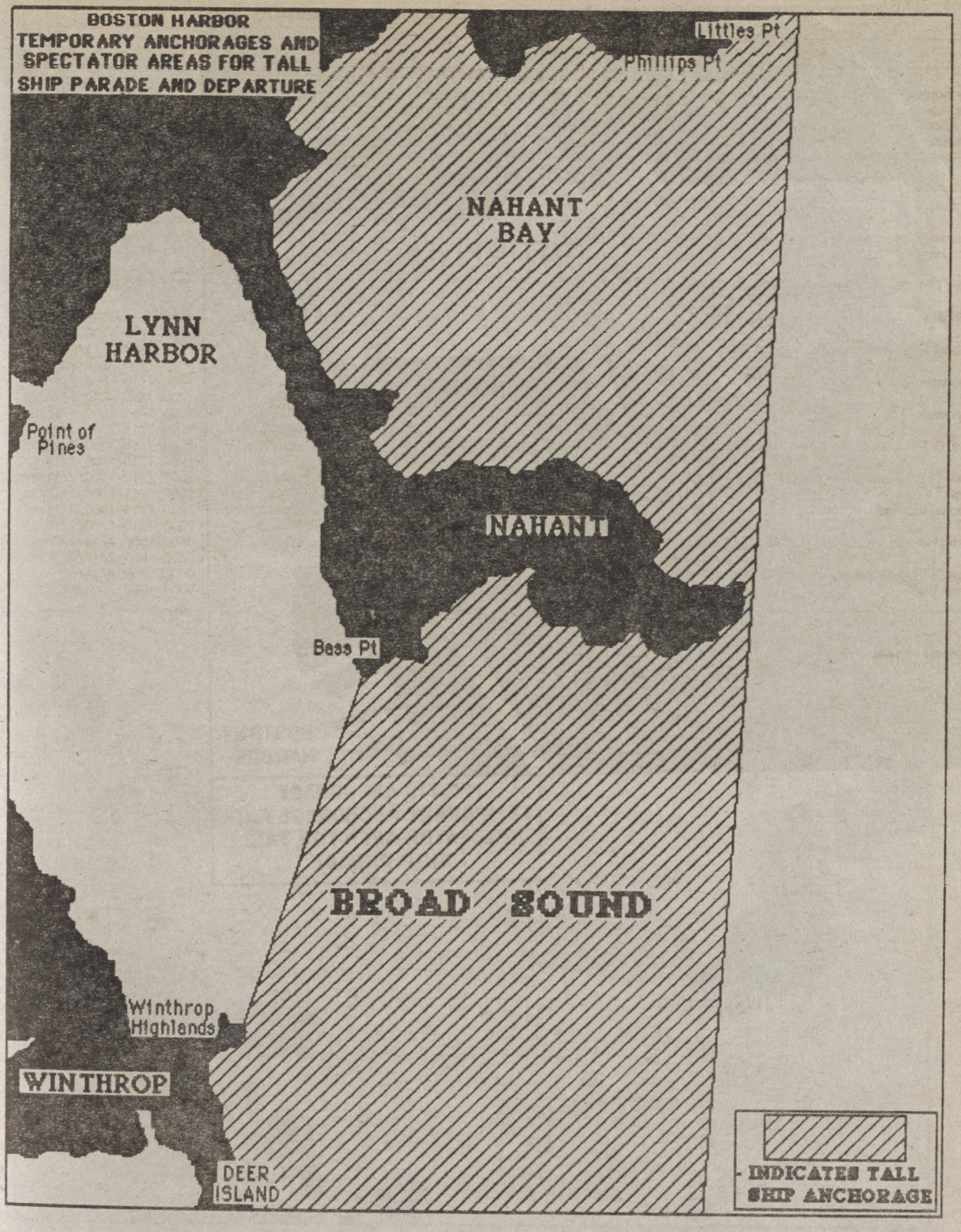

SPECTACLE IS.
LONG ISLAND
GALLOPS IS.
LOVELL IS.
LONG ISLAND ANCHORAGE (3)
GEORGES IS
RAINSFORD IS.
NANTASKET ROADS
MOON HEAD
EXPLOSIVES ANCHORAGE (5)
WINDMILL PT
PEDDOCKS IS.
QUINCY BAY
NUT IS.
SHEEP IS.
BUMPKIN IS.
GRAPE IS.
SLATE IS
QUINCY
WEYMOUTH FORE RIVER
WEYMOUTH BACK RIVER
WEYMOUTH
BOSTON HARBOR
EXISTING ANCORAGE AREAS

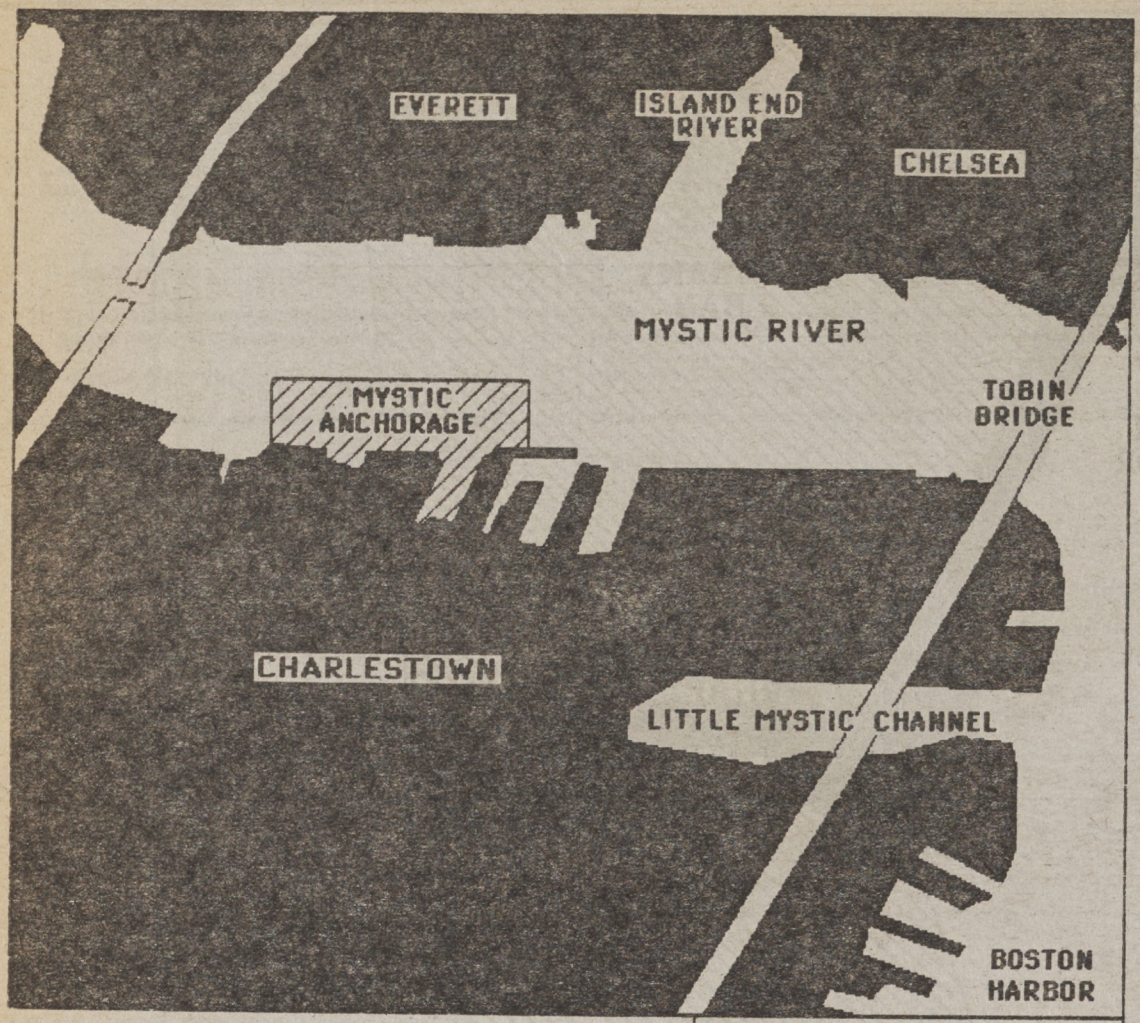
8 B

TABLE I.—SAIL BOSTON 1992 ANCHORAGES AND DESIGNATED SPECTATOR AREAS

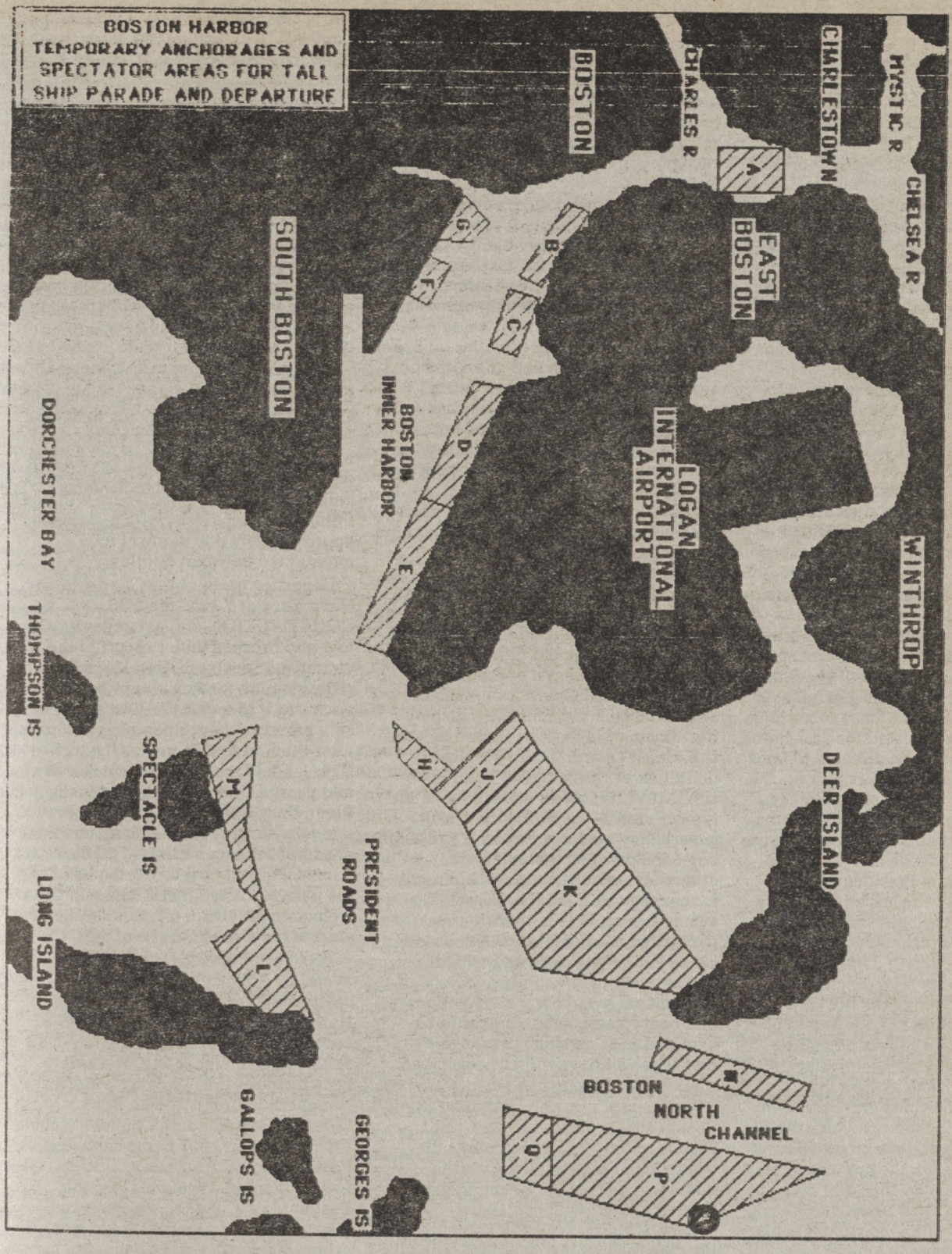
| Designation | Location | Effective period |
|---|---|---|
| Tall Ship Anchorage | Broad Sound/Nahant Bay | 1200, 7/10–1600, 7/11/92. |
| Mystic Anchorage | Mystic River | 1200, 7/7–1600, 7/16/92. |
| Long Island Anchorage | Nantasket Roads | 1200, 7/10–1600, 7/11/92. |
| Explosives Anchorage | Nantasket Roads | 1200, 7/10–1600, 7/11/92. |
| **Designated Spectator Areas** | | |
| A Unrestricted | Main Channel-north | 0900–1700, 7/11/92, 0800–1600, 7/16/92. |
| B, F, G Recreational vsls only, boats 45 ft or less in length, superstructure 10 ft or less in heights. | LoPresti Park<br>North Jetty<br>Fan Pier | 1200, 7/10–1800, 7/11/92, 1200, 7/15–1700, 7/16/92. |
| C Passenger [T] Vsls | Cashman's Shipyard | 0600–1800 7/11/92, 0600–1700, 7/16/92. |
| D Recreational vsls only, boats 45 ft or less in length | Logan-west | 1200, 7/10–1800, 7/11/92, 1200, 7/15–1700, 7/16/92. |
| E Recreational vsls only, above water 50 ft or less | Logan-east | 0600–1800, 7/11/92, 0600–1700, 7/16/92. |
| H Recreational vsls only | President Roads | 1200, 7/10–1800, 7/11/92, 1200, 7/15–1700, 7/16/92. |
| J Fishing Vessels | President Roads | 1200, 7/10–1800, 7/11/92, 1200, 7/15–1700, 7/16/92. |
| K Reserved, COTP Permission Required | President Roads | 1200, 7/10–1800, 7/11/92, 1200, 7/15–1700, 7/16/92. |
| L Passenger [T], Uninspec Passenger, Sail School, Bareboat Charter Vsls. | Sculpin Ledge Ch | 2000, 7/10–1800, 7/11/92, 2000, 7/15–1700, 7/16/92. |
| M Recreational vsls only | Spectacle Island | 2000, 7/15–1800, 7/11/92, 2000, 7/15–1600, 7/16/92. |
| N, P Unrestricted | North Channel | 0600–1800, 7/11/92, 0600–1800, 7/16/92. |
| Q Passenger [T], Uninspec Passenger, Sail School, Bareboat Charter Vsls. | South Channel | 0600–1800, 7/11/92, 0600–1800, 7/16/92. |

BILLING CODE 4910-14-M


BOSTON HARBOR
TEMPORARY ANCHORAGES AND
SPECTATOR AREAS FOR TALL
SHIP PARADE AND DEPARTURE
Littles Pt
Phillips Pt
NAHANT
BAY
LYNN
HARBOR
Point of
Pines
NAHANT
Bass Pt
BROAD SOUND
Winthrop
Highlands
WINTHROP
DEER
ISLAND
INDICATES TALL
SHIP ANCHORAGE


EVERETT
ISLAND END RIVER
CHELSEA
MYSTIC RIVER
MYSTIC ANCHORAGE
TOBIN BRIDGE
CHARLESTOWN
LITTLE MYSTIC CHANNEL
BOSTON HARBOR
MYSTIC ANCHORAGE TEMPORARY ANCHORAGE AND SPECTATOR AREA FOR TALL SHIP PARADE

8 E


BOSTON HARBOR
TEMPORARY ANCHORAGES AND
SPECTATOR AREAS FOR TALL
SHIP PARADE AND DEPARTURE
BOSTON
CHARLES R
CHARLESTOWN
MYSTIC R
CHELSEA R
A
EAST
BOSTON
G
B
F
C
SOUTH BOSTON
BOSTON
INNER HARBOR
D
LOGAN
INTERNATIONAL
AIRPORT
WINTHROP
DORCHESTER BAY
E
THOMPSON IS
H
J
K
DEER ISLAND
SPECTACLE IS
M
PRESIDENT
ROADS
LONG ISLAND
L
N
BOSTON
NORTH
CHANNEL
O
P
GALLOPS IS
GEORGES IS

Pursuant to local ordinances, persons requesting to anchor or moor in Boston Inner Harbor Special Anchorage "A" or in the Boston Magenta Zone should apply to the Harbormaster, Boston Police Department, 34 Drydock Avenue, Boston, MA, 02210.

Vessel operators visiting the port of Boston for these events are urged to obtain current editions of the following charts of Boston Harbor: Nos. 13267, 13270, 13272, and 13275. Mariners are cautioned that sites designated as anchorages and spectator areas for the purposes of this rule have not been subject to any special survey or inspection and that charts may not show all seabed obstructions or the shallowest depths. Moreover, these areas may be subject to substantial currents and, in some cases, may not be over good holding ground. Accordingly, mariners are advised to take appropriate precautions when using these areas. Also, these sites are not special anchorage areas. At night, vessels must display anchor lights, as required by the navigation rules.

While specific anchorage positions will be assigned in the Tall Ship Anchorage, designated spectator areas are available on a first come first served basis. However, operators of spectator vessels arriving in port for the tall ship parade or departure at times other than the effective period listed for designated spectator areas will be directed to Long Island Anchorage, Castle Island Anchorage, or Explosives Anchorage. Except for those specific periods when they are redesignated as spectator areas for the tall ship parade and departure, the Bird Island and President Roads anchorages will be reserved for use by deep draft commercial vessel traffic or Third Harbor Tunnel contractor vessels, as appropriate.

Vessel operators intending to use spectator areas during the tall ship parade or departure are advised to plan for these events by fully anticipating their length of stay in these areas and acquainting themselves with the operational restrictions that will be in effect concerning their use. For example, operators may not leave unattended vessels in an anchorage or designated spectator area at any time and may not nest or tie-off to other vessels or buoys. Additionally, regulations will be in place to minimize damage to lobstering equipment. Masters of tall ships departing the Tall Ship Anchorage will be required to work cooperatively with local lobstermen before getting underway to free anchors fouled on lobster traps. Similarly, operators of other vessels whose anchors become fouled on lobster traps must buoy with identifiable markers and release fouled anchors so as not damage lobstering equipment. Local lobstermen will pick up buoyed anchors and bring them to reclamation areas where boaters can retrieve them. The location of these reclamation areas will published in the Local Notice to Mariners.

Moreover, due to the number of spectator craft expected, vessel operators should remember it will be virtually impossible to move either safety or legally to new positions, as maneuvering between anchored vessels is prohibited. Accordingly, vessels should have sufficient facilities on board to retain all garbage and untreated sewage. Discharge of either in any waters of the United States, which includes all waters addressed in this rule, is strictly forbidden. Violators may be assessed civil penalties of up to $25,000.

All vessel operators and passengers are reminded, too, that in addition to the safety equipment requirements for pleasure craft, vessels carrying passengers must comply with certain additional rules and regulations. When a vessel is not being used exclusively for pleasure purposes but rather is carrying passengers, the vessel operator must possess a Coast Guard issued license and, in most cases, must also display a Certificate of Inspection issued by the U.S. Coast Guard. While the legal definition of "passenger" found in 46 USC 2101 (21) varies, depending on the type of vessel involved, it means in general any person who has contributed any consideration (monetary or otherwise) either directly or indirectly for carriage on board the vessel. The same laws provide for substantial penalties for any violation. On-scene Coast Guard patrol personnel will aggressively enforce the provisions of the temporary anchorage regulations and board vessels that appear to be overloaded or carrying passengers illegally. Violators will be prosecuted.

(5) *Grand Parade of Sail, July 11, 1992.*

On the morning of July 11, 1992, Sail Boston 1992 will conduct its Grand Parade of Sail. The event marks the beginning of the tall ships' visit to Boston, as part of the Grand Regatta Columbus 1992 Quincentenary, commemorating the 500th anniversary of the discovery of the Americas. The tall ship parade is expected to begin at 9 a.m., when the first vessel passes the starting point, and to end at 4:30 p.m., when all participating vessels are safely moored at their respective berths. A staging area will be established near the starting point, northeast of the Boston North Channel Entrance Lighted Gong Buoy "NC," extending 500 yards in all directions from position 42–23–06 N, 070–53–26 W.

The parade route starts abeam of Boston North Channel Lighted Bell Buoy "2" on Finns Ledge, Boston North Channel. It continues down the North Channel to President Roads, through President Roads to the Boston Main Channel, in the Main Channel to a turning point off the USCG Support Center Boston near the confluence of the Boston Main Channel and the Charles River, with participating vessels peeling off after the turn to various locations throughout the port.

Parade vessels will be arranged in flotillas. The first flotilla will consist of C Class tall ships proceeding to Mystic Anchorage. Other flotillas will consist of a flag or large vessels the flotilla guide with approximately six smaller vessels behind the guide vessel. There will be 18 flotillas in the parade, with a distance of approximately one nautical mile maintained between flotillas.

Departing berth at the Charlestown Navy Yard at 7 a.m., the USS CONSTITUTION will get underway by tow and proceed under escort to the vicinity of Spectator Area K (The redesignation for President Roads 40-ft anchorage) to await the start of the tall ship parade. At approximately 9:30 a.m., after the first flotilla makes the turn at Deer Island Light in President Roads and passes by enroute to the Mystic River, the CONSTITUTION will greet and join the parade, taking up position ahead of the second flotilla guide vessel. After taking up position at the head of the parade, CONSTITUTION will fire a welcoming salute to signal the official start of the Grand Parade of Sail.

Because of the magnitude of this event, the Coast Guard is establishing a safety zone for the waters of Boston Harbor west of longitude 070–52 W to control vessel traffic and to enable tall ships to maneuver safely. The safety zone includes the following waterways: Nahant Bay, Broad Sound, Boston North Channel, Boston South Channel, Nubble Channel, President Roads, including President Road Anchorage, Sculpin Ledge Channel, Western Way, the Boston Main Channel, the Reserved Channels to the Summer Street retractile bridge, the Forth Point Channel to the Congress Street bridge, the Charles River to the Gridley Locks at the Charles River Dam, the Mystic River to the Alford Street Bridge, and the Chelsea River to the McArdle Bridge. The zone includes also the designated staging area for the tall ship parade, all tall ship

anchorage areas, and all designated spectator areas.

This safety zone is in effect from 6 a.m. to 8 p.m., July 11, 1992, and includes special regulations restricting vessel movements during this period. Specified in these regulations are provisions to: close main shipping channels of Boston Harbor to deep draft commercial vessels from 6 a.m. to 8 p.m.; restrict access to CONSTITUTION and other parade vessels while they are underway; close the main shipping channels of Boston Harbor to all vessel traffic, except Sail Boston 1992 tall ships, assisting tugs, pilot boats, patrol vessels, and other authorized craft from 9 a.m. to 5 p.m.; restrict vessel operators to proceed at speeds which will create minimum wake and not to exceed five (5) miles per hour from 6 a.m. to 8 p.m.; require spectator vessels to take position and remain in designated spectator areas for the duration of the event; prohibit spectator craft from blocking access to tall ship mooring sites or emergency medical evacuation areas; and establish traffic patterns in Boston Harbor to take effect upon the conclusion of the parade. After closure of the harbor at 9 a.m., vessel movements within the safety zone will be as directed by on-scene Coast Guard patrol personnel.

In support of this event, the Gridley Locks at the Charles River Dam and the Earhart Dam, Mystic River will be closed to navigation initially between 6:45 a.m. and 7:30 a.m. The Gridley Locks and Earhart Dam will close again at 9 a.m. and remain closed till 5 p.m.

With the many sailing vessels and spectator craft arriving in Boston for this event, additional restrictions on vessel movements may be imposed in the form of security zones or other emergency measures to safeguard dignitaries or specific individual vessels. In all cases, further restrictions on vessel movements will be held to the minimum necessary to ensure vessel and personal safety. Every attempt will be made to inform the public regarding any additional restrictions the COTP Boston may need to impose. Details of these restrictions will be published separately in emergency rulemaking.

*(6) Reserved Channel Safety Zone, July 11–16, 1992*

From 4:30 p.m., July 11, 1992, to 9:30 a.m., July 16, 1992, the Reserved Channel, South Boston will be the primary mooring location for tall ships and other vessels visiting Boston Harbor for Sail Boston 1992. Because these ships will attract large numbers of waterside visitors, with thousands of vessels transiting through the area, the COTP Boston is establishing a safety zone in the Reserved Channel for the safety and protection of the tall ships, vessel operators, waterside visitors viewing the tall ships, and large commercial vessels operating in the channel transiting to and from commercial berths. The Coast Guard safety zone in the Reserved Channel is in effect for the duration of the tall ships' visit to Boston and includes regulations to control the movement of vessels operating in the Reserved Channel during that period. While the safety zone for the Reserved Channel is in effect, vessel movements through that area will be as directed by on-scene Coast Guard patrol personnel.

*(7) Fireworks Extravaganza, July 12, 1992*

On the evening of July 12, 1992, Sail Boston 1992 will sponsor its Fireworks Extravaganza to occur in the Boston Main Channel in the vicinity of Pier 4, South Boston in approximate position, 42–21–26 N, 071–02–22 W. The fireworks are scheduled to take place between 9:30 p.m. and 10 p.m. For this event, the Coast Guard is establishing a safety zone from the Alford Street Bridge, Mystic River to Castle Island, Boston Main Channel, including the Island End River and the waters on either side of the channel to the shoreline. This safety zone is in effect between 5:30 p.m. and 11 p.m. and will include special regulations requiring spectator craft to maintain at all times at least 300 yards safe distance from all fireworks barges and their attending tugs; requiring spectator craft to select and remain in position at least one half hour before this event; restricting vessel operators to proceed at speeds which will create minimum wake and not to exceed five (5) miles per hour; establishing traffic patterns to take effect upon the conclusion of the display; and prohibiting boaters from passing outboard patrol vessels showing blue lights. A rain date of July 15, 1992, is planned, with all times remaining the same. This zone is needed to protect the fireworks barges and their attending tugs, persons viewing the display, spectator craft, and personnel in the area from the safety hazard associated with explosives-laden barges and the display itself. Implementation of this zone closes the affected portion of the Island End River, Mystic River, and the Boston Main Channel to navigation by deep draft vessels while this zone is in effect. Vessel movements within the zone will be as directed by on-scene Coast Guard patrol personnel.

*(8) Challenge Cup Regatta, July 13–14, 1992*

On July 13–14, 1992, Sail Boston 1992, in association with the Offshore Maxi Yacht Association and local yacht clubs, will conduct a two-day Challenge Cup Sailboat Racing Regatta to be held in two different locations in Massachusetts Bay off of Nahant and off of Nantasket Beach. The race scenario is to have one Maxi race and two 12-Meter races on Monday, July 13, 1992 off Nantasket Beach. On Tuesday, July 14, 1992, there will be two Maxi races and one 12-Meter race off Nahant. A rain date of Wednesday, July 15, 1992 is planned for either event. Races will be held from 9 a.m. to 3 p.m. at the specified race locations. For these races the Coast Guard is establishing regulated areas in two separate three-square mile locations in Massachusetts Bay.

The first site is the Nantasket Beach race course, bounded by the following:

Point 1: Latitude 42–20.7 N Longitude 070–49.0 W
Point 2: Latitude 42–20.7 N Longitude 070–44.8 W
Point 3: Latitude 42–17.7 N Longitude 070–44.8 W
Point 4: Latitude 42–17.7 N Longitude 070–49.0 W

The second site is the Nahant race course, bounded by the following:

Point 1: Latitude 42–27.2 N Longitude 070–50.0 W
Point 2: Latitude 42–27.2 N Longitude 070–46.0 W
Point 3: Latitude 42–24.1 N Longitude 070–46.0. W
Point 4: Latitude 42–24.1 N Longitude 070–50.0. W

The regulated area is in effect each day for the duration of the day's racing events, with special regulations requiring spectator craft to maintain at all times at least 200 yards safe distance from all participating sail race vessels. This area is needed to ensure the safety of participants and spectators during the two-day offshore event, and vessel movements within the regulated area will be as directed by on-scene Coast Guard patrol personnel.

*(9) Farewell Departure, July 16, 1992*

On July 16, 1992, the Sail Boston Farewell Departure will be conducted in Boston Harbor. How this event will proceed depends on the weather encountered during the Grand Parade of Sail on July 11, 1992. If the weather is good on the 11th and the Grand Parade of Sail proceeds as scheduled, the Farewell Departure will occur as a "Sailout," with tall ships departing from various locations throughout the port at

times consistent with offshore activities planned for later in the day. In this case, tall ships participating in the restart of the Grand Regatta will leave first followed by those participating in the American Sail Training Association (ASTA) rally. Vessels departing for other locations will do so sometime after this peak departure period. Grand Regatta participants will depart port between 8 a.m. and 12 noon; ASTA Rally participants, between 10 a.m. and 12 noon. If inclement weather on the 11th cancels the Grand Parade, the Farewell Departure will be a more formally structured event similar in scope to the parade scheduled for the 11th.

To ensure the safe navigation of vessel traffic in Boston Harbor during the tall ships' departure, the COTP Boston will establish a safety zone similar to the one established for the July 11th Grand Parade of Sail with designated spectator areas as listed previously in Table I marked, "Sail Boston 1992 Anchorages and Designated Spectator Areas." Vessels intending to go offshore after the departure to watch the restart of the Grand Regatta should use spectator areas N, P, or Q, as appropriate.

Because of the magnitude of this event, the Coast Guard is establishing a safety zone in the waters of Boston Harbor west of longitude 070–54 W to include the following waterways: Boston North Channel, Boston South Channel, the Narrows, Nantasket Roads, Nubble Channel, President Roads, including President Roads Anchorage, Sculpin Ledge Channel, Western Way, the Boston Main Channel, the Reserved Channel to the Summer Street retractile bridge, the Fort Point Channel to the Congress Street bridge, the Charles River to the Gridley Locks at the Charles River Dam, the Mystic River to the Tobin Bridge, and the Chelsea River to the McArdle Bridge. The zone includes also all designated spectator areas for this event.

The safety zone is in effect from 8 a.m. to 6 p.m., July 16, 1992, and includes special regulations to restrict the movement of vessel traffic during this period. Specified in these regulations are provisions to: Close the main shipping channels in Boston Harbor, including the Narrows, to deep draft vessel traffic from 8 a.m. to 6 p.m.; restrict access to the USS CONSTITUTION, the USS CASSIN YOUNG, and all other parade vessels while they are underway; close the main shipping channels of Boston Harbor to all vessel traffic, except Sail Boston 1992 tall ships, assist tugs, pilot boats, patrol vessels, and other authorized craft from 8 a.m. to 4 p.m.; restrict vessel operators to proceed at speeds which will create minimum wake and not to exceed five (5) miles per hour from 8 a.m. to 6 p.m.; require spectator vessels to take position and remain in designated spectator areas for the duration of the event, except that vessels anchored in Spectator Areas N, P, and Q may depart outbound to view related tall ship activity occurring offshore; prohibited spectator craft from blocking access to tall ship mooring sites or emergency medical evacuation areas; and establish traffic patterns in Boston Harbor to take effect upon conclusion of the departure.

As the country's oldest seagoing vessel and a treasured national monument, the USS CONSTITUTION will have the honor of bidding official farewell to the Sail Boston 1992 tall ships. Departing berth at the Charlestown Navy Yard at 8:00 a.m. on the 16th, CONSTITUTION will get underway by tow and proceed under escort outbound through Boston Harbor to Spectator Area K. Arriving on location at 9:30 a.m., CONSTITUTION will take up position to mark the departure of tall ships participating in the Grand Regatta and the ASTA Rally. Vessel operators must maintain at least 300 yards safe distance around CONSTITUTION during its transit and while on scene in Spectator Area K.

Meanwhile, in preparation for CONSTITUTION's shift to drydock, the USS CASSIN YOUNG will change berths and moor at Pier 1, Charlestown Navy Yard. While CASSIN YOUNG shifts berths, vessel operators must maintain at least 300 yards safe distance from the vessel. At 2 p.m., CONSTITUTION will begin its return trip to the Navy Yard, arriving at approximately 3 p.m. No other vessel movements will be allowed while CONSTITUTION is underway enroute back to the Navy Yard, and a 300 yard safety perimeter will be maintained around CONSTITUTION during its transit.

After closure of the harbor at 8 a.m., vessel movements within the safety zone, except for Sail Boston 1992 tall ships, assist tugs, pilot boats, patrol vessels, and other authorized craft, will be as directed by on-scene Coast Guard patrol personnel.

In support of this event, the Gridley Locks at the Charles River Dam and the Earhart Dam, Mystic River will be closed to navigation between 8 a.m. and 4 p.m.

If the COTP Boston has to establish security zones or additional emergency measures to safeguard dignitaries or certain vessels participating in this event, the public will be informed in emergency rulemaking.

*(10) Grand Regatta Restart, July 16, 1992*

On the afternoon of July 16, 1992, the Sail Training Association, assisted by local yacht clubs, will conduct the restart of the Grand Regatta Columbus 1992 Quincentenary in Massachusetts Bay off of Nahant. The event marks the beginning of the final leg of the tall ship race back to Liverpool, England. To protect the vessels participating in this event as they practice for and restart the race, the COTP Boston is establishing a safety zone in a three square-mile area northeast of the Boston North Channel Lighted Gong Buoy "NC." Included in the area will be a practice area for tall ships to conduct sail crew training in preparation for the restart of the race and a restart area to include a two-mile starting line for the event. The site of the safety zone is bounded by the following:

Point 1: Latitude 42–27.2 N Longitude 070–40.0 W
Point 2: Latitude 42–27.2 N Longitude 070–36.0 W
Point 3: Latitude 42–24.1 N Longitude 070–36.0 W
Point 4: Latitude 42–24.1 N Longitude 070–40.0 W

This safety zone is in effect between 11:30 a.m. and 6 p.m. and includes special regulations to control the movement of spectator vessels on scene in the area to view the restart of the Grand Regatta. This zone is needed to ensure the safety of participants and spectators during this offshore event, and entry into the safety zone is prohibited unless authorized by the COTP Boston.

If changes are made to these regulations or if the COTP Boston implements additional controls on vessel movements, notice will be provided to the public in emergency rulemaking. Details of these events and of the special regulations in effect for each event will be published also in the Local Notice to Mariners. Additionally, an appropriate Safety Marine Information Broadcast will be initiated for each event. For all events, vessel operators will be required to maneuver as directed by on-scene Coast Guard patrol personnel. Coast Guard patrol personnel enforcing regulations in effect for safety zones, anchorages, designated spectator areas, and regulated areas for these events include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, U.S. Navy, and local law enforcement vessels. Violators will be prosecuted. Violations of Coast

Guard safety zone regulations may result in civil penalties of up to $25,000.

**Discussion of Comments and Changes**

*Comments:* Two comment letters were received. One comment addressed the potential adverse impact of the Farewell Departure on July 16, 1992, on contractors working on the Deer Island Boston Harbor Cleanup Project. The COTP Boston has not made significant changes to the regulations, but will work directly with contractors to accommodate scheduled vessel movements to the greatest degree practicable.

Another comment was received requesting blanket permission for unrestricted vessel movement for a different project contractor in Boston Harbor throughout the period of the temporary regulations. In the interest of safety, the COTP Boston has denied the request after discussions with the contractor.

*Changes:*

(1) Proposed safety zones for the Harborfest and Farewell Fireworks and the arrival and departure of the USS JOHN F. KENNEDY have been deleted due to the cancellation of these events.

(2) For the Hull Gut and Boston Main Channel Regulated Area, the effective time and date for terminating these regulations has been changed from 4 p.m. July 17, 1992, to 4 p.m. July 16, 1992 due to the cancellation of the USS JOHN F. KENNEDY departure.

(3) For the Temporary Anchorage Regulations, an effective date has been added to eliminate confusion regarding impact on existing permanent Boston Harbor anchorage regulations. A new Mystic Anchorage has been added for C Class tall ships. This change is necessary due to a shortage of available berthing to accommodate the larger-than-expected C Class fleet participating in Sail Boston 1992. The number of C Class participants exceeds original estimates by approximately 100 vessels. In selecting a suitable anchorage for these vessels, the Coast Guard and event organizers have identified the Mystic River as a feasible site. The relative inactivity of the Charlestown waterfront area in the vicinity of the old Revere and Domino Sugar terminals makes that portion of the Mystic River a safe and sheltered area. Recognizing the NPRM did not address this concept, the Coast Guard has initiated discussion with the principal waterway users and property owners in that area. All parties contacted have expressed their support of such a plan. Accordingly, a temporary anchorage will be established in the Mystic River. Paragraph lettering/numbering have been changed to reflect this addition. The size of and effective period for Designated Spectator Area A have been modified to provide a safe fairway for C Class vessels transitting to the Mystic River and to reflect the 8 a.m. start time for the Farewell Departure. Anchorage closure periods associated with the USS JOHN F. KENNEDY inbound transit have been deleted.

(4) For the Grand Parade of Sail, the limits of the proposed safety zone have been extended to include the Mystic River up to the Alford Street Bridge. This revision was prompted by the establishment of the temporary Mystic Anchorage for C Class vessels in the Mystic River and the need to provide for their safe transit during the tall ship parade.

(5) For the Fireworks Extravaganza, the limits of the proposed safety zone have been extended to include the Mystic River up to the Alford Street Bridge and the Island End River. This revision was prompted by a change in the designated loading location of the fireworks barges. The time of the barge transit has been modified slightly and a Wednesday, July 15, 1992, rain date has been added at the request of the event organizer.

(6) For the Challenge Cup Regatta, the times of the events have been revised. Also, a Wednesday, July 15, 1992, rain date has been added at the request of the event organizers.

(7) For the Farewell Departure, the effective time for safety zone has been extended to begin at 8 a.m. July 16, 1992, to accommodate earlier departure of the tall ships from Boston Harbor.

(8) For the Grand Regatta Restart, the designated location has been shifted to the east, outside the Boston Precautionary Area, to provide race participants more maneuvering area.

**Regulatory Evaluation**

This rulemaking is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of these regulations to be so minimal that a Regulatory Evaluation is unnecessary. These regulations will be in effect only for portions of a thirteen day period. In that period, the two days with the greatest impact on port users will be Saturday, July 11, 1992, and Thursday, July 16, 1992. For these two days, most areas and waterways within the port of Boston will be closed, and the port community will be disrupted from conducting normal port activity. However, because of the temporary nature of these disruptions, they can be planned for in advance to minimize the attendant economic hardship that might result. Segments of the port community facing disruptions as a result of this rulemaking are operators of deep draft vessel traffic, terminal operators, marine contractors involved in major harbor projects, the Logan and Charlestown Navy Yard shuttle ferry service, commuter boats, local sailing centers and marinas, lobstermen, and commercial fishermen. Recognizing the adverse economic impact that could result from these expected port closures, the COTP Boston has established liaison with the port community to create a steering committee that has assisted in the planning for these events. Attendance at steering committee meetings is open to all parties with a vested economic interest in the effects of this rulemaking.

The committee is working cooperatively with the COTP Boston to make certain that restrictions imposed on vessel movements during this period are held to the minimum necessary to ensure safety and that these events are conducted in such a manner so as to cause the least economic burden possible. The COTP Boston expects that the amount of publication and advertisement about these events and about these regulations will allow the industry sufficient time to adjust schedules and minimize expected adverse impacts. Weighted against and counterbalanced with adverse impacts are the favorable economic impacts that Harborfest and Sail Boston 1992 will have on commercial activity in the port as a whole from the boaters and tourists these events will attract to the area.

The changes implemented in the final rule as discussed above (i.e., the deletion of four events and other minor revisions), collectively, will lessen the adverse economic impact associated with these events.

**Small Entities**

No comments were received from "small entities." Accordingly, there has been no change to the regulatory text in this regard as related to small entities. Based on the lack of comments on this issue, the coast Guard does not expect these rules to have a significant impact on small entities. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

**Collection of Information**

This proposal contains no collection of information requirements under the

Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

**Federalism**

The Coast Guard has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Environment**

The Coast Guard considered the environmental impact of this rulemaking action and concluded that, under section 2.B.2.c. of Commandant Instruction M16475.1B, this final rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "**ADDRESSES.**"

**List of Subjects**

*33 CFR Part 100*

Marine safety, Navigation (water).

*33 CFR Part 110*

Anchorage grounds.

*33 CFR Part 165*

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

For reasons set out in the preamble, the Coast Guard amends 33 CFR parts 100, 110, and 165 as follows:

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Temporary § 100.TO1–165–1 is added to read as follows:

**§ 100.TO1–165–1 Regulated Area, Hull Gut Channel and Boston Main Channel, Boston, MA.**

(a) *Regulated Area*: A regulated area is established in two locations in Boston Harbor. The first location is in Hull Gut Channel and the waters just off the channel in the vicinity of the USCG Stations Point Allerton, extending between imaginary lines drawn across the gut, bounded on the north by a line drawn from the northern tip of Peddocks Island to the northwestern tip of Wind Mill Point, Hull, MA; and bounded on the south by a line drawn from Hull Gut Channel, Lighted Buoy "4" to Inner Seal Rock. The second location is in the Boston Main Channel in the vicinity of Little Mystic Channel extending between imaginary lines drawn across the channel, bounded on the north by a line drawn from the northeastern corner of Massport Pier 49, Charlestown due east to East Boston; and bounded on the south by a line drawn from the southeastern corner of Pier 11, Charlestown Navy Yard due east to East Boston.

(b) *Effective dates*: These regulations will be effective from 8 a.m., July 9, 1992 to 4 p.m. on July 16, 1992.

(c) *Special Local Regulation*:

(1) During the effective period operators of vessels transiting through regulated area locations shall proceed at speeds which will create minimum wake and not to exceed five (5) miles per hour.

(2) All persons and vessels shall comply with the instructions of on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, U.S. Navy, or local law enforcement vessels.

3. Temporary § 100.TO1–165–2 is added to read as follows:

**§ 100.TO1–165–2 1992 Challenge Cup Sailboat Racing Regatta.**

(a) *Regulated Area*: A regulated area is established in two locations in Massachusetts Bay. The first is the site of the Nantasket Beach race course, bounded by the following:

Point 1: Latitude 42–20.7 N Longitude 070–49.0 W
Point 2: Latitude 42–20.7 N Longitude 070–44.8 W
Point 3: Latitude 42–17.7 N Longitude 070–44.8 W
Point 4: Latitude 42–17.7 N Longitude 070–49.0 W

The second is the site of the Nahant race course, bounded by the following:

Point 1: Latitude 42–27.2 N Longitude 070–50.0 W
Point 2: Latitude 42–27.2 N Longitude 070–46.0 W
Point 3: Latitude 42–24.1 N Longitude 070–46.0 W
Point 4: Latitude 42–24.1 N Longitude 070–50.0 W

(b) *Effective Dates*: These regulations will be effective from 9 a.m. to 3 p.m. July 13, 1992 and from 9 a.m. to 3 p.m. on July 14, 1992. A rain date of July 15, 1992 is planned, with all times remaining the same.

(c) *Special Local Regulations*:

(1) The regulated area shall be closed during the effective period to all vessel traffic except participants in this event, duly authorized patrol craft, and those vessels on-scene Coast Guard patrol personnel allow to enter the area, as directed by the Commander, Coast Guard Group Boston.

(2) Participating race vessels should arrive at their respective race course at 9 a.m. and must complete racing by 3 p.m. on both July 13, 1992, and July 14, 1992. If event is held on the rain date, all times remain the same.

(3) Spectator vessels allowed to enter the regulated area by on-scene Coast Guard patrol personnel shall maintain at all times at least 200 years safe distance from all participating sail race vessels operating inside the regulated area.

(4) The Commander, Coast Guard Group Boston reserves the right at any time to cancel or suspend race events at either or both race locations.

(5) All persons and vessels shall comply with the instructions of on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, U.S. Navy, or local law enforcement vessels. Upon hearing five or more blasts from a U.S. Coast Guard vessel, vessel operators shall stop immediately and proceed as directed by on-scene Coast Guard patrol personnel.

## PART 110—ANCHORAGE REGULATIONS

4. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 2030, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. under 1223 and 1231.

5. Section 110.134 is temporarily amended by revising paragraphs (a)(1) and (a)(2), by adding paragraphs (a)(6) through (a)(22), by revising paragraph (b), and by adding new paragraph (c) to read as follows:

**§ 110.134 Boston Harbor, Mass.**

(a) *The anchorage grounds*—(1) *Bird Island Anchorage.* Beginning at a point bearing 93°, 1,400 yards, from the aerial beacon on top of the Boston Custom House tower; thence to a point bearing 81°, 1,600 yards, from the aerial beacon on top of the Boston Custom House tower; thence to a point bearing 102°, 3,100 yards, from the aerial beacon on top of the Boston Custom House tower; thence to a point bearing 109°, 3,050 yards, from the aerial beacon on top of the Boston Custom House tower; and thence to the point of beginning. The Bird Island Anchorage is temporarily disestablished from 12 noon on July 10, 1992, to 6 p.m. on July 11, 1992, and from 12 noon on July 15, 1992, to 5 p.m. on July 16, 1992. During these periods, the Bird Island Anchorage is divided, reconfigured, and redesignated as Spectator Areas C and D in accordance with paragraphs (a)(10) and (a)(11) of this section.

(2) *President Roads Anchorage*—(i) *40-foot anchorage.* Beginning at a point bearing 237°, 522 yards from Deer Island Light; thence to a point bearing 254°, 2,280 yards from Deer Island Light; thence to a point bearing 261°, 2,290 yards from Deer Island Light; thence to a point bearing 278°, 2,438 yards from Deer Island Light; thence to a point bearing 319°, 933 yards from Deer Island Light; thence to a point bearing 319°, 666 yards from Deer Island Light; and thence to a point of beginning. The President Roads 40-foot anchorage is temporarily disestablished from 12 noon on July 10, 1992, to 6 p.m. on July 11, 1992 and from 12 noon on July 15, 1992, to 5 p.m. on July 16, 1992. During these periods, the President Roads 40-foot anchorage is redesignated as Spectator Area K in accordance with paragraph (a)(17) of this section.

(ii) *35-foot anchorage.* Beginning at a point bearing 256°, 2,603 yards from Deer Island Light; thence to a point bearing 258° 30', 3,315 yards from Deer Island Light; thence to a point bearing 264°, 3,967 yards from Deer Island Light; thence to a point bearing 261°, 2,290 yards from Deer Island Light; thence to point of beginning. The President Roads 35-foot anchorage is temporarily disestablished from 12 noon on July 10, 1992, to 6 p.m. on July 11, 1992, and from 12 noon on July 15, 1992, to 5 p.m. on July 16, 1992. During these periods the President Roads 35-foot anchorage is divided, reconfigured, and redesignated as part of Spectator Areas H and J in accordance with paragraphs (a)(15) and (a)(16) of this section.

(3) * * *

(4) * * *

(5) * * *

(6) *Tall Ship Anchorage.* In the outer harbor in Broad Sound and Nahant Bay, the waters west of a line connecting Boston North Channel Lighted Bell Buoy "2" on Finns Ledge to Off Rock, Littles Point, Swampscott, MA. The Tall Ship Anchorage is temporarily established from 12 noon on July 10, 1992 to 4 p.m. on July 11, 1992.

(7) *Mystic Anchorage.* In the inner harbor in the Mystic River, the waters off Charlestown, in the vicinity of the old Amstar and Revere Sugar docks, bounded west longitude 071–04–00 extending into the river 400 feet from shore; thence 100° to 071–03–44, bounded east along longitude 071–03–44 extending 400 feet back to shore; and thence to point of beginning. The Mystic Anchorage is temporarily established from 12 noon on July 7, 1992, to 4 p.m. on July 16, 1992.

(8) *Spectator Area A.* In the inner harbor in the Boston Main Channel, the waters north of a line drawn across the Boston Main Channel from the northeastern corner of Pier 8, Charlestown Navy Yard to the southernmost point of the Boston Towing and Transportation, North Yard, East Boston, and bound on the west by the midpoint of the Boston Main Channel. Spectator Area A is temporarily established from 9 a.m. to 5 p.m. on July 11, 1992, and from 8 a.m. to 4 p.m. on July 16, 1992.

(9) *Spectator Area B.* In the inner harbor along the shoreline of East Boston, east of the Boston Main Channel, bounded on the north by the southernmost point of Boston Towing and Transportation South Yard are bounded on the south by the southwest corner of Massport Pier 1, East Boston. Spectator Area B is temporarily established from 12:00 noon on July 10, 1992, to 6 p.m. on July 11, 1992, and from 12:00 noon on July 15, 1992, to 5 p.m. on July 16, 1992.

(10) *Spectator Area C.* In the inner harbor along the southern edge of Cashman's shipyard, East Boston on the western side of the disestablished Bird Island Anchorage, situated to provide a channel between it and Spectator Area D, allowing access to Bird Island Flats, beginning at Bird Island Flats Buoy "1"; thence 210° to the north edge of the Boston Main Channel; thence northwest along Boston Main Channel edge to 42–21–42 N, 71–02–28 W; thence to 42–21–47.5 N, 071–02–23 W; thence to point of beginning. Spectator Area C is temporarily established from 6 a.m. to 6 p.m. on July 11, 1992, and from 6 a.m. to 5 p.m. on July 16, 1992.

(11) *Spectator Area D.* In the inner harbor along the southwestern edge of Logan Airport, East Boston, in the eastern side of the disestablished Bird Island Anchorage situated to provide a channel between it and Spectator Area C, allowing access to Bird Island Flats, beginning at Bird Island Flats Buoy "2"; thence 210° to the north edge of the Boston Main Channel; thence eastward to Boston Main Channel Lighted Buoy "12"; thence 027° to land; and thence to point of beginning. Spectator Area D is temporarily established from 12 noon on July 10, 1992, to 6 p.m. on July 11, 1992, and from 12 noon on July 15, 1992, to 5 p.m. on July 16, 1992.

(12) *Spectator Area E.* In the inner harbor along the southeastern edge of Logan Airport, beginning at Boston Main Channel Lighted Buoy "12"; thence 027° to land; thence eastward along the shore to 42–20–50 N, 071–00–17.5 W; thence to the Boston Main Channel Lighted Buoy "10"; thence along the northern edge of Boston Main Channel to point of beginning. Spectator Area E is temporarily established from 6 a.m. to 6 p.m. on July 11, 1992, and from 6 a.m. to 5 p.m. on July 16, 1992.

(13) *Spectator Area F.* In the inner harbor along the Massport North Jetty, South Boston, beginning at 42–21–05 N, 071–01–54 W; thence to 42–20–59 N, 071–01–39 W; thence northwestward to 42–20–56 N, 071–01–41 W; thence along the face of the Massport Marine Terminal, North Jetty to the corner; thence to point of beginning. Spectator Area F is temporarily established from 12 noon on July 10, 1992, to 6 p.m. on July 11, 1992, and from 12 noon on July 15, 1992, to 5 p.m. on July 16, 1992.

(14) *Spectator Area G.* In the inner harbor along the Fan Pier, South Boston, situated to provide a channel between it and Boston Special Anchorage, allowing access to the Fort Point Channel, beginning at 42–21–22 N, 071–02–50 W; thence to 42–21–24 N, 071–02–38 W; thence to 42–21–24 N, 071–02–31 W; thence to 42–21–20 N, 071–12–26 W; thence to Pier Four Wreck Buoy "WRI", 42–21–14 N, 071–02–31 W; thence to point of beginning. Spectator Area G is temporarily established from 12:00 noon on July 10, 1992 to 6 p.m. on July 11, 1992, and from 12:00 noon on July 15, 1992, to 5 p.m. on July 16, 1992.

(15) *Spectator Area H.* In the inner harbor to include the western side of the disestablished President Roads 35-foot anchorage, beginning at the Boston Main Channel Lighted Buoy "6"; thence to 42–20–12 N, 070–59–15 W; thence to Boston Main Channel Lighted Buoy "4"; thence to point of beginning. Spectator Area H is temporarily established from 12 noon on July 10, 1992 to 6 p.m. on July 11, 1992, and from 12 noon on July 15, 1992, to 5 p.m. on July 16, 1992.

(16) *Spectator Area J.* In the inner harbor to include the eastern side of the disestablished President Roads 35-foot anchorage, beginning at 42–20–12 N, 070–59–14.5 W; thence to 42–20–30 N, 070–59–14.5 W; thence to President Roads Anchorage Lighted Buoy "C", 42–20–33 N, 070–58–52 W; thence to 42–20–05 N, 070–58–43.5 W; thence to Boston Main Channel Lighted Bell Buoy 4, 42–20–04 N, 070–59–26 W; thence to point of beginning. Spectator Area J is temporarily established from 12:00 noon on July 10, 1992, to 6 p.m. on July 11, 1992, and from 12:00 noon on July 15, 1992, to 5 p.m. on July 16, 1992.

(17) *Spectator Area K.* In the inner harbor, constituting the disestablished President Roads 40-foot anchorage, as described in paragraph (a)(2)(i) of this section. Spectator Area K is temporarily established from 12 noon on July 10, 1992, to 6 p.m. on July 11, 1992, and from 12 noon on July 15, 1992, to 5 p.m. on July 16, 1992.

(18) *Spectator Area L.* in the inner harbor off the northwestern edge of Long Island into the entrance to Sculpin Ledge Channel, beginning at Boston Main Channel Lighted Buoy "13"; thence to 42–19–40 N, 070–57–50 W; thence to 42–19–40 N, 070–58–40 W; thence to point of beginning. Spectator Area L is temporarily established from 8 p.m. on July 10, 1992 to 6 p.m. on July 11, 1992, and from 8 p.m. on July 15, 1992, to 5 p.m. on July 16, 1992.

(19) *Spectator Area M.* In the inner harbor along the northern edge of Spectacle Island, beginning at Boston Main Channel LIGHT "5"; thence to Boston Main Channel Lighted Buoy "3"; thence to Boston Main Channel Lighted Buoy "1"; thence to Dorchester Bay Buoy "2"; thence to point of beginning. Spectator Area M is temporarily established from 8 p.m. on July 10, 1992 to 6 p.m. on July 11, 1992, and from 8 p.m. on July 15, 1992, to 4 p.m. on July 16, 1992.

(20) *Spectator Area N.* In the outer harbor along the western edge of the Boston North Channel, extending 200 yards west, bounded on the north by Boston North Channel Lighted Buoy "4" and bounded on the south by Boston North Channel Lighted Bell Buoy "10", Off Little Faun Shoal. Spectator Area N is temporarily established from 6 a.m. to 6 p.m. on July 11, 1992, and from 6 a.m. to 6 p.m. on July 16, 1992.

(21) *Spectator Area P.* In the outer harbor between the eastern edge of the Boston North Channel and Boston South Channel, beginning at Boston North Channel Lighted Buoy "1"; thence southeast to Boston South Channel Buoy "6"; thence along the northern edge of Boston South Channel to Boston North Channel Lighted Buoy "9"; thence along the eastern edge of the Boston North Channel to point of beginning. Spectator Area P is temporarily established from 6 a.m. to 6 p.m. on July 11, 1992, and from 6 a.m. to 6 p.m. on July 16, 1992.

(22) *Spectator Area Q.* In the outer harbor at the entrance to the Boston South Channel, beginning at Boston North Channel Lighted Buoy "9"; thence to 42–20–48 N, 070–55–10 W; thence to Boston South Channel Buoy "11"; thence to 42–20–15 N, 070–56–23 W; thence to the point of beginning. Spectator Area Q is temporarily established from 6 a.m. to 6 p.m. on July 11, 1992, and from 6 a.m. to 6 p.m. on July 16, 1992.

(b) *Effective dates*: These regulations are effective from 2 p.m. July 4, 1992 to 6 p.m. July 16, 1992.

(c) *The Regulations.* The anchorages and spectator areas designated in paragraphs (a)(1) through (a)(21) of this section are subjects to the following temporary regulations:

(1) *Bird Island Anchorage.* While the Bird Island Anchorage is disestablished, reconfigured, and redesignated, as specified in paragraphs (a)(1), (a)(10), and (a)(11) of this section, vessels anchored in this area must comply with the operational restrictions imposed in paragraphs (c)(9), (c)(10), and (c)(16) of this section. Except for those periods when Bird Island Anchorage is redesignated as spectator areas for tall ship parade and departure, only deep draft commercial vessel traffic or Third Harbor contractor vessels may anchor in this area.

(2) *President Roads Anchorage*

(i) *40-foot anchorage.* While the President Roads 40-foot anchorage is disestablished and redesignated, as specified in paragraphs (a)(2)(i) and (a)(17) of this section, vessels anchored in this area must comply with the operational restrictions imposed in paragraphs (c)(14) and (c)(16) of this section. Except for those periods when the President Roads 40-ft anchorage is redesignated as a spectator area for tall ship parade and departure, only deep draft commercial vessel traffic may anchor in this area.

(ii) *35 foot anchorage.* While the President Roads 35-foot anchorage is disestablished, reconfigured, and redesignated, as specified in paragraphs (a)(2)(ii), (a)(15), and (a)(16) of this section, vessels anchored in this area must comply with the operational restrictions imposed in paragraphs (c)(12), (c)(13), and (c)(16) of this section. Except for those periods when the President Roads 35-ft anchorage is redesignated as spectator areas for tall ship parade and departure, only deep draft commercial vessel traffic may anchor in this area.

(3) *Long Island Anchorage.* From 12 noon, July 10, 1992, to 9 a.m., July 11, 1992, Long Island Anchorage is designated for the exclusive use of tall ships participating in the Sail Boston 1992 Grand Parade of Sail. Except for that period, Long Island Anchorage is open for use by recreational vessels on hand for Boston Harborfest and Sail Boston 1992. Vessel operators using Long Island Anchorage must comply with the general operational requirements specified in paragraph (c)(16) of this section.

(4) *Castle Island Anchorage.* From 6 a.m. on July 2, 1992, to 4 p.m. July 16, 1992, the Castle Island Anchorage is open for use by recreational vessels on hand for Boston Harborfest and Sail Boston 1992. Vessel operators using Castle Island Anchorage must comply with general operational requirements specified in paragraph (c)(16) of this section.

(5) *Explosives Anchorage.* From 12 noon, July 10, 1992, to 9 a.m. July 11, 1992, Explosive Anchorage is designated for the exclusive use of tall ship participating in the Sail Boston 1992 Grand Parade of Sail. Except for that period, Explosives Anchorage is open for use by recreational vessels on hand for Boston Harborfest and Sail Boston 1992. Vessel operators using Long Island Anchorage must comply with the general operational requirements specified in paragraph (c)(16) of this section.

(6) *Tall Ship and Mystic Anchorages.* For the period specified in paragraphs (a)(6) and (a)(7) of this section, Tall Ship and Mystic Anchorages are designated for the exclusive use of tall ships participating in the Sail Boston 1992 activities. Vessel movements through these areas during the periods specified will be as directed by on-scene Coast Guard patrol personnel. Operators of tall ships anchoring in these areas whose anchors become fouled in lines of lobster traps will work cooperatively with on-scene lobstermen prior to getting underway so as to minimize damage to lobster pots.

(7) *Spectator Areas A, N, and P.* For the periods specified in paragraphs (a)(8), (a)(20), and (a)(21) of this section, Spectator Areas A, N, and P, are designated for any latecoming spectator craft on hand to view Sail Boston 1992 tall ship parade and departure. Vessel operators using Spectator Areas A, N, or P must comply with the general operational requirements specified in paragraph (c)(16) of this section.

(8) *Spectator Areas B, F, and G.* For the periods specified in paragraphs (a)(9), (a)(13), and (a)(14) of this section, Spectator Area B, F, and G are designated for the exclusive use of recreational vessels 45 feet or less in length with superstructures not to exceed 10 feet in height. Vessel operators using Spectator Areas B, F, or G must comply with the general operational requirements specified in paragraph (c)(16) of this section.

(9) *Spectator Area C.* For the periods specified in paragraph (a)(10) of this section, Spectator Area C is designated for the exclusive use of inspected small passenger vessels (passenger vessels certified by the Coast Guard under Subchapter T of Title 46, Code of Federal Regulations.) Vessel operators using Spectator Area C must comply with the general operational requirements specified in paragraph (c)(16) of this section.

(10) *Spectator Area D.* For the periods specified in paragraph (a)(11) of this section, Spectator Area D is designated

for the exclusive use of recreational vessels 45 feet or less in length. Vessel operators using Spectator Area D must comply with the general operational requirements specified in paragraph (c)(16) of this section.

(11) *Spectator Area E.* For the periods specified in paragraph (a)(12) of this section, Spectator Area E is designated for the exclusive use of recreational vessels with height above water at any point not to exceed 50 feet. Vessel operators using Spectator Area E must comply with the general operational requirements specified in paragraph (c)(16) of this section.

(12) *Spectator Areas H and M.* For the periods specified in paragraphs (a)(15) and (a)(19) of this section, Spectator Areas H and M are designated for the exclusive use of recreational vessels. Vessel operators using Spectator Areas H or M must comply with the general operational requirements specified in paragraph (c)(16) of this section.

(13) *Spectator Area J.* For the periods specified in paragraph (a)(16) of this section, Spectator Area J is designated for the exclusive use of commercial fishing vessels. Vessel operators using Spectator Area J must comply with the general operational requirements specified in paragraph (c)(16) of this section.

(14) *Spectator Area K.* For the periods specified in paragraph (a)(17) of this section, Spectator Area K is a special use anchorage, as deemed appropriate by the COTP Boston. No vessel may anchor in this area without the permission of the COTP Boston. Vessel operators using Spectator Area K must comply with the general operational requirements specified in paragraph (c)(16) of this section.

(15) *Spectator Areas L and Q.* For the periods specified in paragraphs (a)(18) and (a)(22) of this section, Spectator Areas L and Q are designated for the exclusive use of inspected small passenger vessels, sailing school vessels, uninspected passenger vessels, and bareboat charter vessels. Vessel operators using Spectator Areas L or Q must comply with the general operational requirements specified in paragraph (c)(16) of this section.

(16) *General Operational Requirements for Anchorages and All Designated Spectator Areas.* Vessel operators using any of the anchorages or spectator areas established in this section shall:

(i) Ensure their vessels are properly anchored and remain safely in position at anchor under all prevailing conditions.

(ii) Comply as directed by on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, U.S. Navy, or local law enforcement vessels.

(iii) Vacate anchorages and spectator areas after termination of the effective period for those areas.

(iv) Buoy with identifiable markers and release anchors fouled on lines of lobster traps if such anchors cannot be freed or raised.

(v) Use only Spectator Areas N, P, or Q if going offshore to view tall ship events occurring in Massachusetts Bay on July 16, 1992.

(vi) Display anchor lights when anchoring at night in any anchorage or designated spectator area.

(vii) Not leave vessels unattended in any anchorage or spectator area at any time.

(viii) Not tie off to any buoy.

(ix) Not maneuver between anchored vessels.

(x) Not nest or tie off to other vessels in that anchorage or spectator area.

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.

6. The authority citation for part 165 continues to read:

**Authority:** 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(G), 6.04–1, 6.04–6, and 160.5.

7. A new § 165.TO1–165–4 is added to read as follows:

### § 165.TO1–165–4 Safety Zone: CONSTITUTION Turnaround, Boston Inner Harbor, Boston, MA.

(a) *Location.* The following area is a safety zone:

The Boston Main Channel and Charles River bounded on the east by a line drawn from Boston Main Channel Lighted Buoy "3" to Boston Main Channel Lighted Bell Buoy "4"; bounded on the north by a line drawn from the northeastern corner of Pier 7, Charlestown Navy Yard to the southernmost point of the Boston Towing and Transportation South Yard, East Boston; and bounded on the west by a line drawn from the easternmost point of the MDC pier at Puopolo Park to the northeastern corner of Hoosac Pier, Charlestown. The zone includes also the waters on either side of the channel to the shoreline.

(b) *Effective Date.* This regulation becomes effective on July 4, 1992, at 10 a.m. when the USS CONSTITUTION departs the Charlestown Navy Yard. It terminates on July 4, 1992, at 2 p.m. when the vessel returns and is safely moored at its berth, unless sooner terminated by the COTP Boston. A rain date of July 5, 1992, is planned with all times remaining the same.

(c) *Regulations.* The following special regulations apply:

(1) Vessels over 100 gross tons may not transit the zone from 10 a.m. to 2 p.m., except as authorized by the COTP Boston.

(2) Other vessels, except CONSTITUTION, those participating in the turnaround, and duly authorized patrol craft, may not transit the affected portion of the Boston Main Channel from 10 a.m. to 2 p.m., July 4, 1992, except as authorized by the COTP Boston.

(3) Vessel operators shall maintain at all times at least 300 yards safe distance from CONSTITUTION while the vessel is underway in Boston Harbor.

(4) Vessel operators, except operators of small passenger vessels, must transit to and select viewing positions outside the Boston Main Channel before CONSTITUTION is underway and must remain in position until CONSTITUTION has finished its twenty-one gun salute.

(5) Vessel operators may not maneuver between anchored vessels during the event.

(6) Vessel operators must maneuver as directed by on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, U.S. Navy, or local law enforcement vessels.

8. A new § 165.TO1–165–6 is added to read as follows:

### § 165.TO1–165–6 Safety Zone: Tall Ship Rally, Boston Inner Harbor, Boston, MA.

(a) *Location.* The following area is a safety zone:

President Roads, Boston Main Channel, and Fort Point Channel bounded on the east by Deer Island Light; bounded on the north by a line drawn from Pier 3, USCG Support Center Boston to the northernmost point of the Hodge Boiler Works Building, East Boston; and bounded on the west by the Congress Street Bridge, South Boston, in the Fort Point Channel. The zone includes also the waters on either side of the channels to the shoreline.

(b) *Effective Date.* This regulation becomes effective on July 10, 1992, at 10 a.m., when participating vessels assemble in President Roads for the start of the Tall Ship Rally. It terminates on July 10, 1992, at 12 noon, when participating vessels have completed the rally and disassemble, unless sooner terminated by the COTP Boston.

(c) *Regulations.* The following special regulations apply:

(1) Vessels over 100 gross tons may not transit the zone from 10 a.m. to 12 noon, except as authorized by the COTP Boston.

(2) Other vessels, except those participating in the rally and duly authorized patrol craft, may not transit the affected portion of President Roads, Boston Main Channel, or Fort Point Channel from 10 a.m. to 12 noon, except as authorized by the COTP Boston.

(3) Vessels shall maintain at all times at least 300 yards safe distance from participating vessels while the Tall Ship Rally is underway in Boston Harbor.

(4) Vessel operators, except operators of small passenger vessels, must transit to and select viewing positions outside the Boston Main Channel before the Tall Ship Rally begins and must remain in position until the rally is completed and participating vessels disassemble.

(5) Vessel operators may not maneuver between anchored vessels during the event.

(6) Vessel operators may not obstruct the entrance to or mooring areas in the Fort Point Channel.

(7) Vessel operators must maneuver as directed by on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, U.S. Navy, or local law enforcement vessels.

9. A new § 165.TO1–165–7 is added to read as follows:

**§ 165.TO1–165–7 Safety Zone: Grand Parade of Sail, Boston Harbor, Boston, MA.**

(a) *Location.* The following area is a safety zone:

The waters of Boston Harbor west of Longitude 070–52 W, including the following waterways: Nahant Bay, Broad Sound, Boston North Channel, Boston South Channel, Nubble Channel, President Roads, including the President Roads anchorages, Sculpin Ledge Channel, Western Way, the Boston Main Channel, the Reserved Channel to the Summer Street retractile bridge, the Fort Point Channel to the Congress Street bridge, the Charles River to the Gridley Locks at the Charles River Dam, the Mystic River to the Alford Street Bridge, and the Chelsea River to the McArdle Bridge. The zone includes also a staging area for the tall ship parade extending 500 yards in all directions from the position 42–23–06 N, 070–53–26 W, and all tall ship anchorages and spectator areas designated in 33 CFR 110.134.

(b) *Effective Date.* This regulation becomes effective on July 11, 1992, at 6 a.m., when tall ship and spectator vessel traffic is expected to congest Boston Harbor. It terminates on July 11, 1992, at 8 p.m., when visiting tall ships have moored and congestion in Boston Harbor has moderated to an acceptable level, unless sooner terminated by the COTP Boston.

(c) *Regulations.* The following special regulations apply:

(1) Vessels over 100 gross tons may not transit the zone from 6 a.m. to 8 p.m., except as authorized by the COTP Boston.

(2) Other vessels, except those participating in the Grand Parade of Sail and duly authorized patrol craft, may not transit the tall ship staging area in Broad Sound, Boston North Channel, President Roads, or Boston Main Channel and must remain in designated spectator areas from 9 a.m. to 5 p.m., except as authorized by the COTP Boston.

(3) Vessels shall maintain at all times at least 300 yards of safe distance from CONSTITUTION or any other tall ship participating in the Grand Parade of Sail while those vessels are underway in Boston Harbor.

(4) Vessel operators must comply with the temporary restrictions imposed for the anchorages and designated spectator areas, as specified in 33 CFR 110.134.

(5) Vessels, except for those participating in the Grand Parade of Sail or duly authorized patrol craft, may not enter or remain in the Reserved Channel or block access to any tall ship mooring site or emergency medical evacuation area from 9 a.m. to 4:30 p.m., except as authorized by the COTP Boston.

(6) Vessel operators must maneuver as directed by on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, U.S. Navy, or local law enforcement vessels.

(7) During the effective period operators of vessels transiting the safety zone shall proceed at speeds which will create minimum wake and not to exceed five (5) miles per hour.

(8) Following the tall ship parade, Boston Harbor will reopen in sequence with the movement and mooring of the final flotilla of tall ships:

(i) After the final flotilla of tall ships has passed Castle Island, vessel operators anchored in spectator areas east of Castle Island may depart for locations outside Boston Harbor.

(ii) After the final flotilla of tall ships has moored, vessel operators may depart from designated spectator areas. Vessels transiting inbound through Boston Harbor must keep to the right in the Boston Main Channel and proceed as directed by onscene Coast Guard personnel, with vessel traffic moving in a counterclockwise direction around the turning point established off the USCG Support Center Boston, as marked by an appropriate on-scene patrol vessel.

(iii) Inbound vessels must keep to the starboard or "red" side of the channel; and outbound vessels, to the port or "green" side.

10. A new § 165.TO1–165–8 is added to read as follows:

**§ 165.TO1–165–8 Safety Zone: Reserved Channel, Boston Inner Harbor, Boston, MA.**

(a) *Location.* The following area is a safety zone: The Reserved Channel, South Boston, MA between the Boston Main Channel and the Summer Street retractile bridge.

(b) *Effective Dates.* This safety zone becomes effective at 4:30 p.m. on July 11, 1992, after visiting tall ships are safely moored in the Reserved Channel. It terminates at 9:30 a.m. on July 16, 1992, just prior to the tall ships' departure from Boston Harbor.

(c) *Regulations.* The following special regulations apply:

(1) Vessel operators transiting the safety zone must maneuver or anchor as directed by on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, U.S. Navy, or local law enforcement vessels.

(2) Vessel operators transiting the safety zone must enter along the right side of the Reserved Channel and keep to the right, proceeding as directed by on-scene Coast Guard patrol personnel, with vessel traffic moving in a counterclockwise direction around the turning point established off the Boston Edison power plant, as marked by an appropriate on-scene patrol vessel.

(3) During the effective period operators of vessels transiting the safety zone shall proceed at speeds which will create minimum wake and not to exceed five (5) miles per hour.

(4) Vessel operators transiting the safety zone must maintain at least 50 feet safe distance from all moored vessels, and keep clear of and make way for all deep draft vessel traffic underway in the safety zone enroute to or from Massport's Conley Terminal, Castle Island, South Boston or Coastal Oil Terminal, South Boston.

11. A new § 165.TO1–165–9 is added to read as follows:

**§ 165.TO1-165-9 Safety Zone: Sail Boston 1992 Fireworks Extravaganza, Boston Inner Harbor, Boston MA.**

(a) *Location.* The following area is a safety zone:

The Mystic River, the Island End River, the Boston Main Channel, and Charles River bounded on the east by a line drawn from the McKay Monument, Castle Island to the end of the approach pier at Logan Airport, East Boston; bounded on the north by the Alford Street Bridge in the Mystic River; and bounded on the west by a line drawn from the easternmost point of the MDC Pier at Puopolo Park to the northeastern corner of Hoosac Pier, Charlestown, MA. The zone includes also the waters on either side of the channel to the shoreline.

(b) *Effective Date.* This zone becomes effective on July 12, 1992, at 5:30 p.m., when Sail Boston 1992 Fireworks Extravaganza barges and attending tugs depart their Everett, MA loading site to take position in the Boston Main Channel off the Pier 4, South Boston, in approximate position, 42-21-26 N, 071-02-22 W. It terminates on July 12, 1992, at 11 p.m., when the vessels return and are safely moored at their respective Everett, MA loading site, unless sooner terminated by the COTP Boston. A rain date of July 15, 1992 is planned, with all times remaining the same.

(c) *Regulations.* The following special regulations apply:

(1) Vessels over 100 gross tons may not transit through the safety zone from 5:30 p.m. to 11 p.m., except as authorized by the COTP Boston.

(2) Vessel operators shall maintain at all times at least 300 yards safe distance from Sail Boston 1992 Fireworks Extravaganza barges and attending tugboats.

(3) Vessel operators must transit to and select viewing positions before 9 p.m. and remain in position until the fireworks display ends at 10 p.m.

(4) Vessel operators may not maneuver between anchored vessels.

(5) Vessel operators must maneuver as directed by on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, U.S. Navy, or local law enforcement vessels.

(6) During the effective period operators of vessels transiting the safety zone shall proceed at speeds which will create minimum wake and not to exceed five (5) miles per hour.

(7) Following the event, inbound vessels must keep to the starboard or "red" side of the channel; and outbound vessels to the port or "green"side.

(8) After completion of the fireworks display, vessel operators within the safety zone are prohibited from passing outbound patrol vessels showing blue lights.

12. A new § 165.TO1-165-11 is added to read as follows:

**§ 165.TO1-165-11 Safety Zone: Farewell Departure, Boston Harbor, Boston, MA.**

(a) *Location.* The following area is a safety zone: The waters of Boston Harbor west of Longitude 070-54 W, including the following waterways: Nahant Bay, Broad Sound, Boston North Channel, Boston South Channel, the Narrows, Nantasket Roads, Nubble Channel, President Roads, including the President Roads Anchorage, Sculpin Ledge Channel, Western Way, the Boston Main Channel, the Reserved Channel to the Summer Street retractile bridge, the Fort Point Channel to the Congress Street bridge, the Charles River to the Gridley Locks at the Charles River Dam, the Mystic River to the Tobin Bridge, and the Chelsea River to the McArdle Bridge. The zone includes also all temporary spectator areas designated in 33CFR 110.134.

(b) *Effective Date.* This regulation becomes effective on July 16, 1992, at 8 a.m., when tall ship and spectator vessel traffic is expected to congest Boston Harbor. It terminates on July 16, 1992, at 6 p.m., when visiting tall ships have departed Boston Harbor and vessel traffic has moderated to a safe level, unless sooner terminated by the COTP Boston.

(c) *Regulations.* The following special regulations apply:

(1) Vessels over 100 gross tons may not transit the zone from 8 a.m. to 6 p.m., except as authorized by the COTP Boston.

(2) Other vessels, except those participating in the Farewell Departure and duly authorized patrol craft, may not transit the Boston Main Channel, President Roads, Boston North Channel or the Narrows and must remain in designated spectator areas from 8 a.m. to 4 p.m., except as authorized by the COTP Boston. Vessel operators anchored in Spectator Areas N, P, or Q may depart those areas to view offshore activities, provided they transit outside main channels and maintain 300 yards safe distance from participating tall ships.

(3) Vessel operators shall maintain at all times at least 300 yards safe distance from CONSTITUTION, USS CASSIN YOUNG, or any other tall ship participating in the Farewell Departure while those vessels are underway in Boston Harbor.

(4) Vessel operators must comply with the temporary restrictions imposed for the anchorages and designated spectator areas, as specified in 33 CFR 110.134.

(5) Vessels, except for those participating in the Farewell Departure or duly authorized patrol craft, may not enter or remain in the Reserved Channel or block access to any tall ship mooring site or emergency medical evacuation area from 8 a.m. to 4 p.m., except as authorized by the COTP Boston.

(6) Vessel operators must maneuver as directed by on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, U.S. Navy, or local law enforcement vessels.

(7) During the effective period operators of vessels transiting the safety zone shall proceed at speeds which will create minimum wake and not to exceed five (5) miles per hour.

(8) Following the tall ship departure, Boston Harbor will reopen in sequence with the movement of the last outbound tall ship.

(i) After the last outbound tall ship has passed the Boston North Channel Entrance Lighted Gong Buoy "NC", operators of vessels anchored in designated spectator areas may depart for locations outside Boston Harbor.

(ii) After the last outbound tall ship has passed Castle Island, vessel operators may depart designated spectator areas west of Castle Island and transit to locations within Boston Harbor, but west of Castle Island. Operators of vessels underway within the inner harbor in the Boston Main Channel must keep to the right and proceed as directed by on-scene Coast Guard patrol personnel, with vessel traffic moving in a counterclockwise direction around the turning point established off the USCG Support Center Boston, as marked by an appropriate on-scene patrol vessel.

(iii) Inbound vessels must keep to the starboard side of the channel; and outbound vessels, to the port or "green" side.

13. A new § 165.TO1-165-12 is added to read as follows:

**§ 165.TO1-165-12 Safety Zone: Grand Regatta Restart, Massachusetts Bay, Boston, MA.**

(a) *Location.* The following area is a safety zone:

A three square mile area in Massachusetts Bay off of Nahant to include a practice area for tall ships to conduct sail crew training in preparation

for the restart of the race and a restart area with a two-mile starting line for the event. The safety zone is bounded by the following:

Point 1: Latitude 42–27.2 N Longitude 070–40.0 W
Point 2: Latitude 42–27.2 N Longitude 070–36.0 W
Point 3: Latitude 42–24.1 N Longitude 070–36.0 W
Point 4: Latitude 42–24.1 N Longitude 070–40.0 W

(b) *Effective Dates.* This safety zone becomes effective on July 16, 1992, at 11:30 a.m., when tall ships participating in the Grand Regatta Restart begin to arrive offshore. It terminates on July 16, 1992, at 6 p.m., just after the restart of the Grand Regatta.

(c) *Regulations.* The following special regulations apply:

(1) The safety zone shall be closed during the effective period to all vessel traffic except participants in this event, duly authorized patrol craft, and those vessels on-scene Coast Guard patrol personnel allow to enter the area, as directed by the COTP Boston.

(2) Vessel operators must keep clear of and make way for all tall ships participating in the Grand Regatta Restart.

(3) Vessel operators must maneuver or anchor as directed by on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, U.S. Navy or local law enforcement vessels.

June 4, 1992.

**J.D. Sipes,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District, Boston, Massachusetts.*

[FR Doc. 92–13854 Filed 6–17–92; 8:45 am]

BILLING CODE 4910–14–M

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## 33 CFR Part 165

**[COTP Baltimore, Regulation 92–05–21]**

## Safety Zone Regulation: Patapsco River Inner Harbor, Baltimore, MD

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard Marine Safety Office Baltimore is establishing a safety zone for the Fourth of July fireworks display. The fireworks will be launched from a barge anchored approximately 600 feet south of Pier 6, Patapsco River, Inner Harbor, Baltimore, Maryland. The safety zone is necessary to control spectator craft and to provide for the safety of life and property on navigable waters during the event. Entry into this zone is prohibited unless authorized by the Captain of the Port.

**EFFECTIVE DATES:** This regulation is effective from 8:30 p.m. to 11 p.m., July 4, 1992 with a rain date of July 5, 1992.

**FOR FURTHER INFORMATION CONTACT:** LT Cynthia L. Stowe, U.S.C.G. Marine Safety Office Baltimore, U.S. Custom House, 40 South Gay Street, Baltimore, Maryland 21202–4022, (301) 962–5105.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Adherence to normal rulemaking procedures would not have been possible.

Specifically, the sponsor's application to hold the event was not received until June 2, 1992, leaving insufficient time to publish a notice of proposed rulemaking in advance of the event.

### Drafting Information

The drafters of this regulation are LT Cynthia L. Stowe, project officer for the Captain of the Port, Baltimore, Maryland, and LCDR David H. Sump, project attorney, Fifth Coast Guard District Legal Staff.

### Background and Purpose

The Baltimore Office of Promotion submitted an application to hold a fireworks display on July 4, 1992. As part of the application, the Baltimore Office of Promotion requested that the Coast Guard provide control of spectator and commerical traffic during the fireworks display.

### Discussion of Regulations

The fireworks will be launched from a barge anchored approximately 600 feet south of Pier 6, Inner Harbor, Patapsco River, Baltimore, Maryland. This Safety Zone will consist of a circle, with a radius of 600 feet, around the barge located at latitude 39–17–00 North, longitude 076–36–15 West.

This emergency rule is not considered major under Executive Order 12291 and not significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.).

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this emergency rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

### Regulation

In consideration of the foregoing, subpart F of part 165 of title 33, Code of Federal Regulations is amended as follows:

## PART 165—[AMENDED]

1. The authority citation for part 165 countinues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary § 165.T0526 is added to read as follows:

### § 165.T0526 Safety Zone: Patapsco River, Inner Harbor, Baltimore, Maryland.

(a) *Location.* The following area is a safety zone: The waters of the Patapsco River, Inner Harbor bounded by the arc of a circle with a radius of 600 feet and with its center located at latitude 39–17–00 North, longitude 076–36–15 West.

(b) *Definitions.* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his behalf. The Coast Guard Patrol Commander and each Coast Guard vessel enforcing the safety zone can be contacted on VHF–FM channels 13 and 16.

(c) *Local regulations.* Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(1) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard Ensign.

(2) Any spectator vessel may anchor outside of the regulated area specified in paragraph (a) of this section, but may not block a navigable channel.

(d) *Effective date.* The regulation in this section is effective from 8:30 PM to

11:00 PM, July 4, 1992, unless sooner terminated by the Captain of the Port, Baltimore, Maryland.

Dated: June 5, 1992.

R.L. Edmiston,

*Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.*

[FR Doc. 92-14347 Filed 6-17-92; 8:45 am]

BILLING CODE 4910-14-M

## POSTAL SERVICE

### 39 CFR Part 111

### Printed Educational Reference Charts

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** Section 724.1g of the Domestic Mail Manual is amended to provide further guidance on the eligibility of printed educational reference charts for mailing at the special fourth-class rates of postage.

**EFFECTIVE DATE:** September 20, 1992.

**FOR FURTHER INFORMATION CONTACT:** Martin L. Cohen (202) 268-5169.

**SUPPLEMENTARY INFORMATION:** Section 724.1g of the Domestic Mail Manual provides that printed educational reference charts can qualify for mailing at the special fourth-class rates of postage. The Postal Service has determined to amend this regulation to provide more explicit guidance to mailers concerning the rate eligibility of printed educational reference charts. The amendment includes a further definition of educational reference charts and some examples of charts that do and do not qualify for special fourth-class rates. This definition is consistent with the standards long used in issuing classification decisions.

Accordingly, although exempt from the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service has determined that, if the Postal Service were not exempt from the provisions of the Administrative Procedure Act, notice and comment rulemaking and a delayed effective date would not be required.

The Postal Service adopts the following amendment to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

**List of Subjects in 39 CFR Part 111**

Postal Service.

### PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001-3011, 3201-3219, 3403-3406, 3621, 5001.

2. Section 724.1g of the Domestic Mail Manual is revised to read as follows:

724 SPECIAL FOURTH-CLASS RATES

* * * * *

724.1 General Description

* * * * *

g. Printed Educational Reference Charts

Each chart must be a single printed sheet of information which is primarily designed to be used for educational reference purposes. It must be designed to instruct or train individuals for the purpose of improving or developing their capabilities. The information on the chart, which may be printed on one or both sides of the sheet, must be primarily conveyed by graphs, diagrams, tables, or other non-narrative matter. A chart on which the information is primarily conveyed by textual matter in a narrative form does not qualify as a printed educational reference chart for mailing at the special fourth-class rates even if it includes graphs, diagrams, or tables.

An educational reference chart is normally, but not necessarily, devoted to one subject. Examples of qualifying charts include, but are not limited to: Maps produced primarily for educational reference purposes; tables of mathematical or scientific equations; noun declensions; verb conjugations used in the study of languages; the periodic table of elements; botanical or zoological tables; and other tables used in the study of science.

A transmittal letter making the change in the Domestic Mail Manual will be published and transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the Federal Register as provided by 39 CFR 111.3.

Stanley F. Mires,

*Assistant General Counsel, Legislative Division.*

[FR Doc. 92-14334 Filed 6-17-92; 8:45 am]

BILLING CODE 7710-12-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[VA7-1-5438; A-1-FRL-4144-7]

### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Deletion of Alternate Control Program for J.W. Fergusson & Sons, Inc.

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision deletes the alternate control program (bubble) for J.W. Fergusson & Sons, Inc., approved by EPA on March 4, 1983 (48 FR 9257). J.W. Fergusson & Sons, Inc. emits volatile organic compounds (VOCs) from its operations. Upon approval of this SIP revision, J.W. Fergusson & Sons, Inc. will still remain subject to the federally-approved reasonable available control technology (RACT) regulations for graphic arts in the Virginia State Implementation Plan (SIP). The intended effect of this action is to approve the Commonwealth's request to amend its SIP by deleting J.W. Fergusson & Sons, Inc.'s source-specific alternate control program (bubble) for meeting RACT. This action is being taken in accordance with section 110 of the Clean Air Act as amended by the Clean Air Act Amendments of 1990.

**EFFECTIVE DATE:** This action will become effective August 17, 1992 unless notice is received within 30 days that adverse or critical comments will be submitted. If final action is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and Virginia Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia, 23240.

**FOR FURTHER INFORMATION CONTACT:** Cristina M. Schulingkamp, U.S. EPA Region III, (215) 597–0545.

**SUPPLEMENTARY INFORMATION:** On October 31, 1991, the Commonwealth of Virginia submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of deleting the source-specific alternate control program (bubble) for J.W. Fergusson & Sons, Inc.

The currently approved Virginia SIP contains a source-specific alternate control program (bubble) for J.W. Fergusson & Sons, Inc. Under this bubble, the source complies with the Virginia SIP's graphic arts RACT regulation via an equivalent but alternative compliance plan. EPA approved this bubble on March 4, 1983 (48 FR 9257).

J.W. Fergusson & Sons, Inc. still remains subject to the Virginia SIP's graphic arts RACT regulations once this source-specific alternate control program (bubble) is removed from the SIP. A more detailed discussion can be found in the technical support document (TSD) accompanying this action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the "**ADDRESSES**" section of this notice.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on August 17, 1992.

### Final Action

EPA is approving the deletion of the source-specific alternate control program (bubble) for J.W. Fergusson & Sons, Inc. approved on March 4, 1983 (48 FR 9257). The Company is still subject to the graphic arts RACT regulations previously approved by EPA on January 25, 1984 (49 FR 3082), Virginia SIP regulation 4.55(m).

The Agency has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements.

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

Under 5 U.S.C. section 605(b), the Regional Administrator certifies that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action, pertaining to the deletion of the alternate control program (bubble) for J.W. Fergusson & Sons, Inc., located in Richmond, Virginia, has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 17, 1992. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

June 2, 1992.

**Edwin B. Erickson,**

*Regional Administrator.*

Subpart VV, part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7642.

### Subpart VV—Virginia

**§ 52.2420 [Amended]**

2. In § 52.2420 paragraph (c)(72) is removed and reserved.

3. Section 52.2423 is amended by adding paragraph (i) to read as follows:

**§ 52.2423 Approval status.**

* * * * *

(i) Pursuant to an October 31, 1991 request submitted by the Virginia Department of Air Pollution Control, the source-specific Alternate Control Program (bubble) for J.W. Fergusson & Sons, Inc. which EPA had approved on March 4, 1983, is removed from the plan. J.W. Fergusson & Sons, Inc. located in Richmond, Virginia is required to comply with the Virginia SIP graphic arts RACT regulation approved by EPA on January 25, 1984 (see 40 CFR 52.2420 (c)(48) and (c)(74)).

[FR Doc. 92–14268 Filed 6–17–92; 8:45 am]

BILLING CODE 6560–50–M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 68

**[CC Docket No. 87–124; FCC 92–217]**

### Access to Telecommunications Equipment by Hearing Impaired

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This Report and Order (R&O) in CC Docket 87–124 adopts proposed amendments to part 68 of the rules to require that most telephones (as specified) be hearing aid-compatible by May 1, 1992. However, to avoid excessive costs associated with field retrofitting, the compliance date of the rules is delayed until May 1, 1993 for establishments with 20 or more employees and until May 1, 1994 for all others.

**DATES:** July 20, 1992.

**COMPLIANCE DATE:** The compliance date of the rules is delayed until May 1, 1993 for establishments with 20 or more employees and until May 1, 1994 for all others.

**FOR FURTHER INFORMATION CONTACT:** Robert Kimball, Domestic Services Branch, Domestic Facilities Division, Common Carrier Bureau, (202) 634–4215.

**SUPPLEMENTARY INFORMATION:** This summarizes the Commission's R&O in the matter of Access to Telecommunications Equipment and Services by the Hearing Impaired and Other Disabled Persons, CC Docket No. 87–124, FCC 92–217, adopted May 14, 1992. The R&O and supporting file may be examined during federal business hours in the Commission's Dockets Branch, room 230, 1919 M St., NW., Washington, DC, or purchased from the duplicating contractor, Downtown Copy Center, 1114 21st St., NW., Washington, DC 20036, (202) 452–1422.

This proceeding was initiated by the Commission's Memorandum Opinion

and Order (MO&O) and Further Notice of Proposed Rulemaking (NPRM) in CC Docket 87–124, 5 FCC Rcd 3434 (1990) [55 FR 28762 (July 13, 1990), 55 FR 28781 (July 13, 1990)]; *recon. denied,* 6 FCC Rcd 4799 (1991). In the MO&O portion of the proceeding, the Commission determined, among other things, that all credit card operated telephones and telephones in common areas of the workplace would have to be hearing aid-compatible by May 1, 1991. That decision was based, in part, upon an estimated retrofitting cost of $1.50 per telephone as stated in Senate Report No. 100–391, 100th Cong. 2d Sess. (1988) and the limited number of instruments that would be affected by the rule change. On reconsideration, the Commission decided that even if the $1.50 estimate was unrealistically low, the benefits of the change still outweighed the costs because of the limited number of instruments affected.

The NPRM portion of the proceeding proposed rules requiring that most other telephones (as specified) be hearing aid-compatible by May 1, 1992. The proposed rules would result in those telephones being subject to retrofitting which would, in a large number of cases, require the discovery and replacement or refurbishment of non-hearing aid-compatible telephones at locations where they already have been installed and are in use. Eight comments and two reply comments were filed and each was carefully considered with due consideration to the requirement in 47 U.S.C. 610(a) that the Commission establish regulations to insure reasonable access to telephone service by persons with impaired hearing, but that, pursuant to 47 U.S.C. 610(f), the Commission not require retrofitting of equipment other than coin operated telephones and telephones provided for emergency use. The Commission is not precluded from adding new categories of emergency telephones; indeed, 47 U.S.C. 610(f) provides that the Commission shall periodically review the regulations established pursuant to § 610.

Three of the commenting parties argue that the estimated cost of $1.50 per telephone for retrofitting is underestimated, and they cite costs ranging from $2.60 to an average of $45.14. Other parties challenge those estimates as being inconsistent and unsupported. In reply comments, parties contending that the retrofitting cost of $1.50 per telephone is underestimated argue that the cost does not include field testing to identify those telephones which are non-hearing aid-compatible and to perform retrofitting. The evidence shows to our satisfaction that the $1.50 cost cited in the Senate Report does not reliably represent the cost of retrofitting telephones in the field, and may not have been intended to represent those costs. Accordingly, in reviewing the arguments as to the costs and benefits of the proposed rules, we find that the costs of field retrofitting are likely to be significantly higher than the $1.50 per set estimate originally relied upon, and that the universe of telephones affected by the proposed rules will be considerably larger than that affected by the rules upheld in the reconsideration.

Evidence indicates that the number of non-hearing aid-compatible telephones still in the working place continues to be reduced by operation of the requirements of the Hearing Aid Compatibility Act of 1988 and § 68.4(a)(1) of the rules which requires that, with limited exceptions, every telephone manufactured in the United States (other than for export) or imported for use in the United States after August 16, 1989, must be hearing aid-compatible. At the current rate of depletion, the number of non-hearing aid-compatible telephones will be reduced by a predictable amount over the next few years and the benefits ultimately will outweigh the costs. We conclude that in the case of small establishments, i.e., those with fewer than twenty employees, a delay of two years in the date on which the proposed rules will become applicable will proportionately reduce the size of the universe of telephones affected by the rules to about 4.2 million telephones. With reference to larger establishments, however, i.e., those with twenty or more employees, the cost per instrument would be proportionally smaller, and we believe that a delay of only one year is justified. Therefore, the proposed rules are adopted with the condition that they not go into effect until May 1, 1993 for establishments with twenty or more employees, and until May 1, 1994 for all others.

## Final Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.*, the Commission's final analysis in this R&O is as follows:

*I. Need and Purpose of This Action*

The regulations affected by this Report and Order were required by the Hearing Aid Compatibility Act of 1988. On reexamination of the rules adopted pursuant to that Act, the Commission finds that certain amendments are necessary to fulfill the goals established by Congress.

*II. Summary of Issues Raised by Public Comments in Response to the Initial Regulatory Flexibility Analysis*

No comments were filed in direct response to the initial Regulatory Flexibility Analysis.

*III. Significant Alternatives Considered and Rejected*

The Commission considered the alternatives raised by the parties in this proceeding and considered all timely filed comments directed to those issues. After carefully weighing all aspects of this proceeding, the Commission has adopted the most reasonable course of action under the mandate of the Hearing Aid Compatibility Act and the Communications Act of 1934, as amended.

## Ordering Clause

*It is ordered,* Pursuant to section 1, 4(i) and 710 of the Communications Act of 1934, as amended, that part 68 of the Commission's Rules and Regulations is amended as set forth below.

## List of Subjects for 47 CFR Part 68

Hearing aid-compatible telephones, Hearing aid-compatibility, Administrative practice and procedure.

Federal Communications Commission.

**Donna R. Searcy,**

*Secretary.*

## Rule Changes

Title 47 of the Code of Federal Regulations, part 68, is amended as follows:

1. The authority citation for part 68 is revised to read as follows:

**Authority:** (47 U.S.C. 151, 154, 155, 201–205, 208, 215, 218, 226, 303, 313, 314, 403, 404, 410, 522, 610.

2. Section 68.4 is amended by revising paragraph (a)(2) to reach as follows:

**§ 68.4 Hearing aid-compatible telephones.**

(a) * * *

(2) Unless otherwise stated and except for telephones used with public mobile services, telephones used with private radio services and secure telephones, every telephone listed in § 68.112 must be hearing aid-compatible.

* * * * *

3. Section 68.112 is amended by revising paragraphs (B)(1), (b)(3) and (c) and adding paragraph (b)(5) to read as follows:

**§ 68.112 Hearing aid-compatibility.**

* * * * *

(b) *Emergency use telephones.* * * *

(1) Telephones in places where a person with impaired hearing might be

isolated in an emergency, including, but not limited to, elevators, automobile, railroad or subway tunnels, highways and all areas of the workplace including common areas (libraries, reception areas and similar locations where employees are reasonably expected to congregate). With respect to the workplace, non-common area telephones are not required to be hearing aid-compatible until May 1, 1993 for establishments with twenty or more employees, and until May 1, 1994 for all other establishments, except for telephones made available to a hearing impaired employee for use by that employee in his or her employment duty. Such telephones shall be hearing aid-compatible by May 1, 1992.

* * * * *

(3) Telephones needed to signal life-threatening or emergency situations in confined settings, including but not limited to, rooms in hospitals, residential health care facilities for senior citizens, convalescent homes, and prisons. If an alternative means of signalling life-threatening or emergency situations is available, a hearing aid-compatible telephone is not required until May 1, 1993 for establishments with twenty or more employees, and until May 1, 1994 for all other establishments, unless replaced before that time.

* * * * *

(5) Until May 1, 1993 for establishments with twenty or more employees, and until May 1, 1994 for all other establishments, telephones in hotel and motel rooms replaced after January 1, 1985, must be hearing aid-compatible unless at least ten percent of the rooms in a hotel or motel are equipped to accommodate a hearing impaired customer. A room is equipped to accommodate a hearing impaired customer if

(i) It contains a permanently installed hearing aid-compatible telephone; or

(ii) It contains a telephone which will accept a plugin hearing aid-compatible handset, which shall be provided to the hearing impaired customer by the hotel or motel; or

(iii) The room contains a jack into which a hearing air-compatible telephone provided to the customer by the hotel or motel may be plugged (i.e., in addition to a permanently installed telephone which is not hearing aid-compatible). If fewer than ten percent of the rooms in a hotel or motel are hearing aid-compatible, when replacing a telephone the hotel or motel must, until the ten percent minimum is reached:

(A) Replace it with a hearing aid-compatible telephone, or

(B) Procure and maintain a plug-in hearing aid-compatible telephone handset which it will provide to a hearing impaired customer upon request at check-in. For establishments with twenty or more employees, all telephones in hotel and motel rooms are required to be hearing aid-compatible by May 1, 1993. For establishments with fewer than twenty employees, all telephones in hotel and motel rooms are required to be hearing aid-compatible by May 1, 1994.

(c) *Telephones frequently needed by the hearing impaired.* Closed circuit telephones, i.e., telephones which cannot directly access the public switched network, such as telephones located in lobbies of hotels or apartment buildings; telephones in stores which are used by patrons to order merchandise; telephones in public transportation terminals which are used to call taxis or to reserve rental automobiles, need not be hearing aid-compatible until replaced.

[FR Doc. 92-13669 Filed 6-17-92; 8:45 am]
BILLING CODE 6712-01-M

## 47 CFR PART 90

**[PR Docket No. 91-62; FCC 92-196]**

## Eligibility in the Motion Picture Radio Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a final rule concerning eligibility in the motion picture radio service, (57 FR 19811 (May 8, 1992)), by adding a Final Regulatory Flexibility Analysis.

**EFFECTIVE DATE:** June 18, 1992.

**FOR FURTHER INFORMATION CONTACT:** Tatsu Kondo, Land Mobile and Microwave Division, (202) 634-2443.

**SUPPLEMENTARY INFORMATION:** In FR Doc 92-10646, published in 57 FR 19811 (May 8, 1991, the Supplementary Information section is corrected by redesignating paragraphs 4 and 5 as paragraphs 5 and 6 and adding a new paragraph 4 to read as follows:

4. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows.

I. Need and Purpose of This Action

This Report and Order amends the eligibility criteria governing the Motion Picture Radio Service, which has been renamed the Video Production Radio Service, to encompass additional technologies developed since the service was created. In addition to motion picture production, eligibility is extended to on-location videotape production of mass media programming, regardless of the ultimate distribution mode. Many small video and film production entities could be positively affected by this action because additional radio communications options will be made available to them. This action furthers the Commission's goals of promoting efficiency and innovation in the allocation, licensing and use of the electromagnetic spectrum.

II. Summary of the Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

There were no comments submitted in response to the Initial Regulatory Flexibility Analysis.

III. Significant Alternatives Considered

The Notice of Proposed Rule Making asked whether amendment of the rules governing eligibility for the Motion Picture Radio Service was desirable to accommodate technologies, such as television broadcasting, developed after the MPRS was created in 1927. After considering the comments, we adopted some of the commenters' suggestions to modify the proposal set out in the Notice.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 92-14252 Filed 6-17-92; 8:45 am]
BILLING CODE 6712-01-M

## INTERSTATE COMMERCE COMMISSION

## 49 CFR Part 1201

**[Ex Parte No. 492]**

## Montana Rail Link, Inc. and Wisconsin Central Ltd., Joint Petition for Rulemaking

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission raises the revenue classification level for class I rail carriers from $50 million to $250 million and concurrently revises the revenue deflator formula from a base period of 1978 to 1991. Also, the Commission raises the revenue classification level for class II rail carriers from $10 million to $20 million (also rebased to 1991 dollars). The purpose and intended effect of the changes is to reduce accounting and

reporting burdens on railroad companies.

**EFFECTIVE DATE:** These revisions are effective July 20, 1992.

**FOR FURTHER INFORMATION CONTACT:** Brian A. Holmes, (202) 927–5730, (TDD for hearing impaired: (202) 927–5721.).

**SUPPLEMENTARY INFORMATION:** By petition dated December 3, 1990, Montana Rail Link, Inc. (MRL) and Wisconsin Central Ltd. (WC) requested that the Commission amend the rail carrier classification regulations.

After considering the proposal, we issued a Notice of Proposed Rulemaking (NPR), served September 10, 1991 (56 FR 46272, Sept. 11, 1992). After consideration of all comments, we are raising the revenue classification level for class I rail carriers set forth in 49 CFR 1201, General Instruction 1–1(a) from $50 million to $250 million, while concurrently revising the base year for calculating the revenue deflator formula from 1978 to 1991 (See Note A to Instruction 1–1). We are also raising the revenue classification level for class II rail carriers from $10 million to $20 million.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 927–5721 or by pickup from Dynamic Concepts Inc. in room 2229 at Commission headquarters.]

This revision will not have a significant economic impact on a substantial number of small entities and this decision will not significantly affect the quality of the human environment or the conservation of energy resources.

This decision will not impose additional reporting hours on rail carriers now filing reports with the Commission. In effect, it will make the reporting requirements inapplicable to one currently reporting carrier, the Florida East Coast Railway, and to four carriers (Montana Rail Link, Inc., Wisconsin Central Ltd., Western Rail Properties, Inc., and Duluth, Missabe, and Iron Range Railway Co.) that would have been required to file reports in the absence of this revision.

**List of Subjects in 49 CFR Part 1201**

Railroads, Reporting and recordkeeping requirements, Uniform System of Accounts.

Decided: June 10, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

**Sidney L. Strickland, Jr.,**

*Secretary.*

For the reasons set forth in the preamble, title 49, chapter X, Part 1201 of the Code of Federal Regulations is amended as follows:

## PART 1201—RAILROAD COMPANIES

1. The authority citation for part 1201 continues to read as follows:

**Authority:** 5 U.S.C. 553 and 49 U.S.C. 11166.

### Subpart A—[Amended]

2. In subpart A, General Instructions is amended by revising Instruction 1–1.

**General Instructions**

1–1 *Classification of carriers.* (a) For purposes of accounting and reporting, carriers are grouped into the following three classes:

Class I: Carriers having annual carrier operating revenues or $250 million or more after applying the railroad revenue deflator formula shown in Note A.

Class II: Carriers having annual carrier operating revenues of less than $250 million but in excess of $20 million after applying the railroad revenue deflator formula shown in Note A.

Class III: Carriers having annual carrier operating revenues of $20 million or less after applying the railroad revenue deflator formula shown in Note A.

(b)(1) The class to which any carrier belongs shall be determined by annual carrier operating revenues after the railroad revenue deflator adjustment. Upward and downward reclassification will be effected as of January 1 in the year immediately following the third consecutive year of revenue qualification.

(2) If a Class II or Class III carrier's classification is changed based on three years' adjusted revenues the carrier shall complete and file the Classification Index Survey Form with the Commission by March 31 of the year following the end of the period to which it relates.

(3) Newly organized carriers shall be classified on the basis of their annual carrier operating revenues after railroad revenue deflator adjustment for the latest period of operation. If actual data are not available, new carriers shall be classified on the basis of their carrier operating revenues known and estimated for a year (after railroad revenue deflator adjustment).

(4) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred (after railroad revenue deflator adjustment).

(5) In unusual circumstances, such as partial liquidation and curtailment or elimination of contracted services, where regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying the conditions justifying an exception.

(c) Class I carriers shall keep all of the accounts of this system which are applicable to their operations. Class II and III carriers are not required to maintain the accounts of this system.

(d) All switching and terminal companies, regardless of their operating revenues will be designated Class III carriers.

(e) Unless provided for otherwise, all electric railway carriers, regardless of operating revenues, will be designated Class III carriers.

**Note A:** The railroad revenue deflator formula is based on the Railroad Freight Price Index developed by the Bureau of Labor Statistics. The formula is as follows:

Current Year's Revenues × (1991 Average Index/Current Year's Average Index)

**Note B:** See related regulations 49 CFR 1241.15 Railroad classification survey form.

* * * * *

[FR Doc. 92–14358 Filed 6–17–92; 8:45 am]

BILLING CODE 7035–01–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration (NOAA)

### 50 CFR Part 675

**[Docket No. 911172–2021]**

### Groundfish of the Bering Sea and Aleutian Islands Area

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

**ACTION:** Apportionment of reserve; closure of directed fishing; request for comments.

**SUMMARY:** NMFS announces that amounts of the operational reserve are needed in the fishery for pollock in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area (BSAI). NMFS is closing the directed fishery for pollock by the inshore component in the AI. This action is necessary to prevent exceeding the pollock allowance available for harvest by the inshore component in the AI.

**DATES:** Effective 12 noon, Alaska local time (A.l.t.), June 12, 1992, through 12 midnight, A.l.t., December 31, 1992. Comments are invited through June 27, 1992.

**ADDRESSES:** Comments should be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802–1668, or delivered to 9109 Mendenhall Mall Road, Federal Building Annex, suite 6, Juneau, Alaska.

**FOR FURTHER INFORMATION CONTACT:** Andrew N. Smoker, Resource Management Specialist, NMFS, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

## Apportionment

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(b)(1)(i), that the initial total allowable catch (TAC) specified for pollock needs to be supplemented from the nonspecific reserve in order to continue operations. Therefore, NMFS apportions 3,870 metric tons (mt) from the reserve to the pollock TAC in the AI, resulting in a revised AI pollock TAC of 47,730 mt. The revised allowances available in the second pollock season by the inshore and offshore components are 5,662 mt and 10,516 mt, respectively, in accordance with § 675.20(a)(3)(ii).

## Closure to Directed Fishing

The Regional Director has determined, in accordance with § 675.20(a)(8), that the pollock allowance for the inshore component in the AI will soon be reached. Therefore, the Regional Director has established a directed fishing allowance of 5,500 mt and set aside the remaining 162 mt as bycatch to support other anticipated groundfish fisheries. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in the AI by the inshore component effective from 12 noon, A.l.t., June 12, 1992, through 12 midnight, A.l.t., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

## Classification

This action is taken under 50 CFR 675.20 and is in compliance with Executive Order 12291.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment or delaying the effective date of this notice is impractical and contrary to the public interest. Without this apportionment, U.S. groundfish fishermen would have to discard bycatches of pollock in the AI, resulting in needless economic waste of valuable fishery resources. Under § 675.20(b)(2), interested persons are invited to submit written comments on this apportionment to the above address until June 27, 1992.

## List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: June 12, 1992.

**David S. Crestin,**

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

[FR Doc. 92–14276 Filed 6–12–92; 4:24 pm]

BILLING CODE 3510–22–M

# Proposed Rules

Federal Register
Vol. 57, No. 118
Thursday, June 18, 1992

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.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 20 and 50

**RIN 3150-AE30**

### Reducing the Regulatory Burden on Nuclear Licensees

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to reduce the regulatory burden on nuclear licensees. This proposal reflects an initiative undertaken by the Commission in order to respond to a Presidential memorandum requesting that selected Federal agencies review and modify regulations that will reduce the burden of governmental regulation to ensure that the regulated community is not subject to duplicative or inconsistent regulation. In that spirit, the NRC's Committee to Review Generic Requirements (CRGR) identified regulations in eight areas that could be amended to reduce the regulatory burden on licensees without in any way reducing the protection for the public health and safety or the common defense and security. The proposed amendments address the frequency of reporting information and emergency core cooling system analysis for operating power reactors, clarify and update regulations affecting certain material licensees, and remove unnecessary regulatory requirements.

**DATE:** The comment period expires on July 20, 1992. Comments received after this date will be considered if it is practicable to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to One White Flint North, 11555 Rockville Pike, Rockville, MD, between the hours of 7:30 a.m. and 4:15 p.m. on weekdays.

Copies of the comments received, as well as other documents referenced in this package may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555.

**FOR FURTHER INFORMATION CONTACT:** Mr. C.W. Nilsen, telephone (301) 492-3834 or Mr. Joseph J. Mate, telephone (301) 492-3795, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

**SUPPLEMENTARY INFORMATION:**

#### Background

On January 28, 1992, the President of the United States signed a memorandum addressed to selected Federal Agency Heads who are concerned with energy production and protection of the environment. The memorandum requested the addressees work together to streamline the regulatory process and ensure that the regulatory community is not subject to duplicative or inconsistent regulation.

On January 28, 1992, the President signed a second memorandum entitled "Reducing the Burden of Government Regulation." This memorandum, which was sent to all Federal agencies, set aside a 90-day period to review and evaluate existing regulations and programs and to identify and accelerate action on initiatives that will eliminate any unnecessary regulatory burden. At the end of the review period, agencies were to submit a written report indicating the regulatory changes recommended or made during the review period and the potential savings as a result of the changes.

In response to the Presidential memoranda, the Commission decided that it would be consistent with its policy to monitor the impact of complying with NRC regulations by its licensees to instruct the Committee to Review Generic Requirements (CRGR) to review existing NRC regulations to determine whether regulatory burdens can be reduced without in any way reducing the protection for the public health and safety and the common defense and security. In accomplishing their review, the CRGR drew upon previous studies and solicited comments from the public, other Federal agencies, and the Commission's staff. A **Federal Register** Notice was published on February 24, 1992 (57 FR 6299) seeking public comments in connection with the review, and a second **Federal Register** Notice on March 23, 1992 (57 FR 9985) discussed likely or possible candidates for action, based on CRGR's preliminary evaluation of comments. An associated public meeting was held on March 27, 1992, in Bethesda, Maryland.

After completing their special review, the CRGR recommended revising the regulations in eight areas. The suggested revisions met the criteria for reducing the burden without in any way reducing the protection for public health and safety and common defense and security.

The Chairman of the NRC sent a report to the President of the United States on April 27, 1992, which summarized NRC's activities concerning the President's directive and advised the President that NRC would pursue the CRGR's recommendations expeditiously within the framework of the procedures and practices for rulemaking.

On June 1, 1992, in response to a memorandum from the President of the United States, dated April 29, 1992, the Commission directed the staff to strive to publish the proposed rule changes in the eight areas previously identified by a special review group in the Federal Register for comment as soon as possible, but not later than June 15, 1992, with a view to issuing the final rules in the Federal Register no later than August 27, 1992.

#### Discussion

The Nuclear Regulatory Commission is proposing amendments to 10 CFR parts 20 and 50 to implement the eight proposed actions identified in the report on "Special Review of Existing NRC Regulations" that was completed by the CRGR and that was attached to Chairman Selin's letter to the White House dated April 27, 1992. The actions proposed to be amended would not reduce the NRC's protection of the public health and safety or the common defense and security.

During the special review of existing NRC regulations, some comments were received which indicated that adequate time should be allowed for public

comment on any proposed rule changes. A thirty-day comment period is being provided.

*1. Frequency of Final Safety Analysis Report (FSAR) Updates (10 CFR 50.71)*

This proposed action would provide licensees with an option from the current requirements for the annual updating of the Final Safety Analysis Report (FSAR). In lieu of an annual submission, licensees may choose to provide the required information once per each refueling outage. According to the proposed revision, updates to the FSAR can be submitted 6 months after each refueling outage, provided the interval between successive updates to the FSAR does not exceed 24 months. This proposed action does not affect the substance of FSAR updates.

The estimated savings for this action, assuming an average remaining plant life of 26 years, is $11,100,000 for licensees and $910,000 for the NRC.

*2. Annual Design Change Reports (10 CFR 50.59)*

This proposed action would revise the requirements for the annual submission of reports for facility changes under § 50.59 (Changes, tests, and experiments) to conform with the proposed change for updating the FSAR (see Item 1). This proposed action does not affect the substance of the evaluation or the documentation required for § 50.59 type changes. It only affects the interval for submission of the information to NRC. Instead of submitting the information annually, the information could be submitted on a refueling cycle, provided the interval between successive reports does not exceed 24 months.

The estimated savings for this action, assuming an average remaining plant life of 26 years, is $1,500,000 for licensees and $400,000 for the NRC.

*3. Elimination of Unnecessary Event Reports (10 CFR 50.72 and 50.73)*

The proposed revision concerning event reporting is covered in a separate rulemaking action. For additional details on this action, please see the Commission Paper, SECY–92–146, dated April 22, 1992, entitled "Proposed Minor Rulemaking to Modify Operating Power Reactors Event Reporting Requirements." This proposed rule will be announced separately and details will be available in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555, in late June 1992.

*4. Use of Fuel With Zirconium-Based (Other Than Zircaloy) Cladding (10 CFR 50.44, 50.46, and Appendix K to Part 50)*

This proposed action would revise the acceptance criteria in 10 CFR 50.44 and 50.46, Part 50, relating to evaluations of emergency core cooling systems, and combustible gas control applicable to zircaloy clad fuel to include ZIRLO clad fuel. This revision to include ZIRLO as an acceptable zirconium based cladding material with zircaloy will reduce the licensee burden but will not reduce the protection of the public health or safety. The NRC will address, through an appropriate separate rulemaking, the use of other similar Zirconium based cladding materials when all of the necessary safety evaluations for those materials have been completed.

The estimated savings for eliminating the need to process recurring exemptions to the regulations is based on six plants per year requesting the use of ZIRLO clad fuel over the next 8 years. The estimated savings to the licensees is $2,000,000 per year and the savings to the NRC is $50,000 per year.

*5. Frequency of Radiological Effluent Reports (10 CFR 50.36a)*

This proposed action would reduce the requirements for the submission of reports concerning the quantity of principal nuclides released to unrestricted areas in liquid and gaseous effluents from semiannually to annually.

The estimated savings for this action, assuming an average remaining plant life of 26 years, is $16,800,000 for licensees and $360,000 for the NRC.

*6. Receipt Back of Processed Low Level Waste (10 CFR 50.54)*

This action is addressed in a separate rulemaking. For additional information on this action, see the proposed rule entitled "Receipt of Byproduct and Special Nuclear Material" published in the **Federal Register** on April 24, 1992 (57 FR 15034).

*7. Contamination Monitoring of Packages (10 CFR 20.1906(b))*

This proposed action would clarify the regulations and reduce the monitoring burden for packages containing radioactive material in the form of a gas or in a special form as defined in 10 CFR 71.4.

The estimated savings to licensees is $66.4 million.

*8. Posting of Rooms Occupied by Diagnostic Nuclear Medicine Patients (10 CFR 20.1903(b))*

The proposed revision would reduce the posting requirements for rooms in hospitals occupied by patients administered radioactive materials who might otherwise be released from confinement under the provisions of 10 CFR 35.75.

The estimated savings to licensees is $300,000 for elimination of the need for posting.

**Environmental Impact: Categorical Exclusion**

The NRC determined that the proposed regulation is the type of action described in categorical exclusions 10 CFR 51.22(c( (2) and (3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

**Paperwork Reduction Act Statement**

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq*). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

The reduction of the public reporting burden for this collection of information is estimated to average 208 hours per response for operating power reactors and 1 hour per response for certain materials licensees, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information including suggestions on this reduced burden to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019 (3150–0011, 3150–0014), Office of Management and Budget, Washington, DC 20503.

**Regulatory Analysis**

The Nuclear Regulatory Commission is proposing to amend its regulations to reduce the regulatory burden on nuclear licensees. This action reflects an initiative on the part of the NRC and responds to the spirit of President Bush's memoranda of January 28, 1992, which requested that selected Federal agencies review and modify regulations that will reduce the burden of governmental regulation to ensure that the regulated community is not subject to duplicative or inconsistent regulation. The Nuclear Regulatory Commission has identified eight proposed rulemaking actions that

would eliminate duplicative or inconsistent regulatory requirements. Six of the proposed actions are included in this package. Two of the eight actions are being processed as separate rulemakings and are not discussed here. The actions are as follows:

1. Frequency of Final Safety Analysis Report Updates—to change the frequency of safety analysis report updates from one per year to once per refueling cycle (10 CFR 50.71);

2. Annual Design Change Reports—to change the frequency of reporting changes at power reactors from once per year to once per refueling cycle (10 CFR 50.59(b));

3. Elimination of unnecessary event reports—separate rulemaking;

4. Use of Fuel and Zirconium-Based Cladding—to eliminate the need to obtain exemptions in order to use certain fuel cladding materials not presently addressed in the regulations (10 CFR 50.44, 10 CFR 50.46 and 10 CFR part 50, appendix K);

5. Frequency of Radiological Effluent Reports—to change the frequency of reports on power reactor radiological effluents from twice per year to once per year (10 CFR 50.36a);

6. Receipt Back of Processed Low Level Waste—separate rulemaking.

7. Contamination Monitoring of Packages—to eliminate certain provisions for contamination monitoring of packages containing certain types of radioactive material (10 CFR 20.1906)b));

8. Posting of Rooms Occupied by Diagnostic Nuclear Medicine Patients—to include exceptions for posting requirements for rooms in hospitals for patients adminsitered radiopharmaceuticals for diagnostic tests (10 CFR 20.1903(b)).

Each of these proposed actions considers the elimiantion or relaxation of regulatory requirements currently imposed on NRC licensees. Actions 1, 2, 4, and 5 would affect power reactor licensees, whereas Actions 7 and 8 would affect materials licensees. For each regulatory action, the staff has evaluated the health and safety implications and the cost impacts relative to a status quo alternative. The staff finds that each would result in a reduction in burden without reducing protection of the public health and safety. The public health and safety determination appears in a document entitled, "Report on Special Review of Existing NRC Regulations by the Committee to Review Generic Requirements" issued on April 13, 1992. Additionally, an analysis of the safety implications of Action 3 is available in a U.S. NRC Letter to Westinghouse Corporation dated July 1, 1991, entitled "Acceptance For Referencing Of Topical Report WCAP–12610 "Vantage+Fuel Assembly Reference Core Report" (TAC NO. 77258)."

The cost savings to both the licensee population and the NRC appear below. Dollar impacts are expressed on a 1992 present worth basis in 1992 dollars. The basis for these cost estimates is available in a report entitled "Analyses of Potential Cost Savings for Selected NRC Reforms dated June 10, 1992."

TOTAL DISCOUNTED (1) COST SAVINGS ASSOCIATED WITH PROPOSED REGULATORY REVISIONS (1992 $ IN MILLIONS)

| Regulatory revision | Licensees | NRC |
|---|---|---|
| Item 1 | 11.1 | 0.910 |
| Item 2 | 1.5 | 0.400 |
| Item 3 | (2) N/A | (2) N/A |
| Item 4 | 2.0 | 0.050 |
| Item 5 | 16.8 | 0.360 |
| Item 6 | N/A | N/A |
| Item 7 | 66.4 | (3) −0.100 |
| Item 8 | 0.3 | (3) −0.100 |

NOTE: (1) assumes an annual real discount rate of 5%.
(2) not applicable—separate rulemaking.
(3) negative cost savings represent a cost expenditure.

The NRC concludes that each of these proposed regulatory revisions is justified due to the net cost saviangs that would accrue without compromising public health and safety.

**Regulatory Flexibility Certification**

Based on the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the NRC certifies that, if promulgated, these rules will not have a significant adverse economic impact on a substantial number of small entities. The NRC has adopted size standards that classify a small entity as a small business or organization, one whose gross annual receipts do not exceed $3.5 million, or as a small governmental jurisdiction whose supporting population is 50,000 or less. The first six issues effect 112 power reactor licensees. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the NRC Size Standards. The remaining two issues involve the relaxation of requirements which will affect approximately 10,000 material licensees. Although many of these licensees may be small entities, there should be no adverse impact on these small licensee because the regulations are being relaxed.

**Backfit Analysis**

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed regulation and, therefore, that a backfit analysis is not required for this proposed rule, because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

**List of Subjects**

*10 CFR Part 20*

Byproduct material, Criminal penalty, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

*10 CFR Part 50*

Antitrust, Classified information, Criminal penalty, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 20 and 50.

## PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for part 20 continues to read as follows:

**Authority:** Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 20.408 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

For the purposes of sec. 233, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 20.101, 20.102, 20.103 (a), (b), and (f), 20.104 (a) and (b), 20.105(b), 20.106(a), 20.201, 20.202(a), 20.205, 20.207, 20.301, 20.303, 20.304, and 20.305, 20.1102, 20.1201–20.1204, 20.1206, 20.1207, 20.1208, 20.1301, 20.1302, 20.1501, 20.1502, 20.1601 (a) and (d), 20.1602, 20.1603, 20.1701, 20.1704, 20.1801, 20.1802, 20.1901(a), 20.1902, 20.1904, 20.1906, 20.2001, 20.2002, 20.2003, 20.2004, 20.2005 (b) and (c), 20.2006, 20.2101–20.2110, 20.2201–20.2206, and 20.2301 are issued under sec. 161(b), 68 Stat. 948 as amended (42 U.S.C. 2201(b)); § 20.2106(d) is issued under the Privacy Act of 1974, Pub. L. 93–579, 5 U.S.C. 552a; and §§ 20.102, 20.103(e),

20.401–20.407, 20.408(b), 20.409, 20.1102(a) (2) and (4), 20.1204(c), 20.1206 (g) and (h), 20.1904(c)(4), 20.1905 (c) and (d), 20.2005(c), 20.2006 (b)–(d), 20.2101–20.2103, 20.2104(b)–(d), 20.2105–20.2108, and 20.2201–20.2207 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 20.1903 is amended by revising paragraph (b) to read as follows:

**§ 20.1903 Exceptions to posting requirements.**

* * * * *

(b) Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs pursuant to § 20.1902 provided that the patient could be released from confinement pursuant to § 35.75 of this chapter.

* * * * *

3. Section 20.1906 is amended by revising paragraph (b) to read as follows:

**§ 20.1906 Procedures for receiving and opening packages.**

* * * * *

(b) Each licensee shall—

(1) Monitor the external surfaces of a labeled [3a] package for radioactive contamination unless the package contains only radioactive material in the form of a gas or in special form as defined in 10 CFR 71.4;

(2) Monitor the external surfaces of a labeled [3a] package for radiation levels unless the package contains quantities of radioactive material that are less than or equal to the Type A quantity, as defined in § 71.4 and Appendix A to Part 71 of this chapter, and the radioactive material is in the form of a gas or in special form as defined in 10 CFR 71.4; and

(3) Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if the package has evidence of potential contamination, such as packages that are crushed, wet, or damaged.

* * * * *

## PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

4. The authority citation for part 50 continues to read as follows:

**Authority:** Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246, (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 50.5, 50.46(a) and (b), and 50.54(c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.5, 50.7(a), 50.10(a)–(c), 50.34 (a) and (e), 50.44(a)–(c), 50.46 (a) and (b), 50.47(b), 50.48 (a), (c), (d), and (e), 50.49(a), 50.54(a), (i), (i)(1), (1)–(n), (p), (q), (t), (v), and (y), 50.55(f), 50.55a(a), (c)–(e), (g), and (h, 50.59(c), 50.60(a), 50.62(b), 50.64(b), 50.65, and 50.80 (a) and (b) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.49 (d), (h) and (j), 50.54 (w), (z), (bb), (cc), and (dd), 50.55(e), 50.59(b), 50.61(b), 50.62(b), 50.70(a), 50.71(a)–(c) and (e), 50.72(a), 50.73 (a) and (b), 50.74, 50.78, and 50.90 are issued under sec. 161o, 68 Stat. 950 as amended (42 U.S.C. 2201(o)).

5. Section 50.36a is amended by revising paragraph (a)(2) to read as follows:

**§ 50.36a Technical specifications on effluents from nuclear power reactors.**

(a) * * *

(2) Each licensee shall submit a report to the Commission annually that specifies the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous 12 months of operation, including any other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public resulting from effluent releases. The report must be submitted as specified in § 50.4, and the time between submission of the reports must be no longer than 12 months. If quantities of radioactive materials released during the reporting period are significantly above design objectives, the report must cover this specifically. On the basis of these reports and any additional information the Commission may obtain from the licensee or others, the Commission may require the licensee to take action as the Commission deems appropriate.

* * * * *

6. Section 50.44 is amended by revising the introductory text of paragraphs (a), (b), and (c)(1) to read as follows:

**§ 50.44 Standards for combustible gas control system light-water-cooled power reactors.**

(a) Each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within cylindrical zircaloy or ZIRLO cladding, shall, as provided in paragraphs (b) through (d) of this section, include means for control of hydrogen gas that may be generated, following a postulated loss-of-coolant accident (LOCA), by—

* * * * *

(b) Each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within cylindrical zircaloy or ZIRLO cladding must be provided with the capability for—

* * * * *

(c)(1) Each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within cylindrical zircaloy or ZIRLO cladding, it must be shown that during the time period following a postulated LOCA, but prior to effective operation of the combustible gas control system, either:

* * * * *

7. Section 50.46 is amended by revising paragraph (a)(1)(i) to read as follows:

**§ 50.46 Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors.**

(a)(1)(i) Each boiling or pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical Zircaloy or ZIRLO cladding must be provided with an emergency core cooling system (ECCS) that must be designed so that its calculated cooling performance following postulated loss-of-coolant accidents conforms to the criteria set forth in paragraph (b) of this section. ECCS cooling performance must be calculated in accordance with an acceptable evaluation model and must be calculated for a number of postulated loss-of-coolant accidents of different sizes, locations, and other properties sufficient to provide assurance that the most servere postulated loss-of-coolant accidents are calculated. Except as provided in paragraph (a)(1)(ii) of this

[3a] Labeled with a Radioactive White I, Yellow II, or Yellow III label as specified in U.S. Department of Transportation regulations, 49 CFR 172.403 and 172.436–440.

section, the evaluation model must include sufficient supporting justification to show that the analytical technique realistically describes the behavior of the reactor system during loss-of-coolant accident. Comparisons to applicable experimental data must be made and uncertainties in the analysis method and input must be identified and assessed so that the uncertainty in the calculated results can be estimated. This uncertainty must be accounted for, so that, when the calculated ECCS cooling performance is compared to the criteria set forth in paragraph (b) of this section, there is high level of probability that the criteria would not be exceeded. Appendix K, part II, Required Documentation, sets forth the documentation requirements for each evaluation model.

* * * * *

8. Section 50.59 is amended by revising paragraph (b)(2) to read as follows:

**§ 50.59 Changes, tests, and experiments.**

* * * * *

(b) * * *

(2) The licensee shall submit, as specified in § 50.4, a report containing a brief description of any changes, tests, and experiments, including a summary of the safety evaluation of each. The report may be submitted annually or along with the FSAR updates as required by § 50.71(e), or at such shorter intervals as may be specified in the license.

* * * * *

9. Section 50.71 is amended by revising paragraph (e)(4) to read as follows:

**§ 50.71 Maintenance of records, making of reports.**

* * * * *

(e) * * *

(4) Subsequent revisions must be filed annually or 6 months after each refueling outage provided the interval between successive updates to the FSAR does not exceeed 24 months. The revisions must reflect all changes up to a maximum of 6 months prior to the date of filing.

* * * * *

Dated at Rockville, Maryland, this 11th day of June 1992.

For the Nuclear Regulatory Commission.

James M. Taylor,

*Executive Director for Operations.*

[FR Doc. 92-14370 Filed 6-18-92; 8:45 am]

BILLING CODE 7590-01-M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 92-NM-101-AD]**

## Airworthiness Directives; Airbus Industrie Model A310 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Airbus Industrie Model A310 series airplanes. This proposal would require conducting an integrity test to detect corrosion in the wing tip brake solenoids, and replacement, if necessary. This proposal is prompted by several incidents in which wing tip brake solenoids failed as a result of corrosion in the solenoid coils. The actions specified by the proposed AD are intended to prevent wing tip brake valve failure, which could lead to reduced controllability of the airplane.

**DATES:** Comments must be received by August 4, 1992.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-101-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700, Blagnac, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

**FOR FURTHER INFORMATION CONTACT:** Mr. Greg Holt, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2104; fax (206) 227-1320.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-101-AD." The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-101-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

### Discussion

The Direction Général de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Airbus Industrie Model A310 series airplanes. The DGAC advises that there have been several incidents in which wing tip brake solenoids failed as a result of corrosion in the solenoid coils. Subsequent inspections detected corrosion in the coils leading to open circuit or high resistance value. The corrosion was apparently caused by an electrolytic phenomenon brought about by ingress of hydraulic fluid coming in contact with the coil which is under continuous monitoring current. Reduced controllability of the airplane could occur if both solenoids fitted on one wing tip brake are inoperative and if this failure is combined with a flap or slat asymmetry occurring due to a transmission disconnection.

Airbus Industrie has issued Service Bulletin A310-27-2042, Revision 1, dated December 11, 1986, which describes procedures for conducting repetitive integrity tests of the solenoids to detect corrosion, and replacement, if

necessary. The DGAC classified this service bulletin as mandatory and issued French Airworthiness Directive 92–010–129(B) in order to assure the continued airworthiness of these airplanes in France.

Airbus Industries has also issued Service Bulletin A310–27–2046, Revision 1, dated November 24, 1989, that describes procedures for installing Modification 6275. This modification involves the installation of hermetically sealed wing tip brake solenoids in all eight solenoid valves. Such installation would eliminate the need for repetitive integrity testing of the solenoids. The DGAC has not classified this service bulletin as mandatory. (This service bulletin refers to Lucas Service Bulletin 520A–27–05, Revision 1, dated December 8, 1986, for additional instructions.)

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require conducting repetitive integrity tests of the solenoids to detect corrosion, and replacement, if necessary. The actions would be required to be accomplished in accordance with the Airbus Service Bulletin A310–27–2046, described previously. Replacement of the solenoids with Modification 6725 would constitute terminating action for the repetitive integrity tests.

The FAA estimates that 22 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2.5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,025. This total cost figure assumes that no operator has yet accomplished the requirements of this proposed AD action.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regualtory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of their Federal Aviation Regulations as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

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

**Airbus Industrie:** Docket 92–NM–101–AD.

Applicability: Model A310 series airplances having manufacturer's serial numbers (MSN) 1 through 432, inclusive, 440, and 441; on which Modification 6725 has not been accomplihsed; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent wing tip brake valve failure, which could lead to reduced controllability of the airplane, accomplish the following:

(a) Within 350 flight hours after the effective date of this AD, conduct an integrity test to detect corrosion of the wing tip brake solenoids, in accordance with Airbus Industrie Service Bulletin A310–27–2042, Revision 1, dated December 11, 1986. Thereafter, repeat the integrity test at intervals not to exceed 350 flight hours.

(b) If corrosion in the wing tip brake solenoids is detected as a result of any integrity test required by paragraph (a) of this AD, prior to further flight, replace the corroded solenoid with a modified one having part number 500A000–03. Accomplishment of such replacement constitutes terminating action for the integrity testing of the solenoid replaced as required by paragraph (a) of this AD.

(c) Installation of Modification 6725, in accordance with Airbus Industrie Service Bulletin A310–27–2046, Revision 1, dated November 24, 1989, which involves the installation of improved solenoids on all eight solenoid valves in the wing tip brake, constitutes terminating action for the integrity testing required by paragraph (a) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manger, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

**Note:** Information concerning the existence of approved alternative mehtods of compliance with this airworthiness directive, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 4, 1992.

**Bill R. Boxwell,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92–14337 Filed 6–17–92; 8:45am]

VILLING CODE 4910–13–M

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**14 CFR Part 39**

**[Docket No. 92–NM–68–AD]**

## Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require the replacement of currently installed aluminum alloy rivets in the rib-to-auxiliary-spar attachment at wing station 10110 with nickel copper alloy rivets and Hilok bolts. This proposal is prompted by a full-scale fatigue test of the wings that detected numerous broken rivets. The actions specified by the proposed AD are intended to

prevent reduced structural integrity of the wings.

**DATES:** Comments must be received by August 4, 1992.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–68–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Quam, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–68–AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–68–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

**Discussion**

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for The Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that a full-scale fatigue test of the wings on the Fokker Model F28 Mark 0100 test article revealed six broken aluminum alloy rivets. These rivets are located at the rib-to-auxiliary-spar attachment at wing station 10110. Failed rivets at this location could result in reduced structural integrity of the wings.

Fokker has issued Service Bulletin SBF100–57–017, dated September 12, 1991, that describes procedures for removing currently installed aluminum alloy rivets at the rib-to-auxiliary-spar attachment at wing station 10110, and replacing those rivets with nickel copper alloy rivets and Hilok bolts. Installation of the copper alloy rivets and Hilok bolts will strengthen the attachments. The RLD classified this service bulletin as mandatory and issued Netherlands Airworthiness Directive BLA 91–107 in order to assure the continued airworthiness of these airplanes in The Netherlands.

This airplane model is manufactured in The Netherlands and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require the replacement of currently installed aluminum alloy rivets in the rib-to-auxiliary-spar attachment at wing station 10110 with nickel copper alloy rivets and Hilok bolts. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 25 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. The cost of required parts would be negligible. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $11,000 or $440 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this proposed AD action.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

*Authority:* 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

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

Fokker: Docket 92–NM–68–AD.

*Applicability:* Model F28 Mark 0100 series airplanes; serial numbers 11244 through 11256, inclusive; 11259; 11260; and 11268 through 11278, inclusive; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wings, accomplish the following:

(a) Prior to the accumulation of 18,000 landings or within 60 days after the effective date of this AD, whichever occurs later, replace the currently installed aluminum alloy rivets at the rib-to-auxiliary-spar attachment at wing station 10110 with nickel copper alloy rivets and Hilok bolts, in accordance with Fokker Service Bulletin SBF100–57–017, dated September 12, 1991.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

**Note:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

Issued in Renton, Washington, on June 4, 1992.

**Bill R. Boxwell,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92–14335 Filed 6–17–92; 8:45 am]

BILLING CODE 4910–13–M

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## 14 CFR Part 39

**[Docket No. 92–NM–70–AD]**

## Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require replacement of currently installed blind bolts that attach the latch brackets to the radome. This proposal is prompted by inspections during final assembly that revealed that the nose radome latch bracket attach bolts had been installed incorrectly on several airplanes, causing loss of the securing ring. The actions specified by the proposed AD are intended to prevent the radome from coming off during flight or ground operations, which could lead to subsequent structural damage to the wind, empennage, or an engine.

**DATES:** Comments must be received by August 4, 1992.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–70–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Quam, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–70–AD." The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–70–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

### Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for The Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that inspections by the manufacturer during final assembly of several Model F28 Mark 0100 series airplanes revealed that the nose radome latch bracket attach bolts had been installed incorrectly, thus causing loss of the securing ring. Without the securing rings, the blind bolt stems could drop out leading to insufficient strength to retain the radome in place. This condition, if not corrected, could cause the radome to come off during flight or ground operations, which could lead to subsequent structural damage to the wing, empennage, or an engine.

Fokker has issued Service Bulletin SBF100–53–067, dated July 1, 1991, that describes procedures for removing the currently installed blind bolts that attach the latch brackets to the radome, and replacing them with new bolts, using the correct installation procedure. The RLD classified this service bulletin as mandatory and issued Netherlands Airworthiness Directive BLA 91–070 in order to assure the continued airworthiness of these airplanes in The Netherlands.

This airplane model is manufactured in The Netherlands and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacing the currently installed blind bolts that attach the latch brackets to the radome with new bolts, using the

correct installation procedure. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 4 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $70 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $940. This total cost figure assumes that no operator has yet accomplished the requirements of this proposed AD action.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**."

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**39.13 [Amended]**

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

**Fokker:** Docket 92–NM–70–AD.

**Applicability:** Model F28 Mark 0100 series airplanes; serial numbers 11290, 11296, 11298, 11299, 11301, 11306, 11308, 11310, and 11313; certificated in any category.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent structural damage to the wing, empennage, or an engine, caused by the radome coming off during flight or ground operations, accomplish the following:

(a) Within 6 months after the effective date of the AD, replace the currently installed blind bolts that attach the latch brackets to the radome with new bolts, in accordance with Fokker Service Bulletin SBF100–53–067, dated July 1, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

**Note:** Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on June 4, 1992.

**Bill R. Boxwell,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92–14336 Filed 6–17–92; 8:45 am]

**BILLING CODE 4910–13–M**

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## 14 CFR Part 39

**[Docket No. 91–ANE–42]**

## Airworthiness Directives; Pratt & Whitney Canada JT15D Series Turbofan Engines

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes the supersedure of an existing airworthiness directive (AD) applicable to Pratt & Whitney Canada (PWC) JT15D–4B series turbofan engines that currently requires initial and repetitive borescope inspections of the high pressure turbine (HPT) assembly and removal of the HPT assembly if forward blade movement exists. This action would include the initial and repetitive borescope inspection requirements of the existing AD, but would also extend its effectivity to include all PWC JT15D–1, –1A, –1B, –4, –4B, –4C, and –4D series engines. This action would also require the incorporation of a new or reworked high turbine (HT) stator assembly and new HPT blade retention rivets as terminating actions to the inspection program. This proposal is prompted by reports of two recent contained HPT blade failures that occurred on JT15D–4D series engines. The actions specified by the proposed AD are intended to prevent an HPT assembly failure, and an inflight shutdown or loss of engine power.

**DATES:** Comments must be received by August 3, 1992.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 91–ANE–42, 12 New England Executive Park, Burlington, Massachusetts 01803–5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney Canada, Box 10, Longueuil, Quebec, Canada J4K 4X9. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts.

**FOR FURTHER INFORMATION CONTACT:** Diane Cook, Engine Certification Office, ANE–140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803–5299, (617) 273–7082; fax (617) 270–2412.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

be changed in light of comments recieved.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy apsects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 91–ANE–42." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–ANE–42, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

**Discussion**

On February 11, 1991, the FAA issued Airworthiness Directive (AD) 91–06–01, Amendment 39–6911 (56 FR 7802, February 26, 1991), to require initial and repetitive high pressure turbine (HPT) assembly borescope inspections at 300 hour intervals for all Pratt & Whitney Canada (PWC) JT15D–4B series engines. If evidence of forward blade movement is found, the HPT assembly must be removed. That action was prompted by more than ten contained events of PWC JT15D–4B series engine HPT assembly failures resulting from HPT blade shifting. Also, several instances of excessive blade platform axial movement were found during hot section inspections (HSI) on PWC JT15D–4B series engines. A review of the rivet design and rivet assembly procedures was conducted after issuance of AD 91–06–01. At that time, no blade release events had occurred on the other PWC JT15D series engines.

Since issuance of that AD (91–06–01), two contained HPT blade failure events occurred on PWC JT15D–4D series engines as a result of HPT blade shift. The rivet design and assembly procedures were found to contribute to the blade shift problem. With the existing rivets, and under adverse tolerance conditions, there can be excessive clearance between the rivet shanks and the disk/blade assembly on all PWD JT15FD series engines. To improve this blade retention capability, three classifications of rivet sizes have been introduced into service which will achieve acceptable fits for all tolerances. After analysis of the failures, the FAA has determined that on PWC JT15D–4B, –4C, and –4D series engines, high HPT disk rim temperatures can contribute to HPT blade release. The FAA has also determined that reducing the gap between the HPT stator and the HPT disk will reduce the risk of hot gas ingestion resulting in a significantly cooler rim. A new or reworked HPT stator assembly with an extended rear inner rim will reduce that gap. This proposed AD would require initial and repetitive borescope inspections of the HPT assembly on PWC JT15D–1, –1A, –1B, and –4 series engines until the new rivets are incorporated into the HPT assembly. This proposed AD would also require initial and repetitive borescope inspections at 300 hour intervals of the HPT assembly on the PWC JT15D–4B, –4C, and –4D series engines until the new rivets and the new or reworked HPT stator assembly are incorporated. The 300 hour repetitive inspection interval is the same as is required by the current AD.

The FAA has reviewed Temporary Revision (TR) 72–32 to the JT15D–4C Maintenance Manual, Part Number (P/N) 3032942, and TR 72–100 to the JT15D–1 and –4 Maintenance Manual, P/N 3017542, that describe the procedures for the borescope inspection of the HPT assembly on the JT15D series turbofan engines. The FAA has reviewed and approved the technical contents of PWC Service Bulletin (SB) JT15D 72–7297, dated December 18, 1990, that describes the incorporation of the new HPT blade retaining rivets. The FAA has reviewed and approved the technical contents of PWC SB JT15D 72–7296, dated February 8, 1991, and PWC SB JT15D 72–7307, dated May 15, 1991, that describe the replacement or rework of the high turbine (HT) stator assembly on PWC JT15D series turbofan engines.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, the proposed AD would supersede AD 91–06–01 to require initial and repetitive borescope inspections of the HPT assembly. The proposed AD would also require the incorporation of a new or reworked HPT stator assembly and new HPT blade retention rivets as terminating actions to the inspection program in accordance with the service bulletin previously described.

There are approximately 1,400 PWC JT15D–1, –1A, –1B, and –4 engines and 1,70–0 PWC JT15D–4B, –4C, –4D engines of the affected design installed on aircraft of U.S. registry that would be affected by this AD. It is estimated that it would take approximately 4 manhours per engine to accomplish the inspection requirements of this AD, and 11 manhours per engine to incorporate is required to incorporate HPT blade retention rivets. An additional 8 manhours per engine is required to incorporate the new or reworked HPT stator on approximately 1,700 affected PWC JT15D–4B, –4C, and –4D engines. The labor cost would be $55 per manhour. The total material cost will be approximately $50 per engine for new rivets on all engines. There is no additional parts cost due to the new or reworked HPT stator. Based on these figures, the estimated total cost impact of this AD on U.S. operators is $3,460,500.

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

For the reasons dicussed above, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3), if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended].**

2. Section 39.13 is amended by removing Amendment 39–6911 (56 FR 7802, February 26, 1991), and by adding the following new airworthiness directive (AD):

**Pratt & Whitney Canada:** Docket Number 91–ANE–42. Supersedes AD 91–06–01, Amendment 39–6911.

*Applicability:* Pratt & Whitney Canada (PWC) JT15D–1, –1A, –1B, –4,–4B,–4C, and –4D series turbofan engines installed on but not limited to Cessna Citation I, Citation II/SII and Citation 500, Aerospatiale Corvette, Mitsubishi Diamond 1/1A and Agusta S211 aircraft.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent a high pressure turbine (HPT) assembly failure, and an inflight shutdown or loss of engine power, accomplish the following:

(a) For JT15D–4B, –4C, and –4D series engines for which the requirements of PWC Service Bulletin (SB) JT15D 72–7297, dated December 18, 1990, and either PWC SB JT15D 72–7296, dated February 8, 1991, or PWC SB JT15D 72–7307, dated May 15, 1991, have not been accomplished as of the effective date of this AD, accomplish the following:

(1) Borescope inspect the HPT assembly for HPT blade shift in accordance with the inspection requirements outlined in Temporary Revision (TR) 72–32 to the JT15D–4C Maintenance Manual, Part Number (P/N) 3032942, or TR 72–100 to the JT15D–1 and –4 Maintenance Manual, P/N 3017542, whichever is applicable, as follows:

(i) Within 25 hours time in service (TIS) or 30 days after the effective date of this AD, whichever occurs first, for those engines which have accumulated on the effective date of this AD, greater than 275 hours TIS since the last inspection performed in accordance with AD 91–06–01, or since the last hot section inspection (HSI), or since new, if not previously inspected.

(ii) Prior to accumulating 300 hours TIS since the last inspection performed in accordance with AD 91–06–01, or since the last HSI, or since new if not previously inspected, for those engines which have accumulated on the effective date of this AD 275 hours or less TIS since the last inspection performed in accordance with AD 91–06–01 or since the last HSI, or since new, if not previously inspected.

(iii) Thereafter, reinspect the HPT assembly for HPT blade shift in accordance with the applicable maintenance manuals, at intervals not to exceed 300 hours TIS since the last inspection.

(iv) Remove from service prior to further flight, and replace with a serviceable assembly those HPT assemblies with evidence of forward blade movement in excess of the 0.20 inch limit as provided in the applicable maintenance manuals. Serviceable assemblies include HPT assemblies removed from engines which have completed an HSI, or that portion of the HSI requiring deblading and re-riveting the turbine assembly in accordance with the applicable JT15D Maintenance Manuals.

(2) Incorporate high turbine (HT) blade retaining rivets in accordance with PWC SB JT15D 72–7297, dated December 18, 1990, at the next shop visit when the engine is disassembled sufficiently to afford access to the HPT assembly.

(3) Incorporate the new or reworked HT stator assembly in accordance with applicable PWC SB JT15D 72–7307, dated May 15, 1991, or PWC SB JT15D 72–7296, dated February 8, 1991, at the next shop visit when the engine is disassembled sufficiently to afford access to the HPT assembly.

(4) Initial and repetitive borescope inspections performed in accordance with paragraph(a)(1) of this AD are not required once the new HPT blade retention rivets and the new or reworked HT stator assembly are incorporated in accordance with paragraphs (a) (2) and (a) (3) of this AD.

(b) For JT15D–1, –1A, –1B, and –4 series engines for which the requirements of PWC SB JT15D 72–7297, dated December 18, 1990, have not been accomplished as of the effective date of this AD, accomplish the following:

(1) Borescope inspect the HPT assembly within 300 hours TIS after the effective date of this AD for HPT blade shift in accordance with the inspection requirements outlined in TR 72–100 to the JT15D–1/–4 Maintenance Manual P/N 3017542.

(i) Thereafter, reinspect at intervals not to exceed 300 hours TIS since last inspection.

(ii) Remove from service prior to further flight HPT assemblies that exhibit forward blade movement in accordance with paragraph (a)(1)(iv) of this AD.

(2) Incorporate HT blade retaining rivets in accordance with PWC SB JT15D 72–7297, dated December 18, 1990, at the next shop visit when the engine is disassembled sufficiently to afford access to the HPT assembly.

(3) Initial and repetitive borescope inspections in accordance with paragraph (b)(1) of this AD are no longer required once the new HPT blade retention rivets are incorporated in accordance with paragraph (b)(2) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time, that provides an acceptable level of safety, may be used if approved by the Manager, Engine Certification Office, FAA, Engine and Propeller Directorate. The request should be forwarded through an FAA Principal Maintenance Inspector, who may send comments and then send it to the Manager, Engine Certification Office.

**Note:** Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine and Propeller Directorate.

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

Issued in Burlington, Massachusetts, on April 17, 1992.

**Michael H. Borfitz,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 92–14333 Filed 6–17–92; 8:45 am]

BILLING CODE 4910–13–M

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**14 CFR Part 39**

**[Docket No. 92–NM–108–AD]**

## Airworthiness Directives; Boeing Model 737 and Model 757 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737 and Model 757 series airplanes. This proposal would require modifying the oxygen box assemblies (containing oxygen masks) in lavatories and at certain flight attendant stations. This proposal is prompted by the results of oxygen drop tests, which revealed that a maintenance test stop feature of the oxygen box assemblies may interfere with proper oxygen mask development. This condition, if not corrected, may prevent the availability of oxygen to affected passengers and flight attendants during a loss of cabin pressure.

**DATES:** Comments must be received by August 4, 1992.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–108–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commerical Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Terrell W. Rees, Aerospace Engineer, Seattle Aircraft Certification Office, ANM–120S; FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056;

telephone (206) 227–2785; fax (206) 227–1181.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–108–AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–108–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

**Discussion**

One operator reported that the oxygen box door of the aft left lavatory on a Model 757 airplane did not open during a test of the oxygen system. The subsequent investigation of this malfunction by the manufacturer revealed that the doors for the oxygen masks may not open in all lavatories on all Model 737 and Model 757 series airplanes, and at doors 1 and 4 flight attendant seats on Model 757 series airplanes. (Model 737 and Model 757 series airplanes use the same design of oxygen box assemblies in the lavatory.) The test stop plunger on these oxygen box assemblies has a sharp 90 degree edge that can catch on the oxygen box door and prevent it from opening.

Other testing on Model 737 series airplanes revealed that in "A" lavatories, the mask lanyards are routed over the top of the test stop assembly. This causes the lanyard to catch on the test stop assembly during deployment of the oxygen mask. Should this occur, actuation of the oxygen generator may be prevented.

Failure of the oxygen box doors to open or failure of the oxygen generator to actuate, if not corrected, could prevent the availability of oxygen to affected passengers and flight attendants during an emergency cabin depressurization.

The FAA has reviewed and approved the following service bulletins:

a. Boeing Alert Service Bulletin 737–35A1037, dated February 13, 1992, that describes procedures for modification of the test stop plungers in the oxygen box assemblies in the lavatories on Model 737 series airplanes. The modification adds a 0.05 inch by 45 degree chamfer around the edge of the test stop plungers. This modification will provide more reliable oxygen mask deployments.

b. Boeing Alert Service Bulletin 757–35A0010, dated February 13, 1992, that describes procedures for modification of the test stop plungers in the oxygen box assemblies in the lavatories and at flight attendant stations on Model 757 series airplanes. The modification adds a 0.05 inch by 45 degree chamfer around the edge of the test stop plungers. This modification will provide more reliable oxygen mask deployments.

c. Boeing Alert Service Bulletin 737–35A1038, dated March 19, 1992, that describes procedures for modifying the oxygen box assemblies in modular "A" lavatories on Model 737 series airplanes. The modification involves moving the attach point of the oxygen generator release cable to a new position, thus changing the routing of mask lanyards. This modification assures that the test stop assembly does not interfere with oxygen generator actuation.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modifying the oxygen box assemblies (containing oxygen masks) in the lavatories and at certain flight attendant stations. The actions would be required to be accomplished in accordance with the service bulletins described previously.

There are approximately 376 Boeing Model 757 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 228 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1.50 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators of Model 757 series airplanes is estimated to be $18,810.

There are approximately 1,030 Boeing Model 757 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 509 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2.75 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators of Model 737 series airplanes is estimated to be $76,986.

Based on the figures described above, the total cost impact of the proposed AD on U.S. Operators is estimated to be $95,796. This total cost figure assumes that no affected U.S. operator has accomplished the proposed modifications.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. app. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

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

**BOEING:** Docket 92–NM–108–AD.

*Applicability:* Model 737 series airplanes, as listed in Boeing Alert Service Bulletin 737–35A1037, dated February 13, 1992, and Boeing Alert Service Bulletin 737–35A1038, dated March 19, 1992; and Model 757 series airplanes, as listed in Boeing Alert Service Bulletin 737–35A0010, dated February 13, 1992; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent maintenance test stop plungers from interfering with proper deployment of oxygen masks, accomplish the following:

(a) For Model 737 series airplanes: Within 900 flight hours after the effective date of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD:

(1) Modify the test stop plungers in the oxygen box assemblies in the lavatories, in accordance with Boeing Alert Service Bulletin 737–35A1037, dated February 13, 1992.

(2) Modify the oxygen box assemblies in modular lavatory "A," in accordance with Boeing Alert Service Bulletin 737–35A1038, dated March 19, 1992.

(b) For Model 757 series airplanes: Within 900 flight hours after the effective date of this AD, modify the test stop plungers in the oxygen box assemblies in the lavatories and at doors 1 and 4 flight attendant seats, in accordance with Boeing Alert Service Bulletin 757–35A0010, dated February 13, 1992.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certificaiton Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Seattle ACO.

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

Issued in Renton, Washington, on June 4, 1992.

**Bill R. Boxwell,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92–14338 Filed 6–17–92; 8:45 am]

**BILLING CODE 4910–13–M**

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**14 CFR Part 39**

**[Docket No. 92–NM–86–AD]**

## Airworthiness Directives; McDonnell Douglas Model DC–9, Model DC–9–80 Series Airplanes; Model MD–88 Airplanes; and C–9 (Military) Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to McDonnell Douglas Model DC–9 and DC–9–80 series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes. This proposal would require visual and eddy current inspections to detect cracking of the rudder pedals adjuster hub assembly, and replacement of the rudder pedals adjuster hub assembly, if necessary. This proposal is prompted by several occurrences of failure of the rudder pedal adjuster hub assembly due to broken detent lugs. The actions specified by the proposed AD are intended to prevent loss of rudder pedals control and reduction of braking capability.

**DATES:** Comments must be received by August 4, 1992.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–86–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–0001, Attention: Business Unit Manager, Technical Publications—Technical Administrative Support, C1–L5B. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Lee, Los Angeles Aircraft Certification Office, ANM–122L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5325; fax (310) 988–5210.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self–addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–86–AD." The postcard will be date stamped and returned to the commenter.

### Availability of NPMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–86–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

### Discussion

Three operators of McDonnell Douglas Model DC–9 series airplanes have experienced failure of the detent lug installed in the rudder pedals adjuster hub assembly. One of these operators reported that one of the detent lugs was found to be cracked at approximately 38,000 landings. Another operator reported that both lugs were found to be cracked on an airplane with approximately 31,000 landings. The third operator reported that, during taxi and just prior to takeoff, the captain experienced lost rudder pedals control; subsequent investigation revealed that

both detent lugs had cracked and separated from the hub assembly. The broken detent lugs allowed the rudder pendals on the affected side to move beyond the normal full forward adjustment position, causing the loss in rudder pedals control. That airplane had accumulated 19,495 landings. Failure of the rudder pedals adjuster hub assembly at either the Captain's or First Officer's position could result in loss of rudder control and reduction of braking capability at that location.

The FAA has reviewed and approved McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 1, dated February 3, 1992, that describes procedures for conducting visual and eddy current inspections to detect cracking of the rudder pedals adjuster hub assembly. The service bulletin also describes procedures for replacement of the rudder pedals adjuster hub assembly if cracking is found.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require visual and eddy current inspections on the rudder pedals adjuster hub assembly to detect cracking, and replacement of the rudder pedals adjuster hub assembly, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The requirements of this AD are considered interim action. The manufacturer is currently developing a modification that, if installed, will terminate the need for the repetitive inspections. Once the modification is developed and approved, the FAA may consider revising this AD to require its installation as terminating action for the required inspections.

There are approximately 721 McDonnell Douglas Model DC–9 and DC–9–80 series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 373 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $61,545. This total cost figure assumes that no operator has yet accomplished the requirements of this proposed AD action.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

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

**McDonnell Douglas:** Docket 92–NM–86–AD.

*Applicability:* Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81, –82, –83, and –87 series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes; as listed in McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 1, dated February 3, 1992; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent loss of rudder pedals control and reduction of braking capability, accomplish the following:

(a) Prior to the accumulation of 15,000 landings or within 180 days after the effective date of this AD, whichever occurs later, conduct a visual and eddy current inspection to detect cracks of the rudder pedals adjuster hub assembly, part number 4616066, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–325, Revision 1, dated February 3, 1992.

(b) If no cracks are detected as a result of the inspections required in paragraph (a) of this AD, repeat the inspections at intervals not to exceed 3,500 landings.

(c) If cracks are detected as a result of the inspections required by paragraph (a) or (b) of this AD, prior to further flight, replace the rudder pedals adjuster hub assembly, part number 4616066, with a new assembly having the same part number. Thereafter, conduct a visual and eddy current inspection of the replacement rudder pedals adjuster hub assembly in accordance with paragraph (a) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 4, 1992.

Bill R. Boxwell,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92–14339 Filed 6–17–92; 8:45am]

BILLING CODE 4910–13–M

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**14 CFR Part 39**

**[Docket No. 92–NM–110–AD]**

## Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8 series airplanes. This proposal would require visual and eddy current inspections to detect cracking of the rudder pedals adjuster hub assembly, and replacement of the rudder pedals adjuster hub assembly, if necessary. This proposal is prompted by several occurrences of failure of the rudder pedal adjuster hub assembly due to broken detent lugs. The actions specified by the proposed AD are intended to prevent loss of rudder

pedals control and reduction of braking capability.

**DATES:** Comments must be received by August 4, 1992.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–110–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–0001, Attention: Business Unit Manager, Technical Publications—Technical Administrative Support, C1–L5B. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Lee, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM–122L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5325; fax (310) 988–5210.

**SUPPLEMENTARY INFORMATION:**

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–110–AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–110–AD, 1601 Lind Avenue SW., Renton, Washington 98055–44056.

**Discussion**

Three operators of McDonnell Douglas Model DC–9 series airplanes have experienced failure of the detent lug installed in the rudder pedals adjuster hub assembly. One of these operators reported that one of the detent lugs was found to be cracked at approximately 38,000 landings. Another operator reported that both lugs were found to be cracked on an airplane with approximately 31,000 landings. The third operator reported that, during taxi and just prior to takeoff, the captain experienced lost rudder pedals control; subsequent investigation revealed that both detent lugs had cracked and separated from the hub assembly. The broken detent lugs allowed the rudder pedals on the affected side to move beyond the normal full forward adjustment position, causing the loss in rudder pedals control. That airplane had accumulated 19,495 landings. Failure of the rudder pedals adjuster hub assembly at either the Captain's or First Officer's position could result in loss of rudder control and reduction of braking capability at that location.

The rudder pedals adjuster hub assembly used on Model DC–9 series airplanes is identical to that used on Model DC–8 series airplanes; therefore, the described unsafe condition may exist with regard to Model DC–8 series airplanes as well.

The FAA has reviewed and approved McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992, that describes procedures for conducting visual and eddy current inspections to detect cracking of the rudder pedals adjuster hub assembly. The service bulletin also describes procedures for replacement of the rudder pedals adjuster hub assembly if cracking is found.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive visual and eddy current inspections on the rudder pedals adjuster hub assembly to detect cracking, and replacement of the rudder pedals adjuster hub assembly, if necesary. The actions would be required to be accomplished in accordance with the service bulletin described previously. (The FAA has initiated similar rulemaking with regard to Model DC–9 series airplanes.)

The requirements of this AD are considered interim action. The manufacturer is currently developing a modification which, if installed will terminate the need for the repetitive inspections. Once the modification is developed and approved, the FAA may consider revising this AD to require its installation as terminating action for the required inspections.

There are approximately 341 McDonnell Douglas Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 222 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $36,630. This total cost figure assumes that no operator has yet accomplished the requirements of this proposed AD action.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

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

**McDonnell Douglas:** Docket 92–NM–110–AD.

*Applicability:* Model DC–8 series airplanes, as listed in McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent loss of rudder pedals control and reduction of braking capability, accomplish the following:

(a) Prior to the accumulation of 15,000 landings or within 180 days after the effective date of this AD, whichever occurs later, conduct a visual and eddy current inspection to detect cracks of the rudder pedals adjuster hum assembly, part number 4616066, in accordance with McDonnell Douglas DC–8 Alert Service Bulletin A27–275, Revision 1, dated February 3, 1992.

(b) If no cracks are detected as a result of the inspections required in paragraph (a) of this AD, repeat the inspections at intervals not to exceed 3,500 landings.

(c) If cracks are detected as a result of the inspections required by paragraph (a) or (b) of this AD, prior to further flight, replace the rudder pedals adjuster hub assembly, part number 4616066, with a new assembly having the same part number. Thereafter, conduct a visual and eddy current inspection of the replacement rudder pedals adjuster hub assembly in accordance with paragraph (a) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles, ACO.

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

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 4, 1992.

**Bill R. Boxwell.**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92–14340 Filed 6–17–92; 8:45 am]

BILLING CODE 4910–13–M

## COMMODITY FUTURES TRADING COMMISSION

**17 CFR Part 150**

### Revision of Federal Speculative Position Limits; Reopening of Comment Period

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Reopening of comment period.

**SUMMARY:** On April 13, 1992, the Commodity Futures Trading Commission ("Commission") published in the **Federal Register** a Notice of Proposed Rulemaking relating to Commission-set speculative position limits. 57 FR 12766. The applicable comment period expired on June 12, 1992. The Commission has received a request for an extension of the comment period. In light of the apparently widespread interest in the proposed revisions to these rules, and because it wishes to ensure that all interested parties have an adequate opportunity to submit informed comments, the Commission has determined to reopen the period for public comment.

**DATES:** The comment period will remain open through August 3, 1992.

**ADDRESS:** Comments should be sent to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 and should make reference to "Revision of Federal Speculative Position Limits."

**FOR FURTHER INFORMATION CONTACT:** Blake Imel, Deputy Director, or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254–3201 or 254–6990, respectively.

Issued in Washington, DC, this 12th day of June, 1992, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 92–14361 Filed 6–17–92; 8:45 am]

BILLING CODE 6351–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

**Food and Drug Administration**

**21 CFR Parts 314 and 601**

**[Docket No. 91N–0278]**

### New Drug, Antibiotic, and Biological Drug Product Regulations; Accelerated Approval; Extension of Comment Period

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Food and Drug Administration (FDA) is extending to July 15, 1992, the comment period for the proposed rule that provides procedures under which the agency would accelerate approval of new drugs and biologicals for serious or life-threatening illnesses. This proposed rule was published in the **Federal Register** of April 15, 1992 (57 FR 13234). FDA is taking this action in response to a request for an extension of the comment period.

**DATES:** Comments by July 15, 1992.

**ADDRESSES:** Submit written comments to Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20855.

**FOR FURTHER INFORMATION CONTACT:** Marilyn L. Watson, Center for Drug Evaluation and Research (HFD–360), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8038.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of April 15, 1992 (57 FR 13234), FDA issued a proposed rule which proposed new procedures to accelerate the agency's approval of new drugs and biologicals for serious or life-threatening illnesses. The proposal also contained provisions for any necessary continued study of the drugs' clinical effects after approval, or with restrictions on use, if necessary.

Interested persons were given until June 15, 1992, to respond to the proposal. A request to extend the comment period for an additional 30 days has been received from a trade association. The request was made to provide adequate time for the association and its member companies to submit comprehensive comments that would be of significant assistance to FDA in finalizing this proposed regulation. After careful consideration and finding good cause to grant the request, FDA is extending the comment period to July 15, 1992.

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m. Monday through Friday.

Dated: June 12, 1992.
Michael R. Taylor,
*Deputy Commissioner for Policy.*
[FR Doc. 92–14365 Filed 6–15–92; 1:38 pm]
BILLING CODE 4160–01–F

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

RIN 1018–AB75

## Endangered and Threatened Wildlife and Plants; Proposal to List the Northern Riffleshell and the Clubshell Mussels as Endangered Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes to list the northern riffleshell mussel (*Epioblasma torulosa rangiana*) and the clubshell mussel (*Pleurobema clava*) as endangered species under the Endangered Species Act (Act) of 1973, as amended. The northern riffleshell is known historically from the tributaries of the Ohio River, western Lake Erie, and the St. Clair and Detroit Rivers. It occurs today in relatively short reaches of six streams in Kentucky, Michigan, Ohio, and Pennsylvania. The clubshell historically was widespread in the Ohio River basin and tributaries of western Lake Erie in nine states; today it is known from relatively short reaches of 12 streams in Indiana, Kentucky, Michigan, Ohio, Pennsylvania, and West Virginia.

Both of these species have experienced greater than a 95 percent range reduction. In over half of the stream reaches where the mussels are presumed extant, biologists have located only a few dead shells in the last five years. Causes of the drastically reduced ranges of these two species include: channelization, streambank clearing, agriculture, and chemical and wastewater runoff. The Service seeks data and comments from the public on this proposal.

**DATES:** Comments from all interested parties must be received by August 17, 1992. Public hearing requests must be received by August 3, 1992.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Post Office Box 1278, Elkins, West Virginia 26241. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** William A. Tolin at the above address or by telephone (304/636–6586).

**SUPPLEMENTARY INFORMATION:**

### Background

The northern riffleshell (*Epioblasma torulosa rangiana*) was described by Lea in 1839. This freshwater mussel occurs in a wide variety of streams, large and small, preferring runs with a bottom composed of firmly packed sand and fine to coarse gravel (Stansbery *et al.* 1982).

The northern riffleshell is a small to medium size mussel, up to three inches (7.6 cm) long. The species expresses sexual dimorphism. The male is irregular ovate in outline, with a wide shallow sulcus just anterior to the posterior ridge. The female is obovate in outline, greatly expanded postventrally. This postventral expansion is very broadly rounded. The shell exterior is brownish yellow to yellowish green with fine green rays. The inside of the shell is normally white, rarely pink (Stansbery *et al.* 1982).

The clubshell (*Pleurobema clava*) was described by Lamarck in 1819. The species occurs in clean swept sand and gravel in medium to small rivers and streams (Stansbery *et al.* 1982). Thomas Watters (Ecological Specialists Inc., pers. comm., 1991) has found the clubshell to bury in clean loose sand to a depth of two to four inches.

The clubshell is also small to medium size, up to three inches (7.6 cm) long. The outline of the shell is wedge-shaped and solid. The umbos are pointed and fairly high. The exterior of the shell is bright yellow to brown with bright green blotchy rays. The inside of the shell is white (Stansbery *et al.* 1982).

Like other freshwater mussels, the northern riffleshell and the clubshell feed and respire by filtering macroscopic food particles and oxygen from the water column. Their complicated reproductive cycle includes one or more species of fish where a larval form of the mussel, known as a glochidium, attaches to the gills, fins, or skin of the fish and is nourished for a short time period. This relationship is generally species-specific. Many aspects of the life history of these mussels are not known.

The historic ranges of the northern riffleshell and the clubshell mussels overlapped, but the clubshell was more widely distributed. Both species were known from Illinois, Indiana, Kentucky, Michigan, Ohio, Pennsylvania, and West Virginia. The range of the clubshell extended farther south in Tennessee and Alabama in the Tennessee River Basin while the northern riffleshell extended north into western Ontario. Both were widespread in the Ohio River basin in rivers such as the Ohio, Allegheny, Scioto, Kanawha, Little Kanawha, Licking, Kentucky, Wabash, White, Vermillion, Mississinewa, Tippecanoe, Tennessee, Green, and Salt Rivers. They were also located in the Maumee River basin and tributaries of western Lake Erie such as the Huron River and the River Raison. The northern riffleshell also occurred in southern Michigan and western Ontario in streams such as the St. Clair, Black, Ausable, and Sydenham Rivers (Stansbery *et al.* 1982).

Presently, the two species co-occur in portions of four streams in two states. They are found in the Green River, Edmonson and Hart Counties, Kentucky. In Pennsylvania, they occur in French Creek, Crawford, Venango, and Mercer Counties; LeBoeuf Creek, Irie County, and the Allegheny River, Warren and Forest Counties.

The northern riffleshell is also found in the upper 2.0 miles of the Detroit River from Lake St. Clair to Belle Isle, Wayne County, Michigan and in Big Darby Creek, Pickaway County, Ohio. Of the six total locations for this species, only two, those in the Detroit River (Michigan) and French Creek (Pennsylvania) show evidence of recent reproduction.

The clubshell retains a wider distribution than the northern riffleshell. However, this species was also historically wider spread and locally very abundant. The clubshell presently occurs in 12 streams: The Tippecanoe River, Kosciusko, Fulton, Pulaskia, and Tippecanoe Counties, Indiana; Fish Creek of the St. Josephs River, Williams County, Ohio, and DeKalb County, Indiana; West Branch of the St. Josephs River, Williams County, Ohio, and Hillsdale County, Michigan; Walhonding River, Coshocton County, Ohio; East Fork of the West Branch of the St. Josephs River, Hillsdale County, Michigan; Little Darby Creek, Madison County, Ohio; Conneautee Creek of French Creek, Crawford County, Pennsylvania; and Elk River, Braxton and Clay Counties, West Virginia.

The clubshell was first recognized by the Service in the May 22, 1984 **Federal Register** (49 FR 21664). That notice, which covered invertebrate wildlife under consideration for endangered or threatened status, included the clubshell as a Category 2 species. Category 2 includes those taxa for which proposing to list as endangered or threatened is possibly appropriate, but for which substantial data on biological vulnerability and threats are not currently available to support proposed

rules. In the **Federal Register** Animal Notice of Review published on January 6, 1989 (54 FR 554), the clubshell was retained as a Category 2 species and the northern riffleshell was added in the same category.

During 1989 and early 1990, the Service sent more than 80 requests for information about these two species to State and Federal resource agencies, private organizations, and knowledgeable individuals. On the basis of responses received, the Service moved both species to Category 1 in the Animal Notice of Review published in the November 21, 1991 **Federal Register** (56 FR 58804). Category 1 includes species for which the Service now possesses sufficient information to support a listing as threatened or endangered.

**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 northern riffleshell and the clubshell are as follows:

*A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat Range*

The northern riffleshell and the clubshell mussels were once widespread through the Ohio River watershed with the highest concentrations occurring in the northern portion of the basin and western Lake Erie drainages. Communication with knowledgeable experts (Ronald Cicerello, Kentucky Nature Preserves Commission, 1991; Steven Ahlstedt, Tennessee Valley Authority, 1991; Thomas Watters, Ecological Specialists, Inc., 1991; Charles Bier, Western Pennsylvania Conservancy, 1990; Arthur Bogan, Philadelphia Academy of Natural Science, 1990; David Stansbery, Ohio State University, 1991; Arthur Clarke, Ecosearch, Inc., 1991; Kevin Cummings, Illinois Natural History Survey, 1990; Thomas Frietag, U.S. Army Corps of Engineers, 1991; Randy Hoeh, University of Michigan, 1990; Leni Wilsman, Michigan Natural Features Inventory, 1990; Richard Trdan, Saginaw Valley State College, 1991; Bill Kovalak, Detroit Edison, 1991; Mike Hoggarth, Ohio Department of Transportation, 1991; Bob Anderson, Indiana Department of Natural Resources) and a review of the current literature (Cicerello and Hannan 1990, Watters 1986 and 1988, Cummings et al. 1987) reveal that both the northern riffleshell and the clubshell have undergone a greater than 95 percent range reduction.

Since mussels are sedentary, they are extremely susceptible to environmental degradation. The range reductions of both these mussels are attributed to physical loss of habitat and degraded water quality related primarily to water impoundments, channelization, streambank clearing, and agriculture. Impacts associated with run-off from human waste, chemical outfalls, and coal mining have also affected many tributaries. Increased turbidity and suspended sediments can result in increased water temperature, decreased oxygen levels, and siltation. Smothering from siltation, in turn, decreases or eliminates the mussels' ability to breathe, feed, and reproduce. Impacts to the fish species composition can also affect reproduction since a fish host is an integral component of the mussel's reproduction cycle. These factors continue to threaten the remaining habitats and populations of these species.

The northern riffleshell has been extirpated from Illinois, Indiana, West Virginia, and Ontario. Most recent population losses include the Black River, Sanilac County, Michigan, as a result of channelization and draining for agriculture which occurred in 1989 (Kovalac, pers. comm., 1991). In 1991, the Service became aware that the Sydenham River northern riffleshell population had been extirpated because of siltation, most likely a result of intense farming (Clarke, pers. comm., 1991). Loss, probably due to siltation, of a riffleshell population in Fish Creek of the St. Josephs River was also documented in 1991 (Kovalac, pers. comm., 1991). Surveys conducted during 1991 failed to find the riffleshell in its former locations in the Elk River, West Virginia (J. Clayton, West Virginia Division of Natural Resources, pers. comm., 1991), and the Tippecanoe River, Indiana (Watters, pers. comm., 1991).

The clubshell has been extirpated from Alabama, Illinois, and Tennessee, and is no longer found in many streams elsewhere in its former range. Domestic and industrial waste and navigation developments have eliminated or reduced populations of the clubshell on the upper Ohio and Wabash River watersheds (Watters, pers. comm., 1991). The newly rediscovered Elk River population of the clubshell in West Virginia could be affected by plans to deep coal mine in the watershed, which might create sedimentation, heavy metal leaching, and acidification of the water.

*B. Over-utilization for Commercial, Recreational, Scientific, or Educational Purposes*

Neither of these species are commercially valuable. However, small size and number of remaining populations increase their vulnerability to over-zealous scientific collecting or educational programs. Federal protection would help control the take of individuals by requiring Federal endangered species collecting permits.

*Disease of Predation*

Predation on mussels is a natural occurrence. Predators, such as freshwater drum, river otter, and muskrats, are known to feed on mussels. In a time when these mussels were widespread and abundant, the impact of this predation was insignificant. However, at the present time, their greatly reduced distribution and populations have made them susceptible to predators, especially muskrats (Neves, pers. comm., 1991). Watters (pers. comm., 1991) stated that during a 1988 survey of the French Creek, Pennsylvania population, he observed at least 200 northern riffleshells that had been harvested by muskrats. Watters also noted that the clubshell is less susceptible to mammalian predators because of its burying behavior.

Although extensive, unexplained, die-offs have occured in the past in the Mississippi River drainage, these were for the most part restricted to large rivers. The rivers and streams preferred by the clubshell are medium to small rivers and streams, and disease has not been documented as a factor affecting its population dynamics. A portion of the northern riffleshell's historic range included large rivers, and die-offs may have played a role in the species' decline.

*D. The Inadequancy of Existing Regulatory Mechanisms*

All States throughout the range of the northern riffleshell and the clubshell prohibit taking fish and wildlife, including freshwater mussels, for scientific purposes without a State collecting permit. Ohio, Michigan, and Indiana have endangered species legislation, which protects the clubshell and northern riffleshell from other types of unauthorized take. The Mighigan Endangered Species Act of 1974 also regulates take that may occur as a result of development and construction projects; however, this State law did not

avert the recent loss of the northern riffleshell population in the Black River. Ohio and Indiana endangered species laws do not provide protection to species from habitat loss or degradation, although the Indiana Flood Control law allows that State to "remove or eliminate any structure, obstruction, deposit, or excavation in any floodway which, * * * is unreasonably detrimental to fish, wildlife, or botanical resources (Indiana 13–2–22–13)." Except for requiring a permit for scientific collecting, Pennsylvania, West Virginia, and Kentucky provide no protection to these species or their habitats. Federal listing will provide additional protection under the Endangered Species Act by requiring Federal permits to take the clubshell and the northern riffleshell for any purpose throughout their range and by requiring Federal agencies to consult with the Service when projects they fund, authorize, or carry out may affect these species.

*E. Other Natural or Man-made Factors Affecting its Continued Existence*

The exotic, prolific zebra mussel *(Dreissena polymorpha)*, accidentially introduced to North America in the mid-1980's, poses a severe threat to all native mussel fauna through the competition for space, food, and survival of glochida. Presently, the zebra mussel, which was conveyed to the area through ship ballast water from interior European ports, is abundant in the lower Great Lakes. It poses an immediate threat to the populations of the northern riffleshell in the Detroit and St. Clair Rivers and to populations of both these rare species in the Maumee and Black River drainages. As it continues its rapid range expansion, the zebra mussel may threaten the continued existence of all native freshwater mussels in the Mississippi and Great Lakes drainages.

The high potential of a toxic chemical spill from a ship or factory in the Detroit and St. Clair Rivers threaten the northern riffleshell populations in these rivers. A number of toxic spills have occurred in the "Chemical Valley" near Sarnia, Ontario.

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 northern riffleshell mussel and the clubshell mussel as endangered. Historically, these species were widely distributed throughout the Ohio River and western Lake Erie drainages. The radically reduced distribution of these species and their continued vulnerability to loss of habitat and water quality deterioration constitute severe threats to their continued existence, and therefore, endangered status appears to be the most appropriate classification.

**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 for listing as endangered or threatened. Section 3 of the Act defines critical habitat as, "(i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon determination that such areas are essential for the conservation of the species." Designation of critical habitat is prudent unless: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species (50 CFR 424.12(a)(1)). Designation of critical habitat is determinable unless: (1) Information sufficient to perform the required analyses of the impacts of the designation is lacking, or (2) the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat (50 CFR 424.12(a)(2)).

The Service finds that designation of critical habitat for these two mussels is not prudent. Because of their sedentary nature and susceptibility to a wide variety of changes in water quality, mussels are highly vulnerable to vandalism. Due to the low number of reproducing populations of these species, even a single such incident could be catastrophic. The publication of critical habitat maps could increase this risk.

The Service also finds that designation of critical habitat for the northern riffleshell and the clubshell mussels is not presently determinable. Most existing populations of these mussels are located in widely scattered streams of declining suitability. The number and location of stream habitats required to provide for the long-term survival of existing populations have not been identified. In addition, information needed to analyze the impacts of critical habitat designation is unavailable at this time.

**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 Act provides for possible land acquisition and cooperation with the States and requires that recovery action 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 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 7a(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 insure 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 Service has notified Federal agencies having programs that may affect the northern riffleshell and the clubshell mussels. Federal activities that could occur and impact the species, either directly through funding and development, or through issuance of permits or licenses, include dredge and fill, flood protection, water impoundments and channelization, hydroelectric projects, powerline and highway construction, railroads, industrial and domestic wastewater discharge projects, commercial and recreational development, and mining. For example, the recently rediscovered population of the clubshell in the Elk River in West Virginia is threatened by

the acceleration of coal mining in the watershed; potential Federal involvement in such coal mining operations includes permitting by the Office of Surface Mining and the U.S. Army Corps of Engineers. In addition, reconstruction and operation of a railroad along the Elk River to carry coal will require approvals from the Interstate Commerce Commission.

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 any listed species, import or export it, ship it in interstate commerce in the course of commercial activity, or sell it or offer it for sale in interstate or foreign commerce. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions would 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 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, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal 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 and distribution 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 adoption of 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 filed within 45 days of the date of the proposal. Such requests must be made in writing (see Addresses Section).

### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environment 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).

### References Cited


Cicerello, R.R., and R.R. Hannan. 1990. Survey of the freshwater unionids (mussels) (Bivalvia: Margaritiferidae, and unionidae) in the Green River in Mammoth Cave National Park, Kentucky. Unpublished. Prepared for Mammoth Cave National Park. 44 p.

Cummings, K.S., C.A. Mayer, L.M. Page, and J.M.K. Berlocher. 1987. Survey of the freshwater mussels (Mollusca: Unionidae) of the Wabash River drainage, Phase I: lower Wabash and Tippecanoe River. Unpublished. Prepared for Indiana Department of Natural Resources. 167 pp.

Lea, Issac. 1838. Description of new freshwater and land shells. Trans. Amer. Phil. Soc. 6 (N.S.): 1–154, pl. 1–24 [*Unio rangianus*, p. 95–96, pl. 18, fig. 45].

Lamarck, Jean Baptiste. 1819 Les Nayades. Vol. 6, pp. 67–89 *in:* Histoire naturelle des animaux sans vertebres, * * * Paris, 6 volumes. [*Unio clava*, p. 74].

Stansbery, D.H., K.G. Borror, and K.E. Newman. 1982. Biological abstracts of selected species of Unionid mollusks recovered from Ohio. Unpublished. Prepared for the Ohio Heritage Foundation. Ohio Department of Natural Resources.

Watters, G.T. 1986. The distribution and relative abundance of the Unionid mollusks of the Big Darby Creek system in Ohio. Unpublished. Prepared for the Ohio Chapter of the Natural Conservancy. 158 pp.

Watters, G.T. 1988. A survey of the freshwater mussels of the St. Josephs River system with emphasis on the federally endangered white cat's paw perly mussel. Unpublished. Indiana Department of Natural Resources. 127 pp.


### Author


The primary author of this proposed rule is William A. Tolin, U.S. Fish and Wildlife Service, West Virginia Field Office, Post Office Box 1278, Elkins, West Virginia 26241 (304/636–6586).


### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, 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. 1531–1544, 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 Clams, 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 | | | | | | |
| CLAMS | | | | | | | |
| * | * | * | * | * | * | | |
| Riffleshell, Northern | *Epioblasma torulosa rangiana.* | U.S.A (IL, IN, KY, MI, OH, PA, WV, Canada (Ont.).. | NA | E | | NA | NA |
| Clubshell | *Pleurobema cava* | U.S.A (AL, IL, IN, KY, MI, OH, PA, TN, WV. | NA | E | | NA | NA |
| * | * | * | * | * | * | | |

Dated: May 11, 1992.
**Richard N. Smith,**
*Acting Director, Fish and Wildlife Service.*
[FR Doc. 92-14230 Filed 6-17-92; 8:45 am]
**BILLING CODE 4310-55-M**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 216

**[Docket No. 920544-2144]**

### Taking and Importing of Marine Mammals; Listing of the Northern Offshore Spotted Dolphin as Depleted

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

**ACTION:** Proposed rule and request for comments.

**SUMMARY:** NMFS was petitioned to list the northern stock of the offshore spotted dolphin, (*Stenella attenuata*), as depleted under the Marine Mammal Protection Act (MMPA). NMFS believes that the best available information indicates that the population of northern offshore spotted dolphin is below its optimal sustainable population level. NMFS, therefore, proposes to designate the northern stock of the offshore spotted dolphin as depleted.

**DATES:** Comments must be submitted on or before August 17, 1992.

**ADDRESSES:** Comments should be addressed to Dr. Nancy Foster, Director, Office of Protected Resources (F/PR), 1335 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Michael Payne or Dr. Aleta A. Hohn, Office of Protected Resources, 301/713-2322.

**SUPPLEMENTARY INFORMATION:** Section 3 of the MMPA (16 U.S.C. 1362) defines the term "depletion" or "depleted" as meaning any case in which.

(A) The Secretary, after consultation with the Marine Mammal Commission [MMC] and the Committee of Scientific Advisors on Marine Mammals * * *, determines that a species or population stock is below its optimum sustainable population

(B) A State, to which authority for the conservation and management of a species or population stock is transferred * * *, determines that such species or stock is below its optimum sustainable population; or

(C) A species or population stock is listed as an endangered species or a threatened species under the Endangered Species Act of 1973 * * *.

Section 3 of the MMPA further defines optimum sustainable (OSP) population as:

With respect to any population stock, the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the optimum carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

NMFS regulations at 50 CFR 216.3 define OSP as

A population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem [K], to the population level that results in maximum net productivity [MNPL]. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and/or losses due to natural mortality.

Section 2 of the MMPA (13 U.S.C. 1361) states that marine mammal species, populations and/or stocks should not be permitted to fall below their OSP level. Historically, MNPL has been expressed as a range of values (generally 50-70 percent of K) determined theoretically by estimating what size stock in relation to the original stock size will produce the maximum net increase in population (42 FR 12010, Mar. 1, 1977). In 1977, the midpoint of this range (60 percent) was used to determine if a stock was depleted (42 FR 64548, Dec. 27, 1977). The 60 percent value was supported in the final rule governing the taking of marine mammals incidental to commercial fishing operations (45 FR 72178, Oct. 31, 1980).

**Discussion**

*Background*

NMFS was petitioned by Environmental Solutions International and Greenpeace U.S.A. to list the northern offshore spotted dolphin as a depleted species or population under the MMPA on October 29, 1991. Section 115(a)(3)(A) of the MMPA (16 U.S.C. 1383b(a)(3)(A)) states that "if the Secretary receives a petition for a status review as described in paragraph (1), the Secretary shall publish a notice in the **Federal Register** that such a petition has been received and is available for public review." NMFS has published a notification of receipt of this petition, a request for comments, and a determination that this petition presented substantial information, indicating that the petitioned action may be warranted (56 FR 56502, Nov. 5, 1991).

When petitioned, NMFS was in the process of analyzing scientific information regarding this species. This information included that which was available in the literature, from individuals and organizations concerned with the conservation of marine mammals, from persons in industries which may be affected by determinations regarding the status of stocks, and from academic institutions during the course of meetings held annually to review status of dolphin stocks involved in the ETP purse seine tuna fishery. A request for comments was included in the **Federal Register** notice so that any previously unknown information would be evaluated by NMFS.

Section 115(a)(3)(D) of the MMPA (15 U.S.C. 1383b(a)(3)(D)) states that "no later than two hundred and ten days after the receipt of the petition, the Secretary shall publish in the **Federal Register** a proposed rule as to the status of the species or stock, along with the reasons underlying the proposed status determination." NMFS believes that, based on the best scientific information available, the population of northern offshore spotted dolphin is at levels below OSP, and, therefore, is proposing to designate the northern offshore spotted dolphin as depleted under the MMPA.

On October 29, 1991 (at 56 FR 56502, Dec. 18, 1991), and on January 23, 1992, NMFS was petitioned to list the northern offshore spotted dolphin as threatened under the ESA. The January 23, 1992 "threatened" petition essentially duplicated the October 29, 1991 accepted petition and was, therefore, not accepted by NMFS. The information provided in the denied petition will be considered during the evaluation of the initial petition.

This document does not represent a finding on the petition to list this species as *threatened* under the ESA. Based on comments received and a review of the status of the stock of northern offshore spotted dolphin relative to the ESA, NMFS will publish a determination in the **Federal Register** at a later date on whether a listing of "threatened" under the ESA may be warranted.

*Comments*

Written comments were requested in the receipt of petition notice (56 FR 65724, Dec. 19, 1991). Many of the issues raised in the comments have previously been raised and discussed, and consequently are not individually addressed here, although the issues are generally addressed in this proposed rule.

*Status Determination*

1. Distribution

Geographical variation in *S. attenuata* was described by Perrin (1975). He

partitioned the genus into three subspecies from the eastern and Central Pacific: (1) The coastal spotted, (2) the offshore spotted dolphin and (3) the Hawaiian spotted dolphin. The offshore spotted dolphin was further divided into a "northern" and "southern" stock (Perrin, Sloan and Henderson 1979). The northern offshore form occurs from near the coast of southern Mexico at 25° north, to 1° south and west to 145° (Perrin *et al.* 1985).

A hiatus in distribution between the northern and southern offshore stocks occurs at about 2°S (Perrin *et al.* 1983; Au and Perryman 1985; Reilly 1990; Reilly and Fiedler 1991). At present, there is no evidence of movement across this hiatus (Allen 1985) indicating a degree of isolation between stocks. Evidence for reproductive isolation between the offshore forms (Barlow 1984; Perrin, Coe and Zweifel 1976; Hohn, Chivers and Barlow 1985), and morphological differences (Perrin *et al.* 1985, 1991) further justifies dividing the offshore spotted dolphin into northern and southern stocks (see review of distribution at Dizon, Perrin, Akin, in press).

2. Estimates of Incidental Dophin Mortality

The methods of collecting dolphin mortality data, and of estimating dolphin mortality from these data are presented in the preamble of the proposed rule to list the eastern spinner dolphin, *S. longirostris orientalis*, as depleted under the MMPA published in the **Federal Register** on June 17, 1992.

The estimated number of northern offshore spotted dolphins killed by non-U.S. vessels and U.S. vessels for the period 1959–1990 are presented in Table 1. NMFS estimates that between 1959 and 1990, over 4,000,000 northern spotted dolphins were incidentally killed during operations in this fishery. The total fishery-related mortality of northern offshore spotted dolphin in the U.S. and non-U.S. fleets was greatest from 1960 to 1972, peaking in 1961 when an estimated 402,000 were killed. Generally, incidental mortality approached or exceeded 200,000 dolphins each year between 1960–1972. Mortality exceeded 300,000 dolphin per year in 7 years from 1960 to 1970 (Table 1).

The best estimates of dolphin mortality are from 1986 to the present. Between 1986 and 1990 over 32,000 northern offshore spotted dolphins were killed annually (Table 1). Preliminary IATTC estimates for 1991 indicate that total dolphin mortality (all species) has further decreased to about 25,000 inviduals (IATTC 1991a).

TABLE 1.—ESTIMATES [1] OF FISHING MORTALITY FOR THE NORTHERN OFFSHORE STOCK OF SPOTTED DOLPHIN AND OF ALL SPECIES (TOTAL MORTALITY) FROM 1959–1990 FOR THE U.S. AND NON-U.S. PURSE-SEINE FLEETS IN THE ETP

| Year | Number killed |
|---|---|
| | Northern offshore spotted dolphin |
| 1959 | 71,000 |
| 1960 | 357,000 |
| 1961 | 402,000 |
| 1962 | 167,000 |
| 1963 | 183,000 |
| 1964 | 306,000 |
| 1965 | 337,000 |
| 1966 | 306,000 |
| 1967 | 206,000 |
| 1968 | 178,000 |
| 1969 | 365,000 |
| 1970 | 355,000 |
| 1971 | 176,000 |
| 1972 | 288,000 |
| 1973 | 74,448 |
| 1974 | 76,900 |
| 1975 | 75,068 |
| 1976 | 50,183 |
| 1977 | 18,522 |
| 1978 | 12,825 |
| 1979 | 8,870 |
| 1980 | 13,058 |
| 1981 | 16,324 |
| 1982 | 15,427 |
| 1983 | 3,414 |
| 1984 | 15,940 |
| 1985 | 31,309 |
| 1986 | 67,989 |
| 1987 | 51,685 |
| 1988 | 36,137 |
| 1989 | 52,093 |
| 1990 | 32,267 |

[1] Data for the years 1959–1972 are from Smith (1979, 1983); for 1973–1978 from Smith (1979, 1983), Wahlen (1986) and Punsley (1983); for the years 1979–1990 from IATTC (1989, 1990, 1991b), in addition to Hall and Boyer (1990, in press) for the years 1989–1990. Incidental take data since 1973 found in DeMaster *et al.*, 1992.

3. Abundance of Northern Offshore Spotted Dolphins

*Absolute Abundance Estimates:* On August 27–31, 1979, NMFS convened a workshop to consider the population status of ETP dolphin stocks (Smith 1979). The 1979 population estimate for northern offshore spotted dolphin was 3,150,000 (45 FR 72179, October 31, 1980).

NMFS' estimate for the northern offshore spotted dolphin stock for 1979 was adjusted (following the decision of the Ninth Circuit Court of Appeals, in *ATA* v. *Baldridge*, 738 F.2d. 1013 (9th Cir. 1984)) to consider data collected by observers on tuna vessels, specifically a larger average school size, an increased density of schools within the range of each dolphin species, and an increased area inhabited by the stocks. The resulting estimate of abundance for the northern stock of offshore spotted dolphin in 1979 nearly doubled to 6,115,000 (NMFS 1985).

More recent estimates of northern offshore spotted dolphin abundance have become available as a result of data collected during research vessel surveys (referred to as Monitoring of Porpoise Stocks (MOPS)) conducted between 1986–90 (Wade and Gerrodette, in press). The MOPS surveys have produced the best available information for estimating population size, and Wade and Gerrodette (in press) re-analyzed the MOPS data to produce the best estimates of absolute abundance currently available. This determination was made during the November 18–22, 1991, workshop on the status of ETP dolphin stocks, after a review of the analytical techniques by a recognized panel of experts (DeMaster, in press).

Estimates of northern offshore spotted dolphin from the MOPS surveys ranged from 658,300 to 2,205,500 (Wade and Gerrodette, in press), with coefficients of variance (CVs) between 29 and 36 percent. DeMaster *et al.* (1992) obtained an average estimate over the 5 years of the survey of approximately 1,514,800. This average was further revised as a result of review and comments of the methodology delivered during the November, 1991, workshop. The revised estimate of 1,651,600 (CV = 21 percent) is considered the best available estimate of the current population (1991) of the northern offshore spotted dolphin (Wade and DeMaster, pers. comm.).

*Relative Abundance Estimates:* In addition to MOPS survey estimates of absolute abundance, estimates of relative abundance have been made based on sighting data collected by observers onboard tuna fishing vessels (Anganuzzi and Buckland 1989; Anganuzzi, Buckland and Cattanach 1991; Anganuzzi, Cattanach and Buckland, in press). Sighting data collected by observers on the tuna vessels are currently considered the most reliable for monitoring trends in the abundance of northern offshore spotted dolphins (Anganuzzi and Buckland, 1989; DeMaster *et al.*, 1992).

Estimates of abundance obtained from tuna vessel data, however, cannot be compared directly to estimates derived from sighting data collected by observers on research vessels. This is due to the non-random search patterns of tuna vessels which effectively search out larger concentrations of dolphins over short time periods and geographic areas, and the recording of sighting angles after a vessel has responded to the presence of a group of dolphins. These biases result in an overestimate of density, (Buckland and Anganuzzi 1988; Anganuzzi and Buckland 1989), therefore an overestimate of the

population size. These data, however, have a large number of sightings (relative to research vessel data), and span the entire period from 1974 to the present. Therefore they provide a continuous sequence of relative abundance necessary to monitor trends in dolphin population levels, rather than providing estimates of absolute abundance (as do the research vessel data).

Estimates of relative abundance for the northern stock of offshore spotted dolphin obtained from observer data collected onboard tuna vessels for 1975–1990 are provided in Table 2. The 1990 estimate (2,553,000) is 35 percent lower than the estimate for 1975 (3,949,000) (Table 2), indicating a significant decline since 1975. This is in agreement with the results of Buckland and Anganuzzi (1988), who determined that the average stock size of the northern offshore spotted dolphin during 1975–1980 was significantly greater than the average during 1981/1986, and provides evidence of stock declines between 1975–1986.

TABLE 2.—RELATIVE POPULATION ESTIMATES [1] (X 1000) FOR THE NORTHERN STOCK OF OFFSHORE SPOTTED DOLPHIN, USING OBSERVER DATA COLLECTED ON TUNA VESSELS

| Year | Estimate |
|---|---|
| 1975 | 3,949 |
| 1976 | 4,253 |
| 1977 | 3,828 |
| 1978 | 3,212 |
| 1979 | 2,950 |
| 1980 | 3,335 |
| 1981 | 2,536 |
| 1982 | 2,550 |
| 1983 | 1,221 |
| 1984 | 2,158 |
| 1985 | 2,884 |
| 1986 | 3,165 |
| 1987 | 2,953 |
| 1988 | 2,700 |
| 1989 | 2,900 |
| 1990 | 2,553 |

[1] Data for 1975 to 1987 are from Anganuzzi and Buckland (1989), for 1988–1989 from Anganuzzi, Cattanach and Buckland, in press, and for 1990 from DeMaster, pers. comm.

40. Classification of the Northern Offshore Spotted Dolphin as Depleted under the MMPA

A determination of depletion must, in significant part, be based on the relationship between the optimum carrying capacity (K) and OSP, as described in the MMPA. The MMPA states that marine mammal species, populations and/or stocks should not be permitted to fall below OSP. MNPL is considered the lower end of OSP, and NMFS has adopted by regulation that MNPL is at 60 percent of K (42 FR 64548, Dec. 27, 1977 and 45 FR 72178, Oct. 31, 1980).

The 1986–1990 MOPS surveys resulted in estimates of absolute abundance from research vessels that are considered more reliable than estimates based on previous research vessel data. The range of the recent estimates of absolute abundance for each year of the survey, 658,300 (in 1990) to 2,606,000 (in 1988) (at Wade and Gerrodette 1991), is considered to be 31–54 percent of K (Wade, pers. comm.), therefore depleted under the MMPA.

The abundance estimates from each year of the MOPS surveys can also be compared to the adjusted 1979 population size of 6,115,000 (considered to be 85 percent of K). The greatest number of dolphins estimated during the MOPS surveys, 2,606,000 (1988), is 43 percent of the 1979 estimate, or 36 percent of K, and therefore depleted under the MMPA. The best estimate of the absolute population size obtained from the MOPS surveys, 1,651,600 (Wade 1991, as revised by DeMaster (in press) based on comments received during the November, 1991, workshop), is considered 27 percent of the adjusted 1979 estimate, or 23 percent of K, also depleted under the MMPA.

Furthermore, relative abundance data collected onboard tuna vessels (at Table 2), indicate a northern offshore spotted dolphin population in 1990 which had been reduced by 35 percent since 1975. Prior to 1975 (1960 to 1972), the number of dolphins killed in this fishery approached or exceeded 200,000 per year, and a minimum estimate of incidental take by this fishery prior to 1973 exceeds 3,000,000 individuals (from Table 1). Smith (1983) suggested that, given the number of dolphin killed, the population of offshore spotted dolphins declined rapidly during this period. The magnitude of the spotted dolphin kill prior to 1975 (as compared to estimates of abundance from either research vessel data, or tuna vessel data) indicates a population reduced by an amount significantly greater than 5 percent during the 1960s and early 1970s (prior to 1975). Based on the best information available, NMFS has concluded that the extensive level of incidental take prior to the mid 1970s, coupled with the continued reduction of this stock between 1975 and 1990 by approximately 35 percent (as indicated by relative trend data, Table 2) has resulted in a current population which has been reduced from its historical or pre-exploitative size (K) by greater than 40 percent.

NMFS, therefore, has determined that the northern offshore spotted dolphin population is below OSP, and that the petitioned action is warranted. Accordingly, NMFS proposes that the northern offshore spotted dolphin be designated as depleted under the MMPA.

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## Classification

The Assistant Administrator has determined that this proposed rule is exempt from the requirements of Executive Orders 12291 and 12612, the Paperwork Reduction Act, and the Regulatory Flexibility Act because section 115(a)(2) of the MMPA requires listing decisions to be based "solely on the basis of the best scientific information available."

A designation of depletion in this instance, which is similar to a listing action under ESA section 4(a), is categorically excluded by NOAA Administrative Order 216–6 from the requirement to prepare an environmental assessment or an environmental impact statement under the National Environmental Policy Act.

Dated: June 12, 1992.

**Michael F. Tillman,**

*Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.*

### List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mamals, Penalties, Reporting and recordkeeping requirements, Transportation.

For the reasons set out in the preamble, 50 CFR part 216 is proposed to be amended as follows:

## PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

**Authority:** 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. In § 216.15, a new paragraph (f) is added to read as follows:

**§216.15 Depleted species.**

* * * * * * *

(f) Northern offshore spotted dolphin (*Stenella attenuata*).

[FR Doc. 92–14208 Filed 6–17–92; 8:45 am]

BILLING CODE 3510–22–M

# Notices

Federal Register
Vol. 57, No. 118
Thursday, June 18, 1992

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.

## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### Administration Committee Meeting

**ACTION:** Committee on Administration notice of public meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Administration of the Administrative Conference of the United States.

The Committee will discuss a draft report on the formula grant program at the Department of Justice's Office of Juvenile Justice and Delinquency Prevention.

Copies of the draft report are available from the Conference.

**DATES:** Wednesday, July 8, 1992 at 2 p.m.

**LOCATION:** Library of the Administrative Conference, 2120 L Street, NW., suite 500, Washington, DC.

**PUBLIC PARTICIPATION:** The committee meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the committee before, during, or after the meetings. Minutes of the meeting will be available on request.

**FOR FURTHER INFORMATION CONTACT:** Charles Pou, Jr., Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

Dated: June 10, 1992.

**Jeffrey S. Lubbers,**

*Research Director.*

[FR Doc. 92–14307 Filed 6–17–92; 8:45 am]

BILLING CODE 6110–01–M

## DEPARTMENT OF AGRICULTURE

### Forms Under Review by Office of Management and Budget

June 12, 1992.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250 (202) 690–2118.

**Extension**

• Foreign Agricultural Service. Issuing Certificates For The Importation of Specialty Sugars. On occasion. Businesses or other for-profit; 30 responses; 60 hours. Cleveland H. Marsh (202) 720–5676.

**New Collection**

• Rural Electrification Administration. Loan Payment Deferments for Rural Development Projects. Recordkeeping; On occasion. Businesses or other for-profit; Small businesses or organizations; 108 responses; 421 hours; Paul D. Marsden (202) 720–9551.

• Food and Nutrition Service. Welfare Program Coordination Study. One time only. Individual or households; State or local governments; 192 responses; 48 hours. Boyd Kowal (703) 305-2130.

**Reinstatement**

• Animal and Plant Inspection Service. Application for Veterinary Accreditation and Veterinary Accreditation Examination. VS Form 1–36A. Recordkeeping; Annually. State or local governments; Businesses or other for-profit; Small businesses or organizations; 8,324 responses; 51,689 hours. Julie Heamon (301) 436–6954.

**Revision**

• Agricultural Marketing Service. Kiwifruit Grown in California, Marketing Order No. 920. Recordkeeping; On occasion; Annually; Monthly; Once every 6 years Farms; Business or other for-profit; 1583 responses; 748 hours Caroline Thorpe or Mark Hessel (202) 720–8139.

**Donald E. Hulcher,**

*Deputy Departmental Clearance Officer.*

[FR Doc. 92–14364 Filed 6–17–92; 8:45 am]

BILLING CODE 3410–01–M

## Forest Service

### Stillwater Mining Company Expansion, Stillwater County, Montana

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Availability of an Environmental Impact Statement.

Draft EIS, USFS/DSLL, Mt., Stillwater Mining Company, Mine Expansion 2000 TPD, Application to Amend Operating Permit No. 00118, Custer National Forest. Due June 5, 1992.

Comments, suggestions or questions concerning the Environmental Impact Statement should be sent to Ms. Jo Stephen, Montana Department of State Lands, 1625 11th Avenue, Helena, Montana, 59620, 406–444–2074; or Greg Visconty, Custer National Forest, P.O. Box 2556, Billings, Montana, 59103, 406–657–6361.

The U.S. Department of Agriculture's Forest Service and Montana Department of State Lands are joint lead agencies for this project.

Dated: June 16, 1992.

**Leroy White,**

*Acting Forest Supervisor.*

[FR Doc. 92–14313 Filed 6–17–92; 8:45 am]

BILLING CODE 3410–11–M

## Rural Electrification Administration

### Electric Program Regulations

**AGENCY:** Rural Electrification Administration, USDA.

**ACTION:** Notice: Proposed rescission of bulletins, request for comments.

**SUMMARY:** As part of an ongoing project to simplify, clarify, and update Agency regulations and in response to the President's regulatory review initiative, the Rural Electrification Administration (REA) is requesting public comments on a proposal to rescind a number of outdated publications.

**DATES:** Written comments must be received by REA, or bear a postmark or equivalent, by July 20, 1992.

**ADDRESSES:** Written comments should be addressed to William F. Albrecht, Director, Program Support Staff, Rural Electrification Administration, room 2234-S, 14th Street and Independence Avenue, SW., Washington, DC 20250–1500. REA requires an original and 3 copies of all comments (7 CFR 1700.30(e)).

**FOR FURTHER INFORMATION CONTACT:** Sue Arnold, Management Analyst, Program Support Staff, Rural Electrification Administration, room 2230-S, 14th Street and Independence Avenue, SW., Washington, DC 20250–1500. Telephone: 202–720–0736.

Copies of individual bulletins are available from the Publications and Directives Management Branch, Rural Electrification Administration, room 0180-S, 14th Street and Independence Avenue, SW., Washington, DC 20250–1500. Telephone 202–720–8674.

**SUPPLEMENTARY INFORMATION:** In the State of the Union Address on January 28, 1992, President Bush announced a 90-day moratorium on new regulations and a concurrent review of existing regulations. In a January 28, 1992, memorandum to certain Department and Agency heads, the President directed that agencies set aside a 90-day period "to evaluate existing regulations and programs and to identify and accelerate action on initiatives that will eliminate any unnecessary regulatory burden or otherwise promote economic growth." On February 25, 1992, at 57 FR 6483, the Department of Agriculture published a request for public comments on how Departmental regulations can be improved, updated or streamlined and made more "user friendly."

In 1990 REA began its own independent project to simplify, clarify and update Agency regulations. Consistent with the spirit of both regulatory review projects, REA is now requesting public comment on a proposal to rescind the REA bulletins listed below. These bulletins contain regulatory material that has become outdated. Some of the information and instructions in the bulletins have been rendered obsolete through legislation, regulations published by REA in 7 CFR Chapter XVII, or regulations published by other agencies. The material in other bulletins is unnecessary in today's business environment.

*List of REA Bulletins Proposed For Rescission*

| Number | Title | Issued |
|---|---|---|
| 24–1 | Electric Loan Policy for Section 5 Loans | 3/69 |
| 45–4 | Distribution System Energy Losses | 4/90 |
| 100–1:400–2 | Selection of an Attorney by an REA Borrower (Supplement 2/75) | 4/60 |
| 107–1:407–1 | Data Processing Systems | 2/79 |
| 107–2 | Coding System for Material Items | 6/77 |
| 107–3 | Data Processing Systems—Factors to Consider in Conversion | 10/72 |
| 109–6 | Personnel Practices for Business Security | 12/58 |
| 110–1 | Member Services, Community Relations and Power Use | 2/71 |
| 112–3 | Area Coverage Service | 9/58 |
| 180–5 | Authorization and Accounting for Travel and Incidental Expenses | 6/67 |

**Authority:** 7 U.S.C. 901 *et seq.*

Dated: May 27, 1992.

**Michael M.F. Liu,**

*Acting Administrator.*

[FR Doc 92–14280 Filed 6–17–92; 8:45 am]

BILLING CODE 3410–15–F

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

**ACTION:** Notice of initiation of Antidumping and Countervailing Duty Administrative Reviews.

**SUMMARY:** The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings and suspension agreements with May anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

**EFFECTIVE DATE:** June 18, 1992.

**FOR FURTHER INFORMATION CONTACT:** Roland L. MacDonald, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 377–2104.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Department of Commerce ("the Department") has received timely requests, in accordance with § 353.22(a)(1) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders, findings and suspension agreements, with May anniversary dates.

#### Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews not later than May 31, 1993.

| Antidumping duty proceedings and firms | Periods to be reviewed |
|---|---|
| Brazil: | |
| Frozen concentrated orange juice A–351–605. | |
| Branco Peres Citrus, S.A. Citropectina S.A., Frutropic, S.A. | 5/1/91–4/30/92. |
| Japan: | |
| Gray portland cement and clinker A–588–815. | |
| Onoda Cement Co., Ltd | 10/31/90–4/30/92. |
| Portable electric typewriters A–588–087. | |
| Matsushita Electric, Industrial Co., Ltd., Brother Industries, Ltd., Nakajima All Co., Ltd., Canon, Inc., Silver Seiko, Ltd. | 5/1/91–4/30/92. |
| Countervailing duty proceedings | |
| Argentina: | |
| Cold rolled carbon steel flat rolled products C–357–005. | 1/1/91–12/31/91 |

| Antidumping duty proceedings and firms | Periods to be reviewed |
|---|---|
| Mexico: | |
| Ceramic tile C-201-003 | 1/1/91-12/31/91. |
| Singapore: | |
| Antifriction bearings (other than tapered roller bearings and parts thereof) C-559-802. | 1/1/91-12/31/91. |
| Sweden: | |
| Viscose rayon staple fiber C-401-056. | 1/1/91-12/31/91. |
| Thailand: | |
| Ball bearings and parts thereof C-549-802. | 1/1/91-12/31/91. |

Interested parties must submit applications for administrative protective orders in accordance with § 353.34(b) and § 353.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) and 355.22(c) (1989).

Dated: June 10, 1992.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary for Compliance.*

[FR Doc. 92-14378 Filed 6-17-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-401]

## Certain Valves and Connections, of Brass, for Use in Fire Protection Systems From Italy; Amended Final Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of amendment to final results of Antidumping Duty Administrative review.

**SUMMARY:** On august 5, 1991, the Department of commerce submitted to the Court of International Trade (CIT) the final results of redetermination pursuant to a remand from the CIT in *Giacomini, S.p.A., et. al.,* v. *United States* (Slip Op. 91-16, March 8, 1991). On September 8, 1991, the CIT affirmed our redetermination. In accordance with the court's determination we are hereby amending the final results of the administrative review for Giacomini, S.p.A. for the period March 1, 1986 through February 28, 1987.

**EFFECTIVE DATE:** June 18, 1992.

**FOR FURTHER INFORMATION CONTACT:** G. Leon McNeill or Maureen A. Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC, 20230; telephone (202) 377-2923.

**SUPPLEMENTARY INFORMATION:**

### Background

On March 8, 1991, the court of International Trade (CIT), in *Giacomini S.p.A. et. al.,* v. *United States* (Slip Op. 91-16), remanded to the Department of Commerce (the Department) for redetermination the final results of the administrative review of the antidumping duty order on certain valves and connections of brass, for use in fire protection systems (brass fire protection equipment) from Italy (54 FR 40155, September 29, 1989). In the Department's final results, the dumping margin for brass fire protection equipment manufactured or exported by Giacomini S.p.A. (Giacomini) during the March 1, 1986 through February 28, 1987 period was 85.54 percent. The final results were based on the best information available (BIA).

Giacomini contested the Department's decision to use BIA for all models included in this review. On June 6, 1990, in a memorandum to the Court, the Department requested that the review by remanded so that it could calculate the proper margins, if any, for the three models for which there was sufficient information on the record, that is, those models for which there were third country matches. With respect to the remaining models, the Department continued to maintain that Giacomini failed to provide adequate information by which to calculate their constructed values. The Department asked the Court, however, to remand the case with respect to those five models so that it could reconsider the appropriateness of the BIA rate applied thereto. The Court remanded the proceeding to the Department to (1) redetermine the amount of dumping margin, if any, for the products at issue; and (2) redetermine whether it was necessary to use BIA for the models for which the Department deemed constructed value to be the appropriate method of valuation.

On remand, the Department (1) recalculated margins for the three models for which there were third country matches; and (2) determined that it was necessary to use BIA for the models for which the Department deemed constructed value to be the appropriate method of valuation. With respect to the latter, the Department determined that the appropriate rate was 6.74 percent, Giacomini's rate from the investigation of sales at less than fair value. Based on the foregoing, the Department recalculated Giacomini's weighted-average margin for the review period in question as 9.44 percent.

Interested parties were invited to comment on the draft results. After consideration of the comments received, the draft results remained unchanged. The Department submitted its final results of redetermination to the CIT on August 5, 1991. On September 8, 1991, the CIT affirmed the Department's redetermination.

### Amended Final Results of Review

Based on our analysis, we have amended our final results of review for the March 1, 1986 through February 28, 1987 period with respect to Giacomini. The amended weighted-average margin for Giacomini is 9.44 percent. The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

The cash deposit rate for Giacomini will continue to be 1.40 percent, Giacomini's rate from the most recent final results of administrative review. See Final Results of Antidumping Administrative Review, Certain Valves and Connections, of Brass, for Use in Fire Protection Systems from Italy (56 FR 5388, February 11, 1991).

This notice is in accordance with section 516A(e) of the Tariff Act of 1930, as amended, (19 U.S.C. 1516A(E)).

Dated: June 11, 1992.

**Alan M. Dunn,**

*Assistant Secretary for Import Administration.*

[FR Doc. 92-14376 Filed 6-17-92; 8:45 am]

BILLING CODE 3510-DS-M

## Argonne National Laboratory; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 98-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

*Docket Number:* 91-169. *Applicant:* Argonne National Laboratory, Argonne, IL 60439. *Instrument:* Scanning Electron Microscope Accessories. *Manufacturer:* JEOL, Japan. *Intended Use:* See notice at 57 FR 399, January 6, 1992.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent

scientific value to the foreign instrument, for such purposes as it is intended to use, is being manufactured in the United States. *Reasons:* These are compatible accessories for an instrument previously imported for the use of the applicant. The instrument and accessories were made by the same manufacturer.

The accessories are pertinent to the intended uses and we know of no domestic accessories which can be readily adapted to the instrument.

**Frank W. Creel,**

*Director, Statutory Import Programs Staff.*

[FR Doc. 92–14374 Filed 6–17–92; 8:45 am]

BILLING CODE 3510–DS–M

## Argonne National Laboratory, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Education, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC

*Comments* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

*Docket Number* 91–168R. *Applicant:* Argonne National Laboratory, Argonne, IL 60439. *Instrument:* Scanning Electron Microscope, Model JSM–6400. *Manufacturer:* JEOL, Japan. *Intended Use:* See notice at 56 FR 64244, December 9, 1991. *Reasons:* The foreign instrument provides two wavelength dispersive spectrometers for simultaneous analysis of two elements in the surface zone. *Advice Received From:* National Institute of Standards and Technology, January 28, 1992.

*Docket Number:* 92–051. *Applicant:* Indiana University, Bloomington, IN 47405. *Instrument:*Electron Microprobe, Model Camebax SX 50. *Manufacturer:* Cameca, France. *Intended Use:* See notice at 57 FR 15283, April 27, 1992. *Reasons:* The foreign instrument provides an intense electron beam to excite characteristic x-rays of a sample phase down to 1.0μm area. *Advice Received from:* National Institute of Standards and Technology, May 29, 1992.

The National Institute of Standards and Technology advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

**Frank W. Creel,**

*Director, Statutory Import Programs Staff.*

[FR Doc. 92–14375 Filed 6–17–92; 8:45 am]

BILLING CODE 3510–DS–M

## Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651); 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purpose for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with Subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC

*Docket Number:* 92–069. *Applicant:* University of California, Irvine, School of Physical Sciences, Department of Chemistry, 200 Public Services Building, Irvine, CA 92717. *Instrument:* Electron Paramagnetic Resonance Spectrometer, Model ESP 300E. *Manufacturer:* Bruker, Germany. *Intended Use:* The instrument will be used to provide ESR/EPR capability to a group of researchers with interests that include analysis network polymer dynamics, electrochemical-ESR studies of metal-containing active sites in proteins, structural organization and function of the MoFe proteins, chemically and genetically modified biological iron-sulfur clusters structure/function and studies on steroid hydroxylase components and paramagnetic yttrium and lanthanide metal complexes and low-valent organosamarium(II) complexes. *Application Received by Commissioner of Customs:* May 15, 1992.

*Docket Numbers:* 92–070. *Applicant:* Northwestern University, Programs in Physical Therapy, 345 E. Superior Street, Room 1323, Chicago, IL 60611. *Instrument:* Kinematic Analysis Instrumentation, Model ELITE 50 Hz. *Manufacturer:* Bioengineering Technology and Systems, Italy. *Intended Use:* The instrument will be used to study the control and learning of coordinated, balance movements in healthy, and neurologically or musculoskeletally impaired persons. Experiments will be conducted that alter practice conditions, attention, mechanical loads, and extent of movement permitted as human subjects perform arm movements while standing. In these experiments, the device will be used to transduce joint position changes by applying reflective markers at joint centers. *Application Received by Commissioner of Customs:* May 21, 1992.

*Docket Number:* 92–071. *Applicant:* The University of Texas at Austin, 8701 N. Mopac Boulevard, suite 450, Austin, TX 78759–8345. *Instrument:* Rolling Wheel Compactor for Testing Asphalt Paving Mixtures. *Manufacturer:* Societe Nouvelle D'Applications Mecaniques et Optiques, France. *Intended Use:* The instrument will be used for studies of asphalt-aggregate mixtures for paving roadways in order to develop performance based asphalt binder and mixture specifications as directed by Congress through the National Research Council and the Strategic Highway Research Program. *Application Received by Commissioner of Customs:* May 21, 1992

*Docket Number:* 92–072. *Applicant:* Oregon State University, College of Oceanography, Oceanography Administration Building 104, Corvallis, OR 97331–5503. *Instrument:* Deep-Sea Fluorometer, Model Aquatracka Mark III. *Manufacturer:* Chelsea Instruments, Ltd., United Kingdom. *Intended Use:* The instrument will be used to study the distribution of fluorescence and particulate matter in the oceans. *Application Received by Commissioner of Customs:* May 21, 1992.

*Docket Number:* 92–073. *Applicant:* Indiana University/Purdue, 620 Union Drive, Room 542, Indianapolis, IN 46202. *Instrument:* Mass Spectrometer, Model MAT 252. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used for analysis by a number of researchers in studies utilizing stable isotopic tracers to investigate the important questions in nutrition and metabolism. These investigations will involve quantifying the oxidation of metabolic substrates (e.g. glucose amino acids, lipids) in a variety of physiologic and pathophysiologic conditions in humans (including newborns and pregnant women) and in animals using isotope ratio mass spectrometry. The

instrument will also be used to employ a powerful new technique for noninvasively determining energy expenditure (doubly labeled water method). *Application Received by Commissioner of Customs:* May 22, 1992.

*Docket Number:* 92–075. *Applicant:* Brooklyn College of City University of New York, Bedford Avenue and Avenue H. Brooklyn, NY 11210. *Instrument:* Coaxial Nanosecond Flashlamp, Model Mark 3. *Manufacturer:* IBH Consultants, Ltd., United Kingdom. *Intended Use:* The instrument will be used in measurements of the nanosecond time-scale polarized/unpolarized fluorescence decay kinetics of fluorescent molecules inserted in model lipid membranes (prepared using purified phospholipids) or in solution. *Application Received by Commissioner of Customs:* May 27, 1992.

*Docket Number:* 92–076. *Applicant:* University of Illinois at Urbana-Champaign, Purchasing Division, 506 South Wright Street, 207 Henry Administration Building, Urbana, IL 61801. *Instrument:* Electronic Scaler, Model C243. *Manufacturer:* CAEN, Italy. *Intended Use:* The instrument will be used in the study of sub-atomic particles which must be observed with charge sensitive detectors and high-speed electronics. The device measures counting rates of detectors to determine if the detectors are performing optimally and to determine the number of charged particles produced in various collisions of high-energy particles. This information makes it possible to diagnose detector problems and measure reaction properties. *Application Received by Commissioner of Customs:* May 28, 1992.

*Docket Number:* 91–186R. *Applicant:* Hofstra University, 1000 Fulton Street, Hempstead, NY 11550. *Instrument:* Stopped-Flow Kinetics Accessory, Model SFA–12M. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* Original notice of this resubmitted application was published in the **Federal Register** of January 15, 1992.

*Docket Number:* 92–077. *Applicant:* Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Mississippi Laboratory, Building 1103, room 218, Stennis Space Center, MS 39529–6000. *Instrument:* Digital Fish Measuring Boards, Model FMB IV. *Manufacturer:* Limnoterra Atlantic, Inc., Canada. *Intended Use:* The instrument will be used for an area of research to update and expand shrimp trawl bycatch estimates both temporally and spatially in the offshore, nearshore, and inshore waters of the Gulf of Mexico and along the U.S. coast of the southeastern Atlantic. *Application Received by Commissioner of Customs:* June 3, 1992.

**Frank W. Creel,**

*Director, Statutory Import Programs Staff.*

[FR Doc. 92–14377 Filed 6–17–92; 8:45 am]

BILLING CODE 3510–DS–M

## Minority Business Development Agency

### Pilot MEGA Center Applications: States of Wisconsin, Illinois, Iowa, Indiana, Kansas, Minnesota, Missouri, Nebraska, Ohio, and Michigan

**AGENCY:** Minority Business Development Agency, Commerce.

**ACTION:** Notice.

**SUMMARY:** In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications for its Pilot MEGA Center. The cost of performance is estimated at $1,800,000 in Federal funds, and a minimum of $317,647 in non-Federal (cost sharing) contributions from October 1, 1992 to September 30, 1993. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The Pilot MEGA Center will service in a ten-state geographic service area, which includes Wisconsin, Illinois, Iowa, Indiana, Kansas, Minnesota, Missouri, Nebraska, Ohio, and Michigan. The award number of this pilot project will be 05–10–92007–01.

The funding instrument for this pilot project will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes, and educational institutions.

The purpose of the pilot MEGA Center concept is to provide business development services more effectively by: (1) Upgrading the current level of M&TA assistance provided in the Chicago MSA with professionals with higher qualifications (through its Basic Service Component), and (2) expanding the scope of services and assistance throughout the ten-state regional area by providing specialized assistance in the areas of Franchise Development, Construction Assistance and Bonding, Capital Development, International Trade, and Integrated Information Systems. Each one of these specialized business areas are considered FUNCTIONAL COMPONENTS of the Pilot MEGA Center, and serve as integral parts of the center. This pilot effort should demonstrate a more efficient and effective client service delivery system by offering higher quality assistance and servicing more complex business needs of the minority business community. This, in turn, is expected to create growing and more profitable ventures resulting in increased job opportunities.

Applications will be evaluated initially within the region on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) for performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the pilot effort. The application will then be forwarded to the Department for final processing and approval, if appropriate.

The Pilot MEGA Center shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the Pilot MEGA Center may charge client fees for management and technical assistance (M&TA) rendered under the Basic Service Component. Based on a standard rate of $50 per hour, the MEGA Center will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

Awards and subawards under this pilot effort shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the

Department of Commerce (DoC) are made.

All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying:"

- Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form;
- Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR Part 26, Subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form;
- Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form which applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and
- Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DoC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DoC in accordance with the instructions contained in the award document.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that they may have received, there is no obligation on the part of the Government to cover pre-award costs.

If an application is selected for funding, the U.S. Department of Commerce has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department.

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or is presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity; and

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

**CLOSING DATE:** The closing date for applications is July 31, 1992. Applications must be postmarked on or before July 31, 1992.

**ADDRESSES:** Chicago Regional Office, 55 East Monroe Street, suite 1440, Chicago, Illinois 60603, (312) 353–0182.

**FOR FURTHER INFORMATION, CONTACT:** David Vega, Regional Director, Chicago Regional Office.

**SUPPLEMENTARY INFORMATION:** Anticipated processing time of this award is approximately 110 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. A pre-bid conference will be held on July 1, 1992, at 10:00 a.m. at the MBDA Chicago Regional Office. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address. The MBDC Program Application Kit is approved with OMB Number 0640–0006, which expires May 31, 1994.

Dated: June 15, 1992.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

**Bharat Bhargava,**

*Associate Director, Office of Operations, Minority Business Development Agency.*

[FR Doc. 92–14420 Filed 6–17–92; 8:45 am]

**BILLING CODE 3510–21–M**

## National Telecommunications and Information Administration

## Federal Telecommunication Standard; Formal Briefing

**AGENCY:** National Telecommunications and Information Administration, Institute for Telecommunication Sciences (NTIA/ITS), Commerce.

**ACTION:** Notice of open meeting to present a formal briefing on proposed Federal Standard (pFED–STD) 1052, HF (High Frequency) Radio Modems.

**FOR FURTHER INFORMATION CONTACT:** Mr. David F. Peach or Mr. Nathaniel B. McMillian, Institute for Telecommunication Sciences, Boulder, CO, telephone (303) 497–5116.

**SUPPLEMENTARY INFORMATION:** The development of pFED–STD–1052 has been by a technical Advisory Committee (TAC) consisting of both industry representatives and representatives from several Government agencies. This standard is being developed under the sponsorship of the National Communications System (NCS) Office of Technology and Standards, and under the leadership of NTIA/ITS.

The briefing, by TAC members, will be followed by an open forum for questions and answers. Industry and Government representatives are encouraged to attend.

The meeting will be held at the MITRE Corporation, Hayes Building, 7525 Colshire Drive, McLean, VA, in Conference Room A. The meeting will commence at 0900 hours, July 15, 1992 and is scheduled for all day. The point of contact (POC) for the meeting will be Mr. Fred Leiner, MITRE Corp., telephone (703) 883–6998.

Dated: June 9, 1992.

**Val J. Pietrasiewicz,**

*Senior Staff Associate Systems and Networks Division.*

[FR Doc. 92–14266 Filed 6–17–92; 8:45 am]

**BILLING CODE 3510–60–M**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Defense Science Board Task Force on Simulation, Readiness and Prototyping; Meeting

**ACTION:** Notice of Advisory Committee Meeting.

**SUMMARY:** The Defense Science Board Task Force on Simulation, Readiness and Prototyping will meet in open and closed sessions on 1 and 2 July, 1992, at the Institute for Defense Analyses, Alexandria, Virginia. The closed session of the meeting is scheduled for the afternoon of 1 July.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will receive briefings on current projects in the area of virtual prototyping, and briefings on information technology trends which have application to the subject of advanced distributed simulation. The closed session of the meeting, scheduled for the afternoon of 1 July, is devoted to the presentation of a classified briefing on a particular Air Force system.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that a portion of this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, that specific portion of the meeting will be closed to the public.

For further information, contact Lieutenant Colonel John Fair at (703) 695–1535.

Dated: June 15, 1992

**Linda M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 92–14345 Filed 6–17–92; 8:45 am]

BILLING CODE 3810–01–M

### Public Information Collection Requirement Submitted to OMB for Review.

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Title, Applicable Form, and Applicable OMB Control Number:* Department of Defense National Agency Questionnaire (NAQ), DD Form 398–2, OMB Control Number 0704–0298.

*Type of Request:* Revision; expedited submission—approval date requested: 30 days after publication in the **Federal Register.**

*Average Burden Hours/Minutes Per Response:* 2.25 hours.

*Responses per Respondent:* 1.

*Number of Respondents:* 682,000.

*Annual Responses:* 682,000.

*Annual Burden Hours:* 1,534,500.

*Needs and Uses:* The Department of Defense National Agency Questionnaire (NAQ), DD Form 398–2, is used by the Defense Investigative Service for the purpose of conducting National Agency Checks which provide the basis for determination of a person's eligibility for access to classified information, employment in sensitive positions, and entrance into the Armed Forces.

*Affected Public:* Individuals or households; Federal agencies or employees.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: June 12, 1992.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Office, Department of Defense.*

BILLING CODE 3810–01–M

# DEPARTMENT OF DEFENSE

# NATIONAL AGENCY QUESTIONNAIRE (NAQ)

## CONTENTS

**THE NAQ PACKAGE CONSISTS OF THE FOLLOWING:**

1. Privacy Act Statement
2. Authority for Release of Information and Records
3. DD Form 398-2, "Department of Defense National Agency Questionnaire (NAQ)"
4. DD Form 398-2I, "Instructions for Completing the Department of Defense National Agency Questionnaire (NAQ)"

**PLEASE BE SURE YOU HAVE ALL PARTS OF THE PACKAGE.**

## PRIVACY ACT STATEMENT

**AUTHORITY:** 50 U.S.C. Sections 781-887, Internal Security Act of 1950; 5 U.S.C. Section 9101, Criminal history record information for national security purposes; Executive Order 9397, November 1943 (SSN), Numbering System for Federal Register Accounts Relating to Individual Persons; Executive Order 10450, Security Requirements for Government Employment; Executive Order 10865, Safeguarding Classified Information Within Industry; Executive Order 11935, Citizenship Requirements for Federal Employment; Executive Order 12333, United States Intelligence Activities; Executive Order 12356, National Security Information; and 5 U.S.C. Section 301, Department Regulations.

**PRINCIPAL PURPOSES:** To obtain background information for personnel security investigative and evaluative purposes to make reliability and security determinations; to allow access to classified information, sensitive areas, or equipment; to ensure that enlistment and retention in the Armed Forces is clearly consistent with national security; or to permit assignment to sensitive national security positions. The data may later be used as part of a review process to evaluate continued eligibility for access to classified information. The Social Security Number will be used to verify identity and locate existing records.

**ROUTINE USES:** To federal, state, local, or foreign law enforcement authorities if the record indicates, on its face or in conjunction with other records, a violation of law; to federal, state, or local government agencies if necessary to obtain information for a reliability or personnel security determination; to a requesting federal agency concerning its retaining, issuing a security clearance, or making a reliability or personnel security determination concerning assignment to or retention in a sensitive position, or letting a contract; to a congressional office in response to an inquiry made at the request of the individual; to foreign law enforcement, security, investigatory, or administrative authorities to comply with international agreements; to the Office of Personnel Management when necessary to carry out its personnel security functions; to the Department of Justice in pending or potential litigation to which the record is pertinent; to the General Services Administration and National Archives and Records Administration for records management purposes; to the Merit Systems Protection Board for use in administrative proceedings and investigations of possible prohibited personnel practices; to individuals and entities outside the Department of Defense and U.S. Government for counterintelligence activities authorized by federal law or executive order.

**DISCLOSURE:** Voluntary; however, failure to furnish the requested information may result in our being unable to complete your investigation, which could result in your not being considered for clearance, access, entry into a uniformed service, or assignment to sensitive duties. For contractor personnel, failure to furnish information may result in administrative termination of any existing Industrial Security Clearance to include a contractor-granted clearance.

## AUTHORITY FOR RELEASE OF INFORMATION AND RECORDS

I have been provided a Privacy Act Statement advising me that certain information is required to assist the Department of Defense in making a security determination concerning me and that execution of this form is voluntary. The information will be used for the purpose of determining my qualification for employment with the Federal Government, service in the Armed Forces, or access to classified information.

I therefore authorize any duly accredited representative of the Department of Defense, including those from the Defense Investigative Service, to obtain any information relating to my activities from individuals, schools, residential management agents, employers, criminal justice agencies, financial or lending institutions, credit bureaus, consumer reporting agencies, retail business establishments, medical institutions, hospitals or other repositories of medical records. This information may include, but is not limited to, my academic, residential, achievement, performance, attendance, personal history, disciplinary, criminal history record, arrest, conviction, medical, psychiatric/psychological, and financial and credit information.

I further authorize the Defense Investigative Service and any other authorized Department of Defense agency, to request criminal history record information about me from criminal justice agencies for the purpose of determining my eligibility for access to classified information, or assignment to, or retention in, sensitive national security duties, in accordance with 5 U.S.C. 9101. I understand that I may request a copy of such records as may be available to me under the law.

I direct you to release such information upon request of the duly accredited representative of any authorized Department of Defense agency regardless of any agreement I may have made with you previously to the contrary.

I have been advised that the original of this authorization will be placed on file with the Department of Defense. This authorization will expire in five (5) years or upon the termination of my affiliation with the Department of Defense, whichever is sooner.

| a. TYPED NAME *(LAST, First, Middle Initial)* | | b. OTHER NAMES USED |
|---|---|---|
| c. DATE OF BIRTH *(YYMMDD)* | d. SOCIAL SECURITY NUMBER | e CURRENT HOME ADDRESS *(Street, City, State and Zip Code)* |
| f. HOME TELEPHONE NUMBER *(Include Area Code)* | | |
| g. SIGNATURE | | h. DATE SIGNED *(YYMMDD)* |

DD Form 398-2, 920604 Draft

# DEPARTMENT OF DEFENSE NATIONAL AGENCY QUESTIONNAIRE (NAQ)

*Before completing form, read attached Privacy Act Statement and DD Form 398-2I, "Instructions for Completing the Department of Defense National Agency Questionnaire (NAQ)," General and Detailed Instructions.*
**Items outlined by heavy black line are for Requesting Agency's use only.**

*Form Approved*
*OMB No. 0704-0298*
*Expires Jul 31, 1992*

Public reporting burden for this collection of information is estimated to average 2.25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0298), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO EITHER OF THESE ADDRESSES.**
**RETURN COMPLETED FORM TO THE INDIVIDUAL OR OFFICE FROM WHICH YOU RECEIVED IT.**

| A. REQUEST DATE (YYMMDD) | B. TYPE REQUEST (X one) | C. LOCAL FILES CHECKED WITH FAVORABLE RESULTS (X one) (See DD 398-2I, Detailed Instructions) (If "No," explain in Item 16) | FOR DIS USE ONLY |
|---|---|---|---|
| | (1) NAC; (2) ENTNAC; (3) SECRET-PR; (4) Other (Specify) | Yes / No | |

| D. CODE | E. GOVERNMENT EMPLOYMENT (X one) | F. CITIZENSHIP VERIFIED (X one) |
|---|---|---|
| | Yes / No | Yes / No |

| G. FORWARD THIS REQUEST TO (Include Zip Code) | H. RETURN RESULTS TO (Include Zip Code) |
|---|---|
| | |

**I. REASON FOR REQUEST**

- SECRET
- CONFIDENTIAL
- COMMISSION
- ENLISTMENT
- NATIONAL GUARD
- RESERVES
- ROTC
- OFFICER CANDIDATE
- SERVICE ACADEMY
- PERS. RELIABILITY PROGRAM
- RED CROSS / USO
- NAFI
- SUMMER HIRE
- EDUCATION / ORIENTATION
- NON-CITIZEN OVERSEAS
- DOD BUILDING PASS
- UNESCORTED ENTRY
- AREA ACCESS
- SPOUSE / COHABITANT
- FOREIGN BORN FAMILY MEMBER
- OTHER (Specify)

**1. NAME**

| a. LAST, First, Middle (LAST name in all capital letters) | b. Maiden Name (If any) |
|---|---|
| | |

| 2. OTHER NAMES USED (LAST, First, Middle) (Include all other names used and dates of use) | 3. SOCIAL SECURITY NUMBER (SSN) |
|---|---|
| | |

| 4. DATE OF BIRTH (YYMMDD) | 5. PLACE OF BIRTH a. City | b. County | c. State | d. Country |
|---|---|---|---|---|
| | | | | |

**6. PHYSICAL CHARACTERISTICS** (Complete all blocks)

| a. Sex | b. Race | c. Height | d. Weight | e. Hair Color | f. Eye Color |
|---|---|---|---|---|---|
| | | | | | |

**7. STATUS** (X a, b, c, d, or e and complete as applicable)

| a. Consultant | d. U.S. Government Employee (Complete (1) and (2)) | e. Military (Complete (1) - (3)) |
|---|---|---|
| b. Contractor Employee | (1) Grade | (1) Grade; (2) Branch of Service |
| c. OODEP | (2) X if Applicant | (3) X if Applicant |

**8. CITIZENSHIP** (See DETAILED INSTRUCTIONS in DD Form 398-2I before completing this item.) (X a, b, or c, and complete as applicable)

- a. United States (X (1), (2), (3), (4), or (5))
  - (1) Born in U.S.
  - (2) Born abroad of U.S. parents
  - (3) Naturalized (Complete (a) through (e))
  - (4) Derived from naturalized parent (Complete (a) through (e))

| (a) Certificate Number(s) | (b) Date (YYMMDD) | (c) Place | (d) Court | (e) Alien Registration Number |
|---|---|---|---|---|
| | | | | |

- (5) Dual Citizenship (List country) (See DD Form 398-2I, DETAILED INSTRUCTIONS)
- b. United States National (List U.S. Trust Territory or Possession)
- c. Alien (Complete (1) through (5))
  - (1) Current Citizenship
  - (2) Registration Number
  - (3) Petition Number
  - (4) Intend to become a U.S. citizen? (X one) Yes / No
  - (5) Permanent Resident Status? (X one) Yes / No

| REINSTATEMENT | SPECIFY CLEARANCE LEVEL |
|---|---|
| REVALIDATION | |
| CONVERSION | |
| CONCURRENT | |

**9. MILITARY SERVICE** (List in chronological order beginning with the most recent period. Include Reserve / National Guard service.)

| a. From (YYMMDD) | b. To (YYMMDD) | c. Branch of Service | d. Grade | e. Service Number(s) | f. Type of Discharge | g. Country |
|---|---|---|---|---|---|---|
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

**10. RESIDENCES** *(List in chronological order beginning with current address. Give the inclusive dates for each period of residence.*

a. Current Home Telephone *(Include Area Code)*

*If you list a Rural Route address, provide instructions or map for locating that residence. Do not list Post Office Box addresses. See DD Form 398-2I, DETAILED INSTRUCTIONS.)*

| b. Dates (YYMM) | | c. Address | | | | |
|---|---|---|---|---|---|---|
| (1) From | (2) To | (1) Number, Street and Apartment Number | (2) City | (3) State | (4) Zip Code | (5) Country |
| | Present | | | | | |
| | | | | | | |
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**11. EMPLOYMENT / DUTY ORGANIZATION** *(List in chronological order, beginning with the present, each period of employment, self-employment, part-time employment, and/or unemployment. List inclusive dates for each period. Also list current Reserve or National Guard Unit. If discharged for cause, so state in Item 14. See DD Form 398-2I, DETAILED INSTRUCTIONS.)*

| Yes | No | |
|---|---|---|
| | | a. **Have you ever been in Federal Civil Service?** *(If "Yes," explain in accordance with DD Form 398-2I, DETAILED INSTRUCTIONS.)* |

| b. Dates (YYMM) | | c. Name of Employer | d. Job Site, Duty Station or Home Port *(Street, City, State and Zip Code)* | e. Immediate Supervisor | |
|---|---|---|---|---|---|
| (1) From | (2) To | | | (1) Name *(LAST, First, Middle Initial)* | (2) Telephone No *(Incl. Area Code)* |
| | Present | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

**12. FAMILY / ASSOCIATES** *(Give requested data for:*

- *Father, Mother, Spouse, Cohabitant, and Children*
- *All brothers and sisters NOT born in the United States*
- *ALL relatives or friends with whom you, your spouse, or cohabitant have continuing contact or are bound by affection or obligations, IF such persons are residing in, are citizens of, or are employed by or otherwise acting as representatives of ANY foreign country.)*

| a. Relationship and Name *(LAST, First, Middle Initial)* | b. Present Address *(Street, City, State and Zip Code)* | c. Date of Birth *(YYMMDD)* | d. Place of Birth *(City, State, Country)* | e. Citizenship |
|---|---|---|---|---|
| (1) Father | | | | |
| (2) Mother *(Maiden Name)* | | | | |
| (3) Spouse *(Maiden Name if applicable)* | | | | |
| (4) | | | | |
| (5) | | | | |
| (6) | | | | |

**13. FOREIGN TRAVEL / CONNECTIONS** *(X "Yes" or "No" for each question.*

| Yes | No | *"Yes" answers must be explained in accordance with DD Form 398-2I, DETAILED INSTRUCTIONS.)* |
|---|---|---|
| | | a. Do you have any foreign property, business connections, or financial interests? |
| | | b. Are you now or have you ever been employed by or acted as a consultant for a foreign government, firm, or agency? |
| | | c. Have you ever traveled outside the United States on other than official U.S. Government orders? *(Include short trips to Canada or Mexico)* |
| | | d. Have you ever had any contact with a foreign government, its establishments *(e.g. embassies, consulates)*, or its representatives, whether inside or outside the U.S., other than on official U.S. Government business? |
| | | e. Do you possess a current U.S. passport or any other passport issued by a foreign government? |

**14. REMARKS** *(You may provide any additional information which you feel may have a bearing or impact on your security eligibility which has not been specifically asked for on this form.)*

**15. CERTIFICATION BY PERSON COMPLETING FORM.** **I certify that the entries made by me are true, complete, and accurate to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement or misrepresentation on this form can be punished by fine or imprisonment or both.** *(See U.S. Code, Title 18, Section 1001.)*

| a. Typed Name *(LAST, First, Middle Initial)* | b. SSN | c. Signature | d. Date Signed *(YYMMDD)* |
|---|---|---|---|
| | | | |

**16. RESULTS OF LOCAL FILES CHECK**

**FOR INDUSTRIAL REQUESTER ONLY**

| **17. CERTIFICATION. I certify that the above named individual is employed by this company and has the need for the clearance indicated to perform on classified contracts.** | a. Contract Number | b. Telephone Number of FSO / Designee *(Include Area Code)* |
|---|---|---|
| c. Typed Name of FSO / Designee *(LAST, First, Middle Initial)* | d. Signature | e. Date Signed *(YYMMDD)* |

**Answers to questions in Items 18 through 22 are NOT limited to the last 5 years, but pertain to your entire life.** *(See DD Form 398-2I, DETAILED INSTRUCTIONS.)*

**18. ARRESTS**

- *You must list ALL arrest information regardless of whether you have previously listed or disclosed this information or whether the record in your case has been "sealed," expunged, or otherwise stricken from the court record. You must also include all courts-martial or non-judicial punishment (Article 15 UCMJ or Captain's Mast).*
- *The only exceptions are for certain convictions under the Federal Controlled Substances Act (21 U.S.C. 844 or 18 U.S.C. Section 3607) (See DD Form 398-2I, DETAILED INSTRUCTIONS.)*
- *You may exclude minor traffic violations for which a fine or forfeiture of $100 or less was imposed, unless alcohol or drug related.*
- *IF YOU ARE A MILITARY ENLISTMENT APPLICANT: you must list ALL traffic violations.*

| Yes | No | |
|---|---|---|
| | | a. Have you ever been arrested, charged, cited, held, or detained by Federal, State, or other law enforcement or juvenile authorities regardless of whether the charge was dropped or dismissed or you were found not guilty? |

b. List details of "Yes" answers. *(If additional space is required, provide details in Item 14.)*

| (1) Date *(YYMMDD)* | (2) Nature of Offense or Violation | (3) Name and Location of Law Enforcement Agency *(City and State)* | (4) Name and Location of Court / Magistrate *(City and State)* | (5) Penalty Imposed or Other Disposition in Each Case |
|---|---|---|---|---|
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**19. CREDIT HISTORY**

| Yes | No | *("YES" answers must be explained in accordance with DD Form 398-2I, DETAILED INSTRUCTIONS.)* |
|---|---|---|
| | | a. Have you ever filed a petition under any chapter of the bankruptcy code *(to include Chapter 13)*? |
| | | b. Have you ever had your wages garnished or anything repossessed? |
| | | c. Have you ever had a lien placed upon your property for failing to pay taxes? |
| | | d. Do you have any judgments against you which you have not paid? |
| | | e. Are you now or have you been significantly delinquent on debts? *(Paid more than 120 days from scheduled payment due date)* |

**20. DRUG/ALCOHOL USE AND MENTAL HEALTH** *("YES" answers must be explained in accordance with DD Form 398-2, DETAILED INSTRUCTIONS.)*

| Yes | No | |
|---|---|---|
| | | a. Have you ever tried or used or possessed any narcotic *(to include heroin or cocaine)*, depressant *(to include quaaludes)*, stimulant, hallucinogen *(to include LSD or PCP)*, or cannabis *(to include marijuana or hashish)*, or any mind-altering substance *(to include glue or paint when inhaled for psychedelic purposes)*, even one-time or on an experimental basis, except as prescribed by a licensed physician? |
| | | b. Have you ever been involved in the illegal purchase, manufacture, trafficking, production, or sale of any narcotic, depressant, stimulant, hallucinogen, or cannabis? |
| | | c. Have you ever misused or abused any drug prescribed by a licensed physician for yourself or for someone else? |
| | | d. Has your use of alcoholic beverages *(such as liquor, beer, wine)* ever resulted in the loss of a job, disciplinary action, arrest by police, or any alcohol-related treatment or counseling *(such as for alcohol abuse or alcoholism)*? |
| | | e. Have you ever been treated for a mental, emotional, psychological, or personality disorder/condition/problem? |
| | | f. Have you ever consulted or been counseled by any mental health professional? |

**21. ORGANIZATIONS** *("YES" answers must be explained in accordance with DD Form 398-2, DETAILED INSTRUCTIONS.)*

| Yes | No | Are you now or have you ever been affiliated with any organization, association, movement, group, or combination of persons which: |
|---|---|---|
| | | a. Advocates the overthrow of our constitutional form of government? |
| | | b. Advocates or approves the commission of acts of force, violence, coercion, or intimidation to deny persons their rights under the Constitution of the U.S.? |
| | | c. Seeks to alter the form of government of the United States by force, violence, or other unconstitutional means? |
| | | d. Advocates or engages in the disruption or halting of U.S. government activities through force, violence, or infiltration of the government service? |

**22. SECURITY CLEARANCE**

| Yes | No | a. Have you ever held a security clearance, to include a contractor-granted Confidential? *(If "YES," give details below.)* | | | |
|---|---|---|---|---|---|
| | | (1) Level | (2) Date Granted *(YYMMDD)* | (3) Granted By | (4) Name of Employer |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| | | |
|---|---|---|
| | | b. Have you ever had a security clearance denied, suspended or revoked? *(If "YES," give details in Item 14.)* |
| | | c. In the past five years, have you been investigated by the Federal Government for a security clearance or sensitive position? *(If "YES," give details below.)* |

| (1) Date *(YYMM)* | (2) Investigating Agency | (3) Employer Who Requested Investigation |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |

**23. CERTIFICATION BY PERSON COMPLETING FORM.**

**I certify that the entries made by me are true, complete, and accurate to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both.** *(See U.S. Code, Title 18, Section 1001.)*

| a. Typed Name *(LAST, First, Middle Initial)* | b. SSN | c. Signature | d Date Signed *(YYMMDD)* |
|---|---|---|---|
| | | | |

# INSTRUCTIONS FOR COMPLETING THE DEPARTMENT OF DEFENSE NATIONAL AGENCY QUESTIONNAIRE (NAQ)

## CONTENTS

**THE NAQ INSTRUCTIONS PACKAGE CONSISTS OF THE FOLLOWING:**

1. General Instructions
2. Detailed Instructions
3. Listing of Reportable Drugs

**PLEASE BE SURE YOU HAVE ALL PARTS OF THE PACKAGE.**

## GENERAL INSTRUCTIONS

**AUTHORITY FOR RELEASE OF INFORMATION AND RECORDS.**

You must read the Privacy Act Statement and the "Authority for Release of Information and Records." Sign and date the authorization. Completion of the authorization is voluntary; however, failure to authorize the release of records may result in our being unable to complete your investigation. The "Authority for Release of Information and Records" must not be altered.

**COMPLETING THE NATIONAL AGENCY QUESTIONNAIRE (NAQ).**

The NAQ is an important document and must be completed without misstatement or omission of important facts. Failure to provide all requested information will significantly delay your investigation. All entries are subject to verification by investigation. **All items on the NAQ must be completed.** A knowing and willful false statement on the NAQ can be punished by a fine or imprisonment or both.

- Before entering any information on the NAQ, carefully read the General Instructions and Detailed Instructions in this form, and the Privacy Act Statement provided with the NAQ.
- **If the form is being completed for a spouse, cohabitant, or a foreign-born immediate family member of Subject, complete only Items 1 through 6 and Item 8, unless the spouse, cohabitant, or any immediate family member was born abroad of U.S. parents. If so, complete Item 12(a), (b), (c), (d), and (e) on the mother and father of that individual. It is not necessary to complete Items 15 and 23 when completing the form for a spouse, cohabitant or foreign-born family member.**
- For Items 10 and 11, provide information in these items for the last 5 years; however, if you are under the age of 21, the time period is the last 3 years or the period since your 16th birthday, whichever is shorter.
- For all other items, complete without regard to time.
- **All questions must be answered. Omissions, gaps, errors, or incomplete items may result in long investigative or processing delays.**
  - Do not indicate on the form that certain information can be obtained from another source. Take the time to obtain information not readily available. If requested information cannot be provided, state the reason.
  - **If an item does not apply, enter "None" or "Not Applicable," as appropriate.**
  - If you do not know dates of employment or residence precisely, provide the dates to the best of your memory and follow with "est." for "estimated" or "app." for "approximately." Do not use the term "unknown."
  - If an entry refers to a current or formerly divided country, specify whether East or West, North or South.
  - If additional space is required for any item, use Item 14 and, if needed, additional sheets of paper. (See Detailed Instructions for Item 14.)

**Before signing the NAQ, ensure that each item is checked against the Detailed Instructions for that item and that the completed NAQ is carefully read. If you have a question about the NAQ that is not answered by the Detailed Instructions, contact the person or office that gave you the NAQ.**

- Unless otherwise specified:
  - List all dates using the last two digits of the year and the two-digit numbers representing the month and day (e.g. May 1992 would be entered as 9205; 1 May 1992 would be entered as 920501.)
  - Names of persons will be entered in the following order: Last name, first name, and middle initial. The last name will appear in all CAPITAL LETTERS.
  - Addresses must include the number and street, city, state, and zip code, or country as appropriate. Attach a sketch map or detailed directions for rural or difficult to locate addresses in the United States.
  - All items on the form must be completed in chronological order beginning with the present or most recent and working backwards.
  - Telephone numbers must include the area code.

## GENERAL INSTRUCTIONS

- **The NAQ must be typed (electronically generated forms are acceptable), unless a waiver has been granted.**
- **You must sign the original NAQ.**
  - For initial investigations an original NAQ and one copy is required. For Secret Periodic Reinvestigations an original NAQ and four copies are required. Forms and copies should be given to the person or office that gave you the form. Copies may be photocopies of the original NAQ. All copies must be complete reproductions that include signatures (signatures on the copies do not have to be original). It is recommended that an extra copy be prepared and retained for your personal records.
  - For contractor conversions, revalidations, reinstatements, or concurrent clearances*, an original NAQ must be submitted to DISCO.
  - "Reinstatement" means reactivating a personnel clearance that was terminated because the individual terminated employment with the contractor or another contractor.
  - "Revalidation" means reactivating a personnel clearance that was administratively terminated by the contractor; the individual is still employed by the contractor.

  *** All references to conversions, revalidations, reinstatements or concurrent clearances pertain only to contractor employees.**
- **If the Electronic National Agency Questionnaire is utilized:**
  - The requester must retain the original signed copy of the printed DD Form 398-2 until the clearance processing is complete. This signed copy shall be released to DIS upon request. When an applicant is terminated while the clearance is in process, the requester must retain the original signed copy of the form for one year subsequent to the date of termination.
  - As a contractor employee, if you elect to submit Pages 6 and 7 in a sealed envelope, the Electronic NAQ will not be used.

## DETAILED INSTRUCTIONS

*All items must be completed in their entirety.*

**ITEMS A THROUGH I AND ITEM 16 MUST BE COMPLETED BY ALL REQUESTING AGENCIES OR CONTRACTORS AND ITEM 17 MUST BE COMPLETED BY ALL CONTRACTORS.**

**ITEM A.**

Enter the date of the request in year, month, day order. April 1, 1992, should be shown as 920401.

**ITEM B.**

Mark the appropriate block for the type of request.

**ITEM C.**

Mark the appropriate block. In the event there is derogatory information on file, list this information in Item 16 and attach a copy whenever possible. Local files are defined in Detailed Instructions for Item 16. Explain "No" answers in accordance with the instructions provided in Item 16.

**ITEM D.**

Enter the Unit Identification Code (UIC) or Personnel Accounting System (PAS) code. Contractors should enter the Commercial and Government Entity (CAGE) code.

**ITEM E.**

Current Federal Government employment. Mark "Yes" or "No." (Does not refer to military service.)

**ITEM F.**

Citizenship verified. Mark "Yes" or "No."

**ITEM G.**

For DoD Military and DoD Civilian enter:

Defense Investigative Service
Personnel Investigations Center
P. O. Box 1083
Baltimore, Maryland 21203-1083

For contractors enter:

Defense Industrial Security Clearance Office
P. O. Box 2499
Columbus, Ohio 43216-5006

**ITEM H.**

Enter the name of the organization and mailing address that the investigation should be sent to upon completion. All contractor investigations will be returned to the Defense Industrial Security Clearance Office (DISCO).

**ITEM I.**

Mark the appropriate block indicating reason for request. If form is used for contractor conversions, revalidations, reinstatements or concurrent clearances, indicate in the shaded area the security classification of the material or information to which the employee will have access. (Specify DOE or NRC "Q" or "L" conversions to TS / S / CONF in shaded area.)

**DETAILED INSTRUCTIONS**
*All items must be completed in their entirety.*

**ITEMS 1 THROUGH 15 AND 18 THROUGH 23 SHALL BE COMPLETED BY THE APPLICANT.**

**ITEM 1 - NAME.**

**a. LAST, First, Middle.** List your name in the following order: LAST NAME, first name, and complete middle name; LAST NAME IN ALL CAPITAL LETTERS. Names should agree with military and/or civilian employment records; if not, explain in Item 14.

- If you have no middle name, enter "NMN."
- Include additional designations, such as Jr., Sr., II (2nd), III (3rd), when applicable.
- If your name consists of initial(s) only, enter the appropriate initial(s) followed by "(IO)."
- Make sure your name appears the same in all name blocks on the NAQ and all other documents, attachments, etc., you submit with the NAQ. In signature blocks, a middle initial is acceptable in lieu of the full middle name.

**b. Maiden Name.** Enter if applicable.

**ITEM 2 - OTHER NAMES USED.**

List any other name by which you are or have been known. Include former names, changes in names, nicknames, or variant spellings used. If the name has changed, explain, in Item 14, why, when, and where such change took place. List the inclusive dates all other names were used.

**ITEM 3 - SOCIAL SECURITY NUMBER.**

Copy exactly as on your Social Security card. List ALL Social Security Numbers you have ever used.

**ITEM 4 - DATE OF BIRTH.**

Give the year, month, and day of your birth using the last two digits of the year, the two-digit number for the month, and the two-digit number for the day (e.g., October 30, 1948, would be entered as 481030).

**ITEM 5 - PLACE OF BIRTH.**

List your place of birth in the following order:

**a. City.** Do not abbreviate.

**b. County.** Do not abbreviate.

**c. State.** Use the two-letter abbreviation.

**d. Zip Code.** Self-explanatory.

**e. Country.** If other than the U.S.

**ITEM 6 - PHYSICAL CHARACTERISTICS.**

**a. Sex.** Enter "Male" or "Female."

**b. Race.** Enter one of the following, as appropriate.

- **AI / AN - American Indian or Alaskan Native.** Persons originating in North America and who maintain cultural identification through tribal affiliation or community recognition.
- **ASN / PI - Asian or Pacific Islander.** Persons originating in the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This includes China, India, Japan, Korea, the Philippine Islands, and Samoa.

**ITEM 6 - PHYSICAL CHARACTERISTICS.** *(Continued)*

- **BLK - Black.** Persons originating in any of the black racial groups of Africa.
- **HISP - Hispanic.** Persons originating in Mexico, Puerto Rico, Cuba, Central or South America, or any other Spanish culture or origin, regardless of race.
- **WHITE.** Persons originating in any of the original peoples of Europe, North Africa, or the Middle East.

**c. Height.** Enter height in feet and inches.

**d. Weight.** Enter weight in pounds.

**e. Hair Color.** Self-explanatory.

**f. Eye Color.** Self-explanatory.

**ITEM 7 - STATUS.**

Mark one of the following:

**a. Consultant.**

**b. Contractor Employee.**

**c. OODEP** (Owner, Officer, Director and/or Executive Personnel who are required to be cleared to obtain or retain facility clearance).

**d. U.S. Government Employee.** List grade or wage scale. If you are an applicant for a Federal Civil Service position, mark block (2).

**e. Military.** List pay grade and branch of service. If you are a Reserve or National Guard member and if your unit is requesting this investigation, mark this block only. If you are an applicant for entry into the U.S. military, mark block (3).

**ITEM 8 - CITIZENSHIP.**

**a. United States Citizen.** Mark Block a., and either block (1), (2), (3), (4), or (5). **If block (2) is marked, you must provide place of initial entry into the U.S. and indicate location of birth registration with the U.S. authorities in Item 14.** If you received a Certificate of Citizenship, list the certificate number and date of issuance by the Immigration and Naturalization Service. If either block (3) or (4) is marked, (a) through (e) must be completed.

(a) Certificate Number(s). If naturalized or derived, provide naturalization certificate number.

(b) Date. List date naturalization or derived citizenship certificate was issued.

(c) Place. List city and state where naturalization or derived citizenship certificate is recorded.

(d) Court. List the name of the court where naturalization or derived certificate is recorded.

(e) Alien Registration Number. Self-explanatory.

If block (5) is marked, indicate in Item 14 the name of the other country in which you hold citizenship. Also, explain the circumstances of how you hold dual citizenship. If you possess a passport from another country, provide details in Item 14. (See Item 13.e.)

**DETAILED INSTRUCTIONS**
*All items must be completed in their entirety.*

**ITEM 8 - CITIZENSHIP.** *(Continued)*

**b. United States National.** For personnel security purposes, includes persons born in American Samoa, Federated States of Micronesia, or the Republic of the Marshall Islands.

**c. Alien.** Complete blocks (1) through (5).

(1) Current Citizenship. List the country of which you are currently a citizen.

(2) Registration Number. If you have not been granted permanent resident status, provide your type of visa in this block.

(3) Petition Number. Self-explanatory.

(4) Intend to become a U.S. citizen? Mark the appropriate block. If "Yes," and you have made application for citizenship, list date and place of application. If "No," explain in Item 14 the reason why you do not intend to become a U.S. citizen.

(5) Permanent Residence Status? Mark the appropriate block.

**ITEM 9 - MILITARY SERVICE.**

Complete blocks a. through g. Indicate date of first enlistment and date of final discharge for each branch of service if you had continuous duty. If you had break(s) in duty, each separate period should be listed. If additional space is needed, use Item 14.

Officers who have prior enlisted, warrant, or reserve service should list each of these periods separately. Reserve or National Guard service will be shown in this item. If more room is needed, provide the information in Item 14. The most recent period should be listed first.

**a. From.** Enter date service began.

**b. To.** Enter date service ended. (If currently on active duty enter "present" for the latest entry and appropriate ending dates for all other periods of service.)

**c. Branch of Service.** List the appropriate branch of service.

**d. Rank.** List your current rank or rank held on the date of discharge for each period of service.

**e. Service Number(s).** If you entered the U.S. Armed Forces after January 1970, your service number is the same as your Social Security Number. If you entered the U.S. Armed Forces before January 1970, enter both your Social Security Number and your original service number.

**f. Type of Discharge.** Indicate if you are currently on active duty. If you have been discharged, list type of discharge. If you received anything other than an Honorable Discharge (even if it has now been changed), provide a full statement regarding the circumstances surrounding the discharge. If your discharge has been updated, provide information regarding the change, including the date it occurred, in Item 14.

**g. Country.** If service was with other than the U.S. Armed Forces, list appropriate country (explain in Item 14).

**ITEM 10 - RESIDENCES.**

- List residences for last 5 years.
- Do not furnish information prior to your 16th birthday.
- IF ANY PERIOD OF RESIDENCE WAS OUTSIDE THE U.S., provide the names and addresses of two individuals (preferably currently living in the U.S.), who can verify the period of residence outside the U.S. through personal knowledge. This information should be listed in Item 14.

**a. Current Home Telephone.** Self-explanatory.

**b. Dates.** Give the inclusive dates for each period of residence. Dates of residence must be consecutive and without breaks for the entire period. If there is a break in the dates, an explanation must be provided in Item 14.

**c. Address.**

(1) Number, Street and Apartment Number. Do not list a permanent mailing address or family residence in this item unless you actually resided at that address during the period listed. Furnish residence address in local community or on base/ installation while in military service.

- If you resided in an apartment complex in the last 5 years, list the name of the complex in Item 14.
- If you have been assigned to any temporary duty location for 90 days or longer within the investigative period, you must list your residence(s) during that temporary duty.
- If the residence was on a military installation, provide location where you resided.
- List the actual place of residence while attending school. Do not list merely the name of the school or "On Campus" as a place of residence.
- If you received mail at a Post Office Box address, do not list the Post Office Box; list your actual residence address.
- If you give a metropolitan address (e.g. New York, Los Angeles), list the borough or suburb.
- A sketch map or detailed instructions must be appended if you now reside or have in the past resided in a rural or difficult to locate address.

(2) City. Do not abbreviate.

(3) State. Use the two-letter abbreviation.

(4) Zip Code. Self-explanatory.

(5) Country. Do not abbreviate.

**DETAILED INSTRUCTIONS**
*All items must be completed in their entirety.*

**ITEM 11 - EMPLOYMENT / DUTY ORGANIZATION.**

List, beginning with the present, each period of employment (to include part-time employment, self-employment and unemployment) for the required number of years. Also list current Reserve or National Guard unit.

- List employment, self-employment, or unemployment information for the last 5 years.
- Do not furnish information prior to your 16th birthday.
- If self-employed or unemployed and not attending school full time during any period, list, in Item 14, the name and current address of an individual who can verify your activities during the unemployment/ self-employment period.
- IF ANY PERIOD OF EMPLOYMENT WAS OUTSIDE THE U.S., list, in Item 14, the names and addresses of two individuals (preferably currently living in the U.S.) who can verify the period of employment outside the U.S. through personal knowledge.
- For contractors, if a pre-employment clearance is being submitted in accordance with the Industrial Security Manual, the current employment listed in Item 11 would not be that of the facility to which the applicant is seeking employment and the remarks section should so indicate. If the physical location of the employment is different from the location of the requesting facility, Item 11 should reflect the applicant's physical location. You should indicate, in Item 14, the name of the company requesting this investigation and that a pre-employment clearance is the purpose of the investigation.

**a. Federal Service.** If "Yes," list in Item 14 the inclusive dates of service and name and address of last organization. If listed in 11.c, so indicate.

**b. Dates.** Provide the inclusive dates for each period of employment, part-time employment, self-employment, unemployment, and current Reserve or National Guard service. All time periods must be covered. If you worked for two different employers at the same time, list both. Dates of employment must be consecutive and without breaks for the entire period. If there is a break in dates, an explanation must be provided in Item 14.

**c. Name of Employer.** Civilian employees and applicants should provide the name of the employing organization. Military personnel should identify each unit, organization, or station to which assigned. If self-employed during any period, list the name and address of the business. If any period of employment was for a temporary help supplier, list only the temporary help supplier as the employer, even though work may have been performed at different locations with client companies. If employed through a union hiring hall, list firms by which employed. Do not list the union as an employer unless your salary was, in fact, paid by the union.

**ITEM 11 - EMPLOYMENT / DUTY ORGANIZATION.** *(Continued)*

**d. Job Site, Duty Station or Home Port.** Provide the address (include Zip Code) for each employment listed. If any period of employment was in a large metropolitan area (e.g., New York, Chicago, Los Angeles), include the borough or suburb.

If employed by a large manufacturing concern (i.e. Chrysler or General Motors Corporation in Detroit, Michigan), give the specific name and address of the plant where you worked. List, in Item 14, the complete address of the location of your employment records if it is different from the address of the job site or duty station. List any temporary duty locations totalling 90 days or longer within the required period.

**e. Immediate Supervisor.**

(1) Name. List LAST NAME, first name, and middle initial.

(2) Telephone Number. List the area code and work telephone number of the supervisor.

**ITEM 12 - FAMILY / ASSOCIATES.**

Provide the information listed below for:

- Your parents (natural, adoptive, foster or step), guardian(s), spouse, cohabitant, children, stepchildren, and adopted children.
- All brothers and sisters (by birth, adoption or remarriage of either parent) NOT born in the United States.
- All relatives or friends to whom you, your spouse, or cohabitant are bound by affection or obligations IF such persons are residing in, are citizens of, or are employed by or otherwise acting as representatives of any foreign country.

**a. Relationship and Name.** Provide the individual's relationship to you (if not already provided on the form), and name. Include maiden name of mother and spouse, if applicable.

**b. Present Address.** Provide the current address of each person listed. If person listed is dead, enter "Deceased."

**c. Date of Birth.** Provide date of birth for all persons listed in terms of year, month, and day using the last two digits of the year, the two digit number for the month and the two digit number for the day (e.g., October 30, 1948, would be entered as 481030).

**d. Place of Birth.** List city and state or country (if other than the U.S.).

**e. Citizenship.** Enter citizenship of each person listed. Additionally, provide, in Item 14, naturalization information as in Item 8.a., or alien registration information as in Item 8.c., for all listed foreign-born relatives. Alien registration information must include the alien registration number and the date the card was issued.

**DETAILED INSTRUCTIONS**
*All items must be completed in their entirety.*

**ITEM 13 - FOREIGN TRAVEL / CONNECTIONS.**

**a. Foreign Connections.** Mark the appropriate block. If "Yes," explain in Item 14 the nature and extent of your foreign property interests, business connections and/or financial/property interests, to include details of ownership, nature of business for each foreign firm, details of ownership for each foreign entity, and/or monetary amounts involved in financial interest.

**b. Foreign Employment.** Mark the appropriate block. If employed by, previously acting or currently acting as a consultant, identify the foreign government, firm, or agency and describe the nature of employment or relationship. Provide, in Item 14, inclusive dates of all such employment(s) or relationship(s). In addition, if such employment or relationship is current, provide:

- Details of ownership for each foreign entity.
- The percentage of time devoted to each foreign entity.
- For the position requiring this security clearance or investigation, provide a summary of your duties with the U.S. firm submitting your NAQ.
- Product or service of that U.S. firm.
- Summary of your duties with the foreign entity, to include nature of product or service.

**c. Foreign Travel.** Mark the appropriate block. List, in Item 14, inclusive dates of travel for each country visited and the purpose of the travel. Travel to Canada or Mexico must be listed. Travel on official U.S. Government orders may be omitted. However, you must list all travel outside the sphere of your official duty location. Include all travel while in leave status to any country outside the U.S.

(**NOTE:** Foreign travel as a military dependent or U.S. Government contractor is not considered as "under official U.S. Government orders.")

If during any of your travels you established a residence in a foreign country, provide the exact address, unless previously listed under Item 10.

If you established a residence in a foreign country to meet citizenship requirements for that country, explain in Item 14.

If you have lived near the border with another country and you have made short (one day or less) trips to that neighboring country, you do not need to list each trip. Instead, list:

- The time period over which the trips were made.
- The fact that numerous trips were made.
- To what country the trips were made.
- The purpose(s) of the trips, such as sightseeing, shopping, etc.

**ITEM 13 - FOREIGN TRAVEL / CONNECTIONS.**
*(Continued)*

**d. Foreign Contact.** Mark the appropriate block. If "Yes," provide the following information:

- Date(s) of contact.
- Identity of government, establishment, or representative contacted.
- Location of contact.
- Purpose of contact.
- Means of contact (e.g. in person, by telephone, written correspondence).

**e. Passport.** If you possess a current passport issued by the U.S. Government or have ever been issued a passport from a foreign country, provide the following in Item 14:

- Name of country issuing passport.
- Date passport was issued.
- Circumstances under which you qualify to hold that passport.

**ITEM 14 - REMARKS.**

Use this space for the continuation of those items where insufficient space was provided or to provide additional pertinent information. If necessary, attach additional sheets and indicate "See Attached Sheet(s)" at the end of the "Remarks" section. When using the "Remarks" section or attaching additional sheets, always identify the item number being continued and follow the format for entering information as prescribed on the NAQ and in the instructions. If additional space is required, continue on a plain sheet of 8½" by 11" paper; in the top left hand corner of the paper, enter your full name, date, and Social Security Number, and the phrase "Continuation Sheet - DD Form 398-2." Sign and date the bottom of each page.

**ITEM 15 - CERTIFICATION BY PERSON COMPLETING FORM.**

You should carefully review the portion of the form you have completed to ensure that you have answered all items and that it is accurate in all details. If you have not yet signed the authorization for release of information and records, do that now. You must fully understand the implication of certifying to a false statement. When you are satisfied that it is complete, sign and date the certification, and sign and date all attachments. (For contractor conversions, attach DD Form 214 or SF 50, as appropriate.)

**DETAILED INSTRUCTIONS**
*All items must be completed in their entirety.*

**ITEM 16 - RESULTS OF LOCAL FILES CHECK.**

**To be completed by ALL REQUESTERS. See Item C.**

A local files check consists of a review of any available records maintained by or for the military or employing agency/activity concerning its personnel. Such records are local in the sense that they do not constitute a central file maintained by the component. This check does not include state and local law enforcement records; legal and legal assistance files, special program files, and civilian medical files.

Examples are organization, management, performance, supervisor files; personnel, disciplinary, performance, counseling files; military medical files; security, law enforcement and intelligence indices or files maintained at the organization or component.

If no local records are available, the reason that no records are maintained (i.e. that the individual is an applicant, summer hire, the company/component maintains no records, etc.) should be explained in Item 16.

**ITEM 17 - CERTIFICATION BY CONTRACTOR.**

The Facility Security Officer (FSO) or a designee must complete this block. (Requests for conversion, reinstatement, or revalidation of Top Secret clearances must be signed by FSO or another cleared OODEP.)

**a. Contract Number.** Enter the number of the contract for which the clearance is being requested.

**b. Telephone Number of FSO / Designee.** Self-explanatory.

**c. Typed Name of FSO / Designee.** Self-explanatory.

**d. and e. Signature of FSO / Designee and Date Signed.** Sign that the security clearance is required, and date.

**ANSWERS TO ITEMS 18 THROUGH 22 ARE NOT LIMITED TO THE LAST 5 YEARS, BUT PERTAIN TO YOUR ENTIRE LIFE.**

**FOR CONTRACTOR PERSONNEL ONLY:**

- If you prefer, pages 6 and 7 may be detached, completed in private, placed in a sealed envelope, and given to security personnel with the other pages of your form. If you decide to choose this option, sign and date the form before placing it in a sealed envelope.
- If you choose this option, it is important that you carefully read the Detailed Instructions for Items 18 through 22 and follow them completely since these questions will not be reviewed by your security personnel.
- Failure to provide all required information will result in further processing delays.
- If you choose the option of completing these items in private and additional space is required to answer them, do not use the "Remarks" section (Item 14). Instead, continue your answer on a plain sheet of 8½" x 11" paper; in the top left corner of the paper, enter your full name and Social Security Number and the phrase "Continuation Sheet - DD Form 398-2." Sign and date each addendum page. Place the completed addendum page(s) in the sealed envelope with pages 6 and 7 and give them to security personnel with the other pages of your form.

**ITEM 18 - ARRESTS.**

Regardless of the outcome of the incident or when it occurred, if the answer to Item 18 is "Yes," it must be explained completely. If you were adjudicated a youthful offender or juvenile delinquent and the record has been "sealed," expunged, or stricken from the court record, you must still answer "Yes," and provide the required information in Item 18.b. with the following exception:

**ITEM 18 - ARRESTS.** *(Continued)*

If you have been found guilty of a federal offense under Section 404 of the Controlled Substances Act (21 U.S.C. 844) and, subsequent to such a finding, the court issued an expungement order under the authority of either 21 U.S.C. Section 844 or 18 U.S.C. Section 3607, then you need not report the arrest or disposition information on your NAQ. This, however, is the only exception to this reporting requirement.

**NOTE:** FOR MILITARY ENLISTMENT APPLICANTS ONLY: You must list, in Item 18, all traffic violations regardless of what type of violation or amount of fine. If additional space is required, use Item 14.

**WHEN IN DOUBT AS TO THE NECESSITY FOR LISTING INFORMATION IN THIS ITEM, IT IS RECOMMENDED THAT INCIDENTS BE LISTED TO PRECLUDE FUTURE QUESTIONS REGARDING OMISSIONS FROM THE FORM. IF AN INCIDENT WAS LISTED ON A PREVIOUSLY SUBMITTED NAQ, IT IS STILL REQUIRED TO BE LISTED ON THE CURRENT NAQ.**

a. Mark either "Yes" or "No." If "Yes," provide the following clarifying information in Item 18.b:

**b. Details.**

(1) Date. Provide date(s) of arrest(s) or charge(s).

(2) Nature of Offense or Violation. Any action that resulted in the placement of your name on a police or court record must be listed, including any act committed while still a juvenile or if you were considered a "Juvenile Offender." Give a docket number or indictment number in addition to charge, if known. List all Article 15, UCMJ, or Captains' Mast if they resulted in fines, restrictions, demotions, etc. DO NOT LIST PENAL CODES. THE ACTUAL OFFENSE OR VIOLATION MUST BE STATED.

**DETAILED INSTRUCTIONS**
*All items must be completed in their entirety.*

**ITEM 18 - ARRESTS.** *(Continued)*

(3) Name and Location of Law Enforcement Agency. Enter the name of the law enforcement agency and its location (city or county and state, or country if not in the U.S.).

(4) Name and Location of Court/Magistrate. Enter the name of the court/magistrate and its location (city or county and state, or country if not in the U.S.). If the case did not go to court, mark "None."

(5) Penalty Imposed or Other Disposition in Each Case. Provide details as to the outcome of the action against you. If you were granted probation before judgment, if the charges were nolle prosequi, dismissed or waived, or if any penalty was imposed, give details. If you spent any time in jail, prison, reform or industrial school or any juvenile facility or institution, list in Item 14 the location and duration of your confinement. If you are currently under a suspended sentence, parole, probation, or are awaiting any action on charges against you, that information should be indicated.

**ITEM 19 - CREDIT HISTORY.**

If any "Yes" block is marked in Items a through e, list in Item 14 the information indicated below:

**a. Bankruptcy.**

- Name and location of court where bankruptcy petition was filed.
- Provide bankruptcy petition number and name under which bankruptcy is filed.
- Date of filing.
- If bankruptcy is pending, the date the petition will be heard.
- Date of bankruptcy discharge, if known.

**b. Wages Garnished/Repossessions.**

- Date(s) and amount(s) of garnishment(s) and/or repossession(s).
- Name and location of individual(s) or organization(s) involved.
- Total amount of debt which resulted in garnishment or amount of debt remaining after repossession.
- Date of debt repayment, if any.

**c. Tax Liens.**

- Date(s) and amount(s) of lien(s).
- Name and location of court where lien was filed against you.
- Identity of taxing authority which filed the lien.
- Date of lien release, if any.

**ITEM 19 - CREDIT HISTORY.** *(Continued)*

**d. Unpaid Judgments.**

- Date(s) and amount(s) of judgment(s).
- Name and location of court where judgment was filed against you.
- Identity of person(s) or business(es) filing judgment.

**e. Delinquent Debts.**

- Name and address of creditor(s) involved.
- Dollar amount(s) past due.
- Length(s) of time past due.
- Date(s) of delinquency.

**ITEM 20 - DRUG / ALCOHOL USE AND MENTAL HEALTH.**

If "Yes" is answered to any of the questions in this item, describe the circumstances in Item 14, in accordance with the following explanations. If necessary, attach additional sheets for a full detailed statement. Sign and date each addendum page.

**a. Drug Use / Possession.** A listing of those drugs which have been designated as controlled substances is located on the last page of these instructions. If you used any of these drugs, or any other mind-altering substances, mark "Yes" and provide, in Item 14, the following details:

- Drug(s) used/possessed.
- Date(s) of use/possession, specifying last date used/possessed.
- Frequency of use/possession.
- Intentions regarding future use/possession.
- City and state (or country if not in U.S.) where used/possessed.
- Circumstances surrounding use/possession.

**IF MORE THAN ONE DRUG HAS BEEN USED / POSSESSED, PROVIDE THE INFORMATION ABOVE FOR EACH DRUG SEPARATELY.**

**b. Drug Activity.** The drugs referred to are again those listed on the attachment, or any other mind-altering substances. If "Yes," you must indicate on the NAQ the activity (or activities) in which you were involved by circling "purchase," "manufacture," "trafficking," "production," or "sale," and provide, in Item 14, the following details:

- Drug(s) involved.
- Date(s) of Activity.
- Number of times you participated in activity.
- Current activity.
- Intentions regarding future activity.
- City and state (or country if not in U.S.) where activity took place.
- Circumstances surrounding activity.

**AGAIN, IF MORE THAN ONE DRUG HAS BEEN USED/ POSSESSED, PROVIDE THE INFORMATION ABOVE FOR EACH DRUG SEPARATELY.**

**DETAILED INSTRUCTIONS**
*All items must be completed in their entirety.*

**ITEM 20 - DRUG / ALCOHOL USE AND MENTAL HEALTH.** *(Continued)*

**c. Abuse of Prescribed Drugs.** The drugs referred to are any medication prescribed either for you or for someone else by a licensed physician, which you abused by taking other than as prescribed. If "Yes," please provide, in Item 14, the following details:

- Drug(s) involved.
- Date(s) of use, specifying last date used.
- Frequency of use.
- Intentions regarding future use.
- City and state (or country if not in U.S.)
- Circumstances surrounding use and/or any other involvement such as illegal sale or distribution.

**AGAIN, IF MORE THAN ONE DRUG IS INVOLVED, PROVIDE SPECIFIC INFORMATION FOR EACH DRUG SEPARATELY.**

**d. Alcohol Abuse.** If "Yes," you must indicate on the NAQ the activity (or activities) in which you were involved by circling "loss of a job," "disciplinary action," "arrest by police," or "any alcohol-related treatment or counseling." Explain, in Item 14, the circumstances of each incident as follows:

- If loss of a job, provide name and address of employer, and dates of employment.
- If disciplinary action, provide dates, locations and final disposition of each incident.
- If arrested by police, provide information as in Item 18.b. If already explained, state, "Refer to Item 18.b."
- If you received treatment or counseling for alcoholism or alcohol abuse, provide name and address of treatment/counseling facility, dates of treatment/counseling, name and office address of physician/counselor or other individual who provided treatment/ counseling.

**e. and f. Mental Health.** If "Yes" is answered to either e. or f., provide, in Item 14, the following information:

- Exact problem (including name of disorder, if known).
- Name and address of primary physician, therapist, counselor, or other mental health professional who treated you or from whom you received counseling.
- Date(s) of treatment/counseling.
- If treatment/counseling is still continuing, so indicate and provide frequency of visits.
- Name and address of any hospital, clinic, and/or agency where treated/counseled as an in-patient or out-patient.
- Date(s) of hospitalization and/or in-patient/out-patient treatment/counseling.

**ITEM 21 - ORGANIZATIONS.**

If "Yes" is answered, provide the full name of the organization and the circumstances of your membership or affiliation. Include in your statement the dates, places, offices, positions, or credentials now or formerly held. If associations have been with individuals who are members of the described organizations, then list the individuals and the organization with which they were or are affiliated.

**ITEM 22 - SECURITY CLEARANCE.**

**a. Have you ever held a security clearance?** Mark appropriate block. If you have held a contractor-granted CONFIDENTIAL security clearance, mark "Yes."

(1) Level. List TOP SECRET, SECRET, or CONFIDENTIAL.

(2) Date Granted. Enter the date the security clearance was granted.

(3) Granted By. Enter the name of the organization or activity that granted the security clearance.

(4) Name of Employer. Enter the name of the organization or contractor who was your employer at the time the last personnel security clearance was held.

**b. Have you ever had a security clearance or access denied, suspended, or revoked?** Mark appropriate block. If "Yes," provide full details of the suspension, denial, or revocation in Item 14, to include level of security clearance or access, date of suspension, denial or revocation, as well as the name and address of the organization/ employer who took the action. NOTE: An administrative downgrade or termination of a security clearance is not a revocation.

**c. Within the past 5 years, have you been investigated by the Federal Government for a security clearance or sensitive position?** Mark appropriate block. If "Yes," include information on pending investigations and investigations conducted by the Federal government within the last five years for the purpose of making a security clearance determination or for placement in a sensitive position. List the date of the investigation, the name of the government agency that conducted or is conducting the investigation, and the name of the employer who requested the investigation.

**ITEM 23 - CERTIFICATION BY PERSON COMPLETING FORM.**

You should carefully review the form to ensure that you have answered all items and that the form is accurate in all details. You must fully understand the implication of certifying to a false statement. When you are satisfied that the form is complete, sign and date the original NAQ in ink along with any attachments. Return the completed and signed form to the office that gave it to you.

**DRUGS TO BE REPORTED WHEN COMPLETING DD FORM 398-2**

**NARCOTICS**

| DRUG NAME | OFTEN PRESCRIBED BRAND NAMES |
|---|---|
| Opium | Dover's Powder, Paregoric |
| Morphine | Morphine |
| Codeine | Codeine |
| Heroin | None |
| Meperidine (Pethidine) | Demerol, Pethadol |
| Methadone | Dolophine, Methadone, Methadose |
| Other Narcotics | Dilaudid, Leritine, Numorphan, Percodan |

**DEPRESSANTS**

| DRUG NAME | OFTEN PRESCRIBED BRAND NAMES |
|---|---|
| Chloral Hydrate | Noctec, Somnos |
| Barbiturates | Amytal, Butisol, Nembutal, Phenobarbital, Seconal, Tuinal |
| Glutethimide | Doriden |
| Methaqualone | Optimil, Parest, Quaalude, Somnafac, Sopor |
| Tranquilizers | Equanil, Librium, Miltown, Serax, Tranxene, Valium |
| Other Depressants | Clonopin, Dalmane, Dormate, Noludar, Placydil, Valmid |

**STIMULANTS**

| DRUG NAME | OFTEN PRESCRIBED BRAND NAMES |
|---|---|
| Cocaine | Cocaine |
| Amphetamines | Benzedrine, Biphetamine, Desoxyn, Dexedrine |
| Phenmetrazine | Preludin |
| Methylphenidate | Ritalin |
| Other Stimulants | Bacarate, Cylert, Didrex, Ionamin, Plegine, Pondimin, Pre-State, Sanorex, Voranil |

**HALLUCINOGENS**

| DRUG NAME | OFTEN PRESCRIBED BRAND NAMES |
|---|---|
| LSD | None |
| Mescaline | None |
| Psilocybin-Psilocyn | None |
| MDA | None |
| PCP | Sernylan |
| Other Hallucinogens | None |

**CANNABIS**

| DRUG NAME | OFTEN PRESCRIBED BRAND NAMES |
|---|---|
| Marijuana | None |
| Hashish | None |
| Hashish Oil | None |



[FR Doc. 92-14343 Filed 6-17-92; 8:45 am]

BILLING CODE 3810-01-C

**Public Information Collection Requirement Submitted to OMB for Review**

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Title, Applicable Form, and Applicable OMB Control Number:* Telecommucations Service Priority System; SF 315, SF 316, SF 317, SF 318, SF 319, SF 320; OMB Control Number 0704–0298.

*Type of Request:* Revision; expedited submission—Approval date requested; 30 days following publication in the **Federal Register.**

*Average Burden Hours/Minutes Per Response:* 1.303 hours.

*Responses Per Respondent:* 19.

*Number of Respondents:* 150.

*Annual Responses:* 2,850.

*Annual Burden Hours:* 3,713.

*Needs and Uses:* The Telecommunications Service Priority (TSP) System identifies leased telecommunications services vital to National Security and Emergency Preparedness and provides the legal basis for vendor priority installation and restoration. Collected information is used to make TSP assignment and maintain data base currency.

*Affected Public:* State or local governments, Businesses or other for-profit, Federal agencies or employees, and Small businesses or organizations.

*Frequency:* On occasion.

*Respondent's obligation:* Required to obtain or retain a benefit.

*OMB Desk Officer:* Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: June 12, 1992.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**BILLING CODE 3810–01–M**

## TELECOMMUNICATIONS SERVICE PRIORITY (TSP) SYSTEM
## TSP REQUEST FOR SERVICE USERS

*(See NCS Manual 3-1-1 for instructions before completion.)*

*Form Approved*
*OMB No. 0704-0305*
*Expires*

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0305), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO EITHER OF THESE ADDRESSES. RETURN COMPLETED FORM TO ADDRESS BELOW.**

**1. ACTION REQUESTED** *(Enter applicable code)*

A INITIAL PRIORITY FOR A NEW SERVICE
B INITIAL PRIORITY FOR AN EXISTING SERVICE
C CHANGE TO A SERVICE, SERVICE PRIORITY, OR INFORMATION ABOUT A SERVICE
D REVOKE A SERVICE'S PRIORITY
F REVALIDATE A SERVICE'S PRIORITY

**2. DATE SERVICE REQUIRED** *(MM/DD/YY)*

**3. NEW SERVICE USER SERVICE ID**

**4. SERVICE IDENTIFIERS** *(Complete a and/or b below only if action requested is C, D, or F.)*

a. TSP AUTHORIZATION CODE

T S P – –

b. PREVIOUS SERVICE USER SERVICE ID

**5. SERVICE PROFILE** *(List all choices that apply)*

**6. RESTORATION PRIORITY INFORMATION** *(Complete ONLY if requesting a restoration priority)*

a. SUBCATEGORY UNDER WHICH SERVICE QUALIFIES FOR PRIORITY TREATMENT

b. CRITERIA UNDER WHICH SERVICE QUALIFIES

c. RESTORATION PRIORITY REQUESTED *(5, 4, 3, 2, or 1)*

**7. PROVISIONING PRIORITY INFORMATION** *(Complete ONLY if requesting a provisioning priority)*

a. SUBCATEGORY UNDER WHICH SERVICE QUALIFIES FOR PRIORITY TREATMENT

b. CRITERIA UNDER WHICH SERVICE QUALIFIES

c. PROVISIONING PRIORITY REQUESTED *(5, 4, 3, 2, 1, or E)*

d. INVOCATION OFFICIAL'S NAME

e. INVOCATION OFFICIAL'S TITLE

f. TELEPHONE NUMBER *(Area Code / Number / Extension)*

g. HAS THE INVOCATION OFFICIAL AUTHORIZED THIS ACTION? *(Y or N)*

h. SERVICE LOCATION(S) *(Street Address, Building Number, Room Number, etc.)*

i. PRIME VENDOR POINT-OF-CONTACT FOR PROVISIONING *(Company, Name and Telephone Number)*

j. IS ORDER IN PROGRESS? *(Y or N)*

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315-101

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**8. SERVICE USER 24 HOUR POINT-OF-CONTACT** *(REQUIRED for provisioning priority)*

a. TITLE OR NAME

b. DAYTIME TELEPHONE NUMBER *(Area Code / Number / Extension)*

c. OFF-HOURS TELEPHONE NUMBER *(Area Code / Number / Extension)*

**9. SUPPLEMENTAL INFORMATION** *(i.e., circuit information)*

**10. SERVICE USER** *(Enter applicable code)*

A FEDERAL GOVERNMENT
B STATE GOVERNMENT
C LOCAL GOVERNMENT
D PRIVATE SECTOR
E FOREIGN GOVERNMENT
F OTHER

**11. SERVICE USER ORGANIZATION** *(Dept / Agency)*

**12. MAJOR NETWORK INFORMATION** *(If service is part of or uses a major network (e.g., PSN, FTS, DSN), identify the network.)*

**13. SERVICE USER POINT-OF-CONTACT** *(For correspondence regarding this service)*

a. TITLE OR NAME

b. ORGANIZATION *(Dept / Agency)*

c. MAILING ADDRESS

d. CITY / STATE / ZIP CODE

e. TELEPHONE NUMBER *(Area Code / Number / Extension)*

f. FACSIMILE NUMBER *(Area Code / Number / Extension)*

**14. TSP REQUESTOR INFORMATION**

a. NAME

b. ORGANIZATION *(Dept / Agency)*

c. TELEPHONE NUMBER *(Area Code / Number / Extension)*

d. SIGNATURE AND DATE: **I confirm this is a National Security Emergency Preparedness (NSEP) service.**

▶ ◀

**15. SPONSORSHIP INFORMATION FOR NON-FEDERAL SERVICE** *(To be completed by sponsor)*

a. FEDERAL SPONSORING AGENCY

b. RECOMMENDED DISPOSITION

c. SPONSOR NAME

d. SPONSOR TITLE

e. TELEPHONE NUMBER *(Area Code / Number / Extension)*

f. SPONSOR SIGNATURE AND DATE: **I confirm this is a National Security Emergency Preparedness (NSEP) service.**

▶ ◀

Non-Federal users: send form to your Federal government sponsor.

Federal users or sponsors: send completed form to:

Manager, NCS
Attn: TSP Program Office
701 South Courthouse Road
Arlington, VA 22204-2198

Standard Form 315 (920528 Draft) (Back)

## TELECOMMUNICATIONS SERVICE PRIORITY (TSP) SYSTEM
## TSP SERVICE ORDER REPORT

*(See Instructions on reverse before completion)*

*Form Approved*
*OMB No. 0704-0305*
*Expires*

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project 0704-0305), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO EITHER OF THESE ADDRESSES. RETURN COMPLETED FORM TO ADDRESS BELOW.**

**1. SERVICE USER/CONTRACTING ACTIVITY NAME**

**2. TSP SERVICE INFORMATION**

| a ITEM NO | b. TSP AUTHORIZATION CODE (1) Control ID (2) TSP Code | c. SERVICE USER CONTRACT ID | d. PRIME SERVICE VENDOR NAME | e. NET TOTAL CIRCUITS |
|---|---|---|---|---|
| 1 | TSP – | | | |
| 2 | TSP – | | | |
| 3 | TSP – | | | |
| 4 | TSP – | | | |
| 5. | TSP – | | | |
| 6 | TSP – | | | |
| 7 | TSP – | | | |
| 8. | TSP – | | | |
| 9 | TSP – | | | |
| 10 | TSP – | | | |
| 11. | TSP – | | | |
| 12 | TSP – | | | |
| 13. | TSP – | | | |
| 14 | TSP – | | | |
| 15. | TSP – | | | |
| 16. | TSP – | | | |
| 17 | TSP – | | | |
| 18 | TSP – | | | |
| 19 | TSP – | | | |
| 20. | TSP – | | | |

**3. POINT OF CONTACT** *(Title or Name)*

**4. ORGANIZATION**

| a DEPARTMENT/AGENCY NAME | b. MAILING ADDRESS |
|---|---|
| c TELEPHONE NUMBER *(Area Code/Number/Extension)* | d. CITY/STATE/ZIP CODE |
| **5. DATE DATA COMPILED** *(MM/DD/YY)* | **6. NUMBER OF ITEMS REPORTED** |
| **7. SIGNATURE** / **8. DATE** | **SEND COMPLETED FORM TO:** Manager, NCS<br>Attn: TSP Program Office<br>701 South Courthouse Road<br>Arlington, VA 22204-2198 |

## INSTRUCTIONS FOR TSP SERVICE ORDER REPORT

Complete this form if you ordered a TSP service from a service vendor.

The service user / contracting activity is to provide the information contained in this report within 45 days of issuing a service order or change order to a prime service vendor regarding a service that involves a TSP assignment.

If there are more than 20 TSP services to report, attach additional Service Order Report forms (SF 316) or separate sheets of plain paper the same size and format as the printed forms. Complete Items 3 through 7 on the first form only.

**Item 1. Service User / Contracting Activity Name.** Enter the name of the organization that ordered the respective TSP service(s) from the prime service vendor(s).

**Item 2. TSP Service Information.** For each TSP service for which you have contracted (i.e., issued a service order or a change order), provide the following:

b. TSP Authorization Code. Enter the full 12-character code, assigned by the TSP Program Office, which you provided to the prime service vendor(s).

c. Service User Contract ID. Enter the identification (up to 24 characters) that you use to identify the service order. The ID may be the purchase number, service agreement number, contract service agreement, contract number, order number, procurement ID, etc.

d. Prime Service Vendor Name. Identify the prime service vendor that will provide the service. If there is more than one prime service vendor, provide information for each one.

e. Net Total Circuits. Enter the net total of the number of circuits installed plus those pending installation. The total is to include all of this prime vendor's circuits for this TSP Authorization Code as of the Date Data Compiled (see Item 5 below). Do not add disconnected circuits. Do not include sub-contractor circuits. For example, if this prime service vendor has installed 6 circuits to date, 2 additional circuits are pending installation, and you are now disconnecting 3 circuits, the net total circuits would be 5 (6 plus 2 minus 3).

**Item 3. Point of Contact Information.** Identify the person who should be called if the TSP Program Office has any questions regarding the information on the form.

**Item 4. Organization.** Enter the parent organization that ordered the service(s). Federal agencies are to use the appropriate 4 digit code for their organization, from Federal Information Processing Standard (FIPS) Publication 95. All others should enter a title such as: "California Highway Patrol," or "Nelson County Hospital."

**Item 5. Date Data Compiled.** Enter the latest month/day/year when data was compiled.

**Item 6. Number of Items Reported.** Enter the total number of items (item numbers completed) including service orders reported on attached Service Order Reports or sheets of paper.

## TELECOMMUNICATIONS SERVICE PRIORITY (TSP) SYSTEM
## TSP ACTION APPEAL FOR SERVICE USERS

*(See Instructions on reverse before completion)*

*Form Approved*
*OMB No. 0704-0305*
*Expires*

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0305), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO EITHER OF THESE ADDRESSES. RETURN COMPLETED FORM TO ADDRESS BELOW.**

**1. APPEAL REQUESTOR INFORMATION**

| a. NAME / TITLE | b. MAILING ADDRESS |
|---|---|
| c. ORGANIZATION *(Dept / Agency)* | d. CITY / STATE / ZIP CODE |

| e. TELEPHONE NUMBER *(Area Code / Number / Extension)* | f. SIGNATURE | g. DATE |
|---|---|---|

**2. APPEAL RATIONALE** *(Attach additional sheets as necessary)*

**3. SPONSORSHIP INFORMATION FOR A NON-FEDERAL USER** *(To be completed by sponsor)*

| a. FEDERAL SPONSORING AGENCY | b. SPONSOR NAME / TITLE |
|---|---|
| c. TELEPHONE NUMBER *(Area Code / Number / Extension)* | d. RECOMMENDED DISPOSITION |
| e. SPONSOR SIGNATURE | f. DATE |

**NOTE:** Attach all information submitted to and received from the Manager, NCS regarding the appeal. Send a copy, clearly marked as an information copy, to the Federal Communications Commission.

Send completed form to:

Manager, NCS
Attn: TSP Program Office
701 South Courthouse Road
Arlington, VA 22204-2198

Send copy to:

Federal Communications Commission
Attn: Chief, Domestic Services Branch
Common Carrier Bureau
Washington, D.C. 20554

**TO BE COMPLETED BY THE TSP PROGRAM OFFICE**

| 4. RESOLUTION OF APPEAL: | | GRANTED | | DENIED |
|---|---|---|---|---|

**5. COMMENTS**

**6. APPROVED BY**

| a. NAME | |
|---|---|
| b. SIGNATURE | c. DATE |

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## INSTRUCTIONS FOR TSP ACTION APPEAL

Complete this form only if you are a service user or sponsoring Federal organization appealing an action taken by the TSP Program Office.

**Item 1. Appeal Requestor Information.** Provide the name and commercial phone number (area code/phone/extension) of an individual knowledgeable about this appeal.

**Item 2. Appeal Rationale:** Explain the reason for your appeal. Use additional sheets if required. Attach copies of all relevant correspondence.

**Item 3. Sponsorship Information for a Non-Federal User.** This information MUST be completed and signed by the sponsoring activity.

## APPEAL PROCESS

1. Service users or sponsoring Federal Organizations may appeal any priority level assignment, denial, revision, revocation, approval, or disapproval to the TSP Program Office within 30 days of notification to the service user. The appeal must include supporting factual details. (NOTE: Non-Federal service users must appeal through their sponsor.) An appeal that includes a claim of new information may be submitted at any time.

2. Service users may appeal any priority action to the TSP Program Office within 30 days of notification of the action. All TSP appeals must be filed using this form. Submit the completed appeal form, along with copies of any relevant correspondence, to the TSP Program Office. A copy of the appeal package, clearly marked as an information copy, must also be submitted to the Federal Communications Commission (FCC). The TSP Program Office will determine the disposition of the appeal and respond within 30 days of receipt.

3. If the service user is not satisfied with the TSP Program Office's decision, they may then escalate the appeal to the Manager, NCS. This escalation must be submitted within 30 days of the TSP Program Office's notice of action on the initial appeal. The service user will submit a letter explaining the reason for escalating the appeal and attach the appeal package previously submitted to the TSP Program Office. The Manager, NCS will determine the disposition of the appeal and respond to the service user within 30 days of receipt.

4. Service users may only appeal a priority action directly to the FCC after first submitting an appeal to the TSP Program Office and escalating the appeal to the Manager, NCS. This appeal must be submitted to the FCC within 30 days of notification of the decision made by the Manager, NCS on the escalated appeal. The service user will submit a letter to the FCC Common Carrier Bureau detailing the reasons for appealing the decision made by the Manager, NCS. Copies of the letter of appeal to the FCC will be submitted to the TSP Program Office, Manager, NCS, and any other parties directly involved. The FCC will not issue a public notice of an appeal. The FCC will provide notice of its decision on the appeal to all parties of record.

5. Following the FCC's decision, involved parties may file a response to the FCC within 20 days of the FCC's appeal determination. The organization that originally filed the appeal may then file replies to the FCC's decision within 10 days of the FCC's response. Additionally, the TSP Program Manager may appeal any FCC revision, approval, or disapproval to the FCC.

## TELECOMMUNICATIONS SERVICE PRIORITY (TSP) SYSTEM
## TSP SERVICE CONFIRMATION FOR SERVICE VENDORS

*(See Instructions on reverse before completion)*

*Form Approved*
*OMB No. 0704-0305*
*Expires*

Public reporting burden for this collection of information is estimated to average 50 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0305), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO EITHER OF THESE ADDRESSES. RETURN COMPLETED FORM TO ADDRESS BELOW.**

**1. VENDOR NAME**

**2. TSP SERVICE INFORMATION**

| a. ITEM NO. | b. TSP AUTHORIZATION CODE (1) Control ID | (2) TSP Code | c. PRIME SERVICE VENDOR SERVICE ID (1) Circuit / Service ID | (2) Segment *(Optional)* | d. TYPE OF ORDER |
|---|---|---|---|---|---|
| 1. | TSP | – | / | | |
| 2. | TSP | – | / | | |
| 3. | TSP | – | / | | |
| 4. | TSP | – | / | | |
| 5. | TSP | – | / | | |
| 6. | TSP | – | / | | |
| 7. | TSP | – | / | | |
| 8. | TSP | – | / | | |
| 9. | TSP | – | / | | |
| 10. | TSP | – | / | | |
| 11. | TSP | – | / | | |
| 12. | TSP | – | / | | |
| 13. | TSP | – | / | | |
| 14. | TSP | – | / | | |
| 15. | TSP | – | / | | |
| 16. | TSP | – | / | | |
| 17. | TSP | – | / | | |
| 18. | TSP | – | / | | |
| 19. | TSP | – | / | | |
| 20. | TSP | – | / | | |

**3. POINT OF CONTACT**

a. TITLE OR NAME

b. MAILING ADDRESS *(Street / City / State / ZIP Code)*

c. TELEPHONE NUMBER *(Area Code / Number / Extension)*

**4. DATE DATA COMPILED** *(MM / DD / YY)*

**5. NUMBER OF ITEMS REPORTED**

**6. REMARKS** *(Y or N)*

**7. TYPED NAME OF POINT OF CONTACT OR COMPANY OFFICIAL**

a. SIGNATURE

b. DATE

**SEND COMPLETED FORM TO:**

Manager, NCS
Attn: TSP Program Office
701 South Courthouse Rd.
Arlington, VA 22204-2198

NSN 7540-01-280-5508
318-101

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NCS Handbook 3-1-2

## INSTRUCTIONS FOR TSP SERVICE CONFIRMATION

A service vendor, when acting as a prime contractor to a TSP service user, is to confirm service completion directly to the TSP Program Office within 45 calendar days of completing a TSP service order.

If there are more than 20 TSP services (or 20 Prime Service Vendor Service IDs) to confirm, attach additional TSP Service Confirmation Forms (SF 318) or sheets of paper the same size and format as the printed forms. Complete Items 3 through 7 on the first form only.

**Item 1. Vendor Name.** Enter full vendor name, exactly as previously submitted to the TSP Program Office by your company. If this is the first TSP Service Confirmation for your company, so indicate by entering "first submission" and enter the precise vendor name you will be using on subsequent confirmations and reconciliations.

**Item 2. TSP Service Information.** For each TSP service which you are confirming, provide:

b. TSP Authorization Code. Enter the full 12-character code received on the service order from the service user or contracting activity.

c. Prime Service Vendor Service ID. Enter the Circuit/Service ID to the left of the slash (/). The segment number (optional information except for "Disconnection" or "Out") is entered to the right of the slash (/).

d. Type of Order. Enter "I" for Installation, "N" for New, "D" for Disconnection, "O" for Out, "C" for Change, or "FT" for From / To orders.

**Item 3. Point of Contact.** The point of contact is the representative of the prime service vendor who will be called if there are any questions regarding information on this form. Use title, if available; otherwise use the person's name. Enter full business address and telephone number.

**Item 4. Date Data Compiled.** Enter the latest month/day/year when data was compiled.

**Item 5. Number of Items Reported.** Enter the total number of items (number of confirmations) being reported. Include confirmations on attached forms or sheets of paper in the total.

**Item 6. Remarks.** If you have any other comments regarding the information provided, enter Y and provide remarks on a separate sheet of paper; otherwise, enter N.

**Item 7. Signature.** The point of contact or a company official must sign and date the form.

Standard Form 318 (920528) (Back)

## TELECOMMUNICATIONS SERVICE PRIORITY (TSP) SYSTEM
## TSP SERVICE RECONCILIATION FOR SERVICE VENDORS

*(See Instructions on reverse before completion)*

*Form Approved*
*OMB No. 0704-0305*
*Expires*

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0305), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO EITHER OF THESE ADDRESSES. RETURN COMPLETED FORM TO ADDRESS BELOW.**

**1. VENDOR NAME**

**2. TSP SERVICE INFORMATION**

| a. ITEM NO. | b. TSP AUTHORIZATION CODE (1) Control ID *(Optional)* | (2) TSP Code | c. PRIME SERVICE VENDOR SERVICE ID *(Circuit / Service ID) (Do NOT indicate segments)* |
|---|---|---|---|
| 1. | TSP | – | |
| 2. | TSP | – | |
| 3. | TSP | – | |
| 4. | TSP | – | |
| 5. | TSP | – | |
| 6. | TSP | – | |
| 7. | TSP | – | |
| 8. | TSP | – | |
| 9. | TSP | – | |
| 10. | TSP | – | |
| 11. | TSP | – | |
| 12. | TSP | – | |
| 13. | TSP | – | |
| 14. | TSP | – | |
| 15. | TSP | – | |
| 16. | TSP | – | |
| 17. | TSP | – | |
| 18. | TSP | – | |
| 19. | TSP | – | |
| 20. | TSP | – | |

**3. POINT OF CONTACT**

a. TITLE OR NAME

b. MAILING ADDRESS *(Street / City / State / ZIP Code)*

c. TELEPHONE NUMBER *(Area Code / Number / Extension)*

**4. DATE DATA COMPILED** *(MM / DD / YY)*

**5. NUMBER OF ITEMS REPORTED**

**6. REMARKS** *(Y or N)*

**7. TYPED NAME OF POINT OF CONTACT OR COMPANY OFFICIAL**

a. SIGNATURE

b. DATE

**SEND COMPLETED FORM TO:**

Manager, NCS
Attn: TSP Program Office
701 South Courthouse Rd.
Arlington, VA 22204-2198

NSN 7540-01-317-7365
319-101

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NCS Handbook 3-1-2

## INSTRUCTIONS FOR TSP SERVICE RECONCILIATION

Complete this form only if the TSP Program Office has requested TSP reconciliation information from your company.

If you are reconciling information on more than 20 TSP services (or 20 Prime Service Vendor Service ID's), attach additional TSP Service Reconciliation forms (SF 319) or sheets of paper the same size and format as the printed forms. Complete Items 3 through 7 on the first form only. List every Prime Service Vendor Service ID for which your company is providing priority restoration (i.e., TSP restoration priority of 1, 2, 3, 4, or 5) as a prime contractor to a service user.

Item 1. **Vendor Name.** Enter full vendor name, exactly as previously submitted to the TSP Program Office by your company.

Item 2. **TSP Service Information.** For each TSP service which you are reconciling, provide:

b. TSP Authorization Code. The TSP Control ID (positions 1-9 of the TSP Authorization Code) is the only optional item on the form; the TSP Code (positions 11 and 12 of the TSP Authorization Code) is required.

c. Prime Service Vendor Service ID. Enter the Circuit/Service ID. DO NOT enter segment numbers.

Item 3. **Point of Contact.** The point of contact is the representative of the prime service vendor who will be called if there are any questions regarding information on this form. Use title, if available; otherwise use the person's name. Enter full business address and telephone number.

Item 4. **Date Data Compiled.** Enter the latest month/day/year when data was compiled.

Item 5. **Number of Items Reported.** Enter the total number of items (Circuit/Service ID's) including those reported on attached TSP Reconciliation Forms (SF 319) or sheets of paper.

Item 6. **Remarks.** If you have any other comments regarding the information provided, enter Y and provide remarks on a separate sheet of paper; otherwise, enter N.

Item 7. **Signature.** The point of contact or a company official must sign and date the form.

# TELECOMMUNICATIONS SERVICE PRIORITY (TSP) SYSTEM
# NSEP INVOCATION REPORT

*(See Instructions before completion)*

*Form Approved*
*OMB No. 0704-0305*
*Expires*

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0305), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO EITHER OF THESE ADDRESSES. RETURN COMPLETED FORM TO ADDRESS BELOW.**

| 1. TSP AUTHORIZATION CODE | 2. WAS NSEP TREATMENT INVOKED FOR THIS SERVICE? *(Y or N) (If "No," proceed to item 5.)* |
|---|---|
| T S P _____ – ___ | |

**3. IF NSEP TREATMENT WAS INVOKED FOR THIS SERVICE, COMPLETE THE FOLLOWING:**

| | |
|---|---|
| a. DATE OF EVENT ASSOCIATED WITH INVOCATION *(MM/DD/YY)* | b. EVENT ASSOCIATED WITH INVOCATION |
| c. WAS TSP SERVICE OPERATIONAL BY THE REQUESTED DUE DATE? *(Y or N)* | d. IF THE TSP SERVICE WAS NOT OPERATIONAL BY THE REQUESTED DATE, EXPLAIN. |
| e. WERE ADDITIONAL CHARGES INCURRED DUE TO THIS SERVICE HAVING A TSP PROVISIONING PRIORITY ASSIGNED? *(Y or N)* | |

**4. INVOKING OFFICIAL**

| | | |
|---|---|---|
| a. FEDERAL AGENCY | b. NAME | c. TITLE |
| d. MAILING ADDRESS | e. CITY / STATE / ZIP CODE | f. TELEPHONE NUMBER *(Area Code / Number / Extension)* |

**5. SUBMITTER**

| | | |
|---|---|---|
| a. NAME | b. ORGANIZATION *(Dept. / Agency)* | c. TELEPHONE NUMBER *(Area Code / Number / Extension)* |
| d. SIGNATURE | e. DATE | **SEND COMPLETED FORM TO:** Manager, NCS<br>Attn: TSP Program Office<br>701 South Courthouse Rd.<br>Arlington, VA 22204-2198 |

## INSTRUCTIONS FOR COMPLETING AN NSEP INVOCATION REPORT

Complete this form ONLY after receiving a priority action notice, that includes a provisioning priority, from the TSP Program Office. Attach a copy of the priority action notice. If any of the information in the priority action notice is incorrect, submit a TSP Request for Service Users (SF 315) to amend the information about your service.

**If the invocation report is classified handle in accordance with prescribed directives.**

**Item 1. TSP Authorization Code.** Enter the full 12-character code conveyed to the service vendor.

**Item 2. Was NSEP treatment invoked?** If NSEP treatment was not invoked, enter an N and proceed to item 5. If NSEP treatment was invoked, enter a Y and proceed to item 3.

**Item 3. If NSEP treatment was invoked for this service, please provide the following:**

a. Enter the date of the event associated with this invocation (MM/DD/YY).

b. Describe the event which caused you to invoke.

c. If the TSP service was operational by the requested due date enter a Y. If the TSP service was NOT operational by the requested date enter an N and briefly explain why not in item 3d.

e. If additional charges or expenses, above and beyond what you would normally incur, were involved in provisioning this service enter a Y, if not enter an N. Do not delay returning this form if you do not know if any additional costs were incurred.

**Item 4. Invoking Official.** Complete required Invoking Official Information.

**Item 5. Submitter.** Complete required Submitter information.

b. Federal agencies are to use the appropriate 4 digit code in Federal Information Processing Standard (FIPS) Publication 95.

d. Signature and date. This form must be signed.

AUTHORIZED FOR LOCAL REPRODUCTION

Standard Form 320 (920528 Draft)
Prescribed by DOD/NCS
NCS Manual 3-1-1

[FR Doc. 92–14344 Filed 6–17–92; 8:45 am]

BILLING CODE 3810–01–C

## Department of the Air Force

### USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Committee on Technology Options for Global Reach—Global Power: 1995–2020 (Support Panel) will meet on 22–24 June 1992 instead of 25–26 June 1992, at the ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA, 8 a.m. to 5 p.m.

The purpose of this meeting is to gather information and prepare a briefing for the chairmen meeting on 23 June 92.

The meetings will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 92–14265 Filed 6–17–92; 8:45 am]

BILLING CODE 3910–01–M

## Department of the Navy

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** Department of the Navy, Defense.

**ACTION:** Notice of Availability of Inventions for Licensing.

**SUMMARY:** The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, DC 20231, for $3.00 each. Requests for copies of patents must include the patent number.

Copies of patent application cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.95 each ($10.95 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent applications copies sold to avoid premature disclosure.

**FOR FURTHER INFORMATION CONTACT:** Mr. R. J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCCIP), Arlington, Virginia 22217–5000, telephone (703) 696–4001.

Patent 5,009,728: Castable, Insensitive Energetic Compositions; filed 12 January 1990; patented 23 April 1991.

Patent 5,010,341: High Pulse Repetition Frequency Radar Early Warning Receiver; filed 23 October 1989; patented 23 April 1991.

Patent 5,014,062: Electronic Projectile Impact Spotting Device; filed 23 November 1973; patented 7 May 1991.

Patent 5,014,248: Air-Deliverable, Ice-Penetrating SONOBUOY; filed 5 February 1974; patented 7 May 1991.

Patent 5,015,805: Kellems Grip Construction for Cable Connector and Method of Using Same; filed 23 March 1990; patented 14 May 1991.

Patent 5,017,150: Low Force Cable Connect; filed 23 May 1990; patented 21 May 1991.

Patent 5,018,472: Horizontally Moveable Weight Stabilizing Device; filed 22 June 1989; patented 23 May 1991.

Patent 5,021,098: High Contact Blind Hole Thermocouple Plug; filed 28 March 1990; patented 4 June 1991.

Patent 5,022,100: Apparatus and Method for Underwater Acoustic Receiving System Installation in Diving Helmet; filed 2 September 1990; patented 11 June 1991.

Patent 5,023,006: Thermal Insulation Chemical Composition and Method of Manufacture; filed 30 November 1990; patented 11 June 1991.

Patent 5,025,744: Submarine Torpedo Tube Axial Weapon Restrainer; filed 14 August 1990; patented 25 June 1991.

Patent 5,026,160: Monolithic Optical Programmable Spectrometer; filed 4 October 1989; patented 25 June 1991.

Patent 5,028,112: Precision Multi-Channel Fiber Optic Interface and Method; filed 27 June 1990; patented 2 July 1991.

Patent 5,028,864: Optically Stable, Large Time Bandwidth Acousto-Optic Hetherodyne Spectrum Analyzer With Fixed Non-Zero Heterodyne Output; filed 14 September 1990; patented 2 July 1991.

Patent 5,033,030: Turbulence Velocimetry Technique; filed 5 June 1990; patented 16 July 1991.

Patent 5,035,622: Generic Machine Gun and Minor Caliber Weapon Trainer; filed 29 November 1989; patented 30 July 1991.

Patent 5,036,520: Holmium Laser Pumped With a Neodymium Laser; filed 15 October 1990; patented 30 July 1991.

Patent 5,038,768: Carbon Monoxide Conversion Device; filed 26 September 1989; patented 13 August 1991.

Patent 5,039,228: Fixtureless Environmental Stress Screening Apparatus; filed 2 November 1989; patented 13 August 1991.

Patent 5,040,157: Expendable Virtual Vertical Sensing Array; filed 15 October 1990; patented 13 August 1991.

Patent 5,042,157: Fiber Optic Angular Orientation Sensor Using Digital Serial Encoding; filed 8 August 1988; patented 27 August 1991.

Patent 5,042,415: Vehicle Handling System for Submersibles; filed 7 February 1990; patented 27 August 1991.

Patent 5,042,744: Guidable Stores; filed 30 April 1990; patented 27 August 1991.

Patent 5,043,302: Glassy Binder System for Ceramic Substrates, Thick Films and the Like; filed 25 March 1989; patented 27 August 1991.

Patent 5,044,253: Submarine Weapon Launch System External Impulse Tank; filed 15 August 1990; patented 3 September 1991.

Patent 5,045,588: High Polymer Suspension; filed 7 November 1974; patented 3 September 1991.

Patent 5,045,707: Laser Detection and Discrimination System; filed 16 August 1989; patented 3 September 1991.

Patent 5,045,769: Intelligent Battery Charging System; filed 14 November 1989; patented 3 September 1991.

Patent 5,045,857: High-Speed Beam Switching Processor; filed 23 October 1974; patented 10 September 1991.

Patent 5,047,626: Optical Fiber Sensor for Measuring Physical Properties of Liquids; filed 3 January 1990; patented 10 September 1991.

Patent 5,048,568: Quick Opening Slide Valve; filed 26 February 1991; patented 17 September 1991.

Patent 5,049,753: Optically Powered High Voltage Electron Gun; filed 28 June 1990; patented 17 September 1991.

Patent 5,049,883: Combined Microwave and Infrared Chaff; filed 30 May 1978; patented 17 September 1991.

Patent 5,050,136: Super Polyelectrolytic Communication Links; filed 26 September 1990; patented 17 September 1991.

Patent 5,050,523: Pivoting Launch Method for Submarines; filed 17 October 1990; patented 24 September 1991.

Patent 5,051,751: Method of Kalman Filtering for Estimating the Position and Velocity of a Tracked Object; filed 12 February 1991; patented 24 September 1991.

Patent 5,054,004: Method of Active Sonar Detection of a Stationary Target; filed 28 September 1990; patented 1 October 1991.

Patent 5,054,039: Digital Calibration Circuit Employing Composite Sine Wave Signals; filed 30 August 1990; patented 1 October 1991.

Patent 5,054,758: Multi-Ply Paper Separator; filed 30 November 1989; patented 8 October 1991.

Patent 5,054,922: Differential Polarimetric Fiber Optic Sensor; filed 16 January 1990; patented 8 October 1991.

Patent 5,056,405: Propellant-to-Inhibitor Bonding System; filed 30 November 1990; patented 15 October 1991.

Patent 5,056,760: T-Slot Assembly; filed 2 April 1990; patented 15 October 1991.

Patent 5,057,047: Low Capacitance Field Emitter Array and Method of Manufacture Therefor; filed 27 September 1990; patented 15 October 1991.

Patent 5,057,279: Pressurized Membrane Chemical Sensor; filed 13 October 1988; patented 15 October 1991.

Patent 5,057,590: Bislactone Curing Agents for Epoxy Resins and Polymers Obtained Therefrom; filed 29 March 1990; patented 15 October 1991.

Patent 5,057,697: DC Uninterrupted Power Supply Having Instantaneous Switching Followed by Low Impedance Switching; filed 22 March 1990; patented 15 October 1991.

Patent 5,058,190: Selective Readout of a Detector Array; filed 14 September 1990; patented 15 October 1991.

Patent 5,058,481: Dual-Modular Rocket Launcher; filed 15 October 1990; patented 22 October 1991.

Patent 5,059,702: SN-Labelled Tetra-N-Butyltin and Tri-N-Butyltin Bromide; filed 29 September 1989; patented 22 October 1991.

Patent 5,059,911: Cable Fault Location Detector; filed 24 October 1990; patented 22 October 1991.

Patent 5,060,550: Rocket Nozzle Snubber; filed 29 February 1991; patented 29 October 1991.

Patent 5,061,199: Wall Outlet Lock Apparatus; filed 14 March 1991; patented 29 October 1991.

Patent 5,061,857: Waveguide-Binding Sensor for Use With Assays; filed 9 November 1990; patented 29 October 1991.

Patent 5,062,154: Mid Range UV Communications; filed 3 March 1989; patented 29 October 1991.

Patent 5,062,593: Solid-Propellant-Powered Maneuvering System for Spacecraft; filed 25 February 1991; patented 5 November 1991.

Patent 5,062,939: Selective Metallization of Carbonyl-Containing Polymer Films; filed 29 March 1990; patented 5 November 1991.

Patent 5,063,290: All-Optical-Fiber Faraday Rotation Current Sensor With Heterodyne Detection Technique; filed 14 September 1990; patented 5 November 1991.

Patent 5,063,419: Heterostructure Device Useable as a Far Infrared Photodetector; filed 15 November 1988; patented 5 November 1991.

Patent 5,063,487: Main and Auxiliary Transformer Rectifier System for Minimizing Line Harmonics; filed 22 March 1990; patented 5 November 1991.

Patent 5,063,958: Burst Diaphragm Sequence Valve; filed 24 January 1991; patented 12 November 1991.

Patent 5,064,146: Pivoting Seat for Fighter Aircraft; filed 26 September 1990; patented 12 November 1991.

Patent 5,064,268: High Pressure Fiber Optic Connector Plug; filed 7 December 1990; patented 12 November 1991.

Patent 5,065,370: Programmable Pulse Shaper for Sonobuoy Apparatus; filed 20 November 1990; patented 12 November 1991.

Patent 5,065,688: Flexible Weapon Handling Support System; filed 20 June 1990; patented 19 November 1991.

Patent 5,066,148: Bi-Directional Optical Transmission System for RF Electrical Energy; filed 28 July 1990; patented 19 November 1991.

Patent 5,066,613: Semiconductor-on-Insulator Device Interconnects; filed 17 July 1989; patented 19 November 1991.

Patent 5,068,880: Optical Interconnects in the Computer Environment; filed 6 September 1990; patented 26 November 1991.

Patent 5,070,760: Pneumatically-Actuated Multiple Store Launcher; filed 30 October 1990; patented 10 December 1991.

Patent 5,071,088: High Lift Aircraft; filed 29 November 1989; patented 10 December 1991.

Patent 5,073,409: Environmentally Stable Metal Powders; filed 28 June 1990; patented 17 December 1991.

Patent 5,073,711: Fiber-Optic Remote Angular Position Sensor Including a Polarization; filed 17 September 1990; patented 17 December 1991.

Patent 5,074,186: Electrically Actuated Multiple Store Launcher; filed 30 October 1990; patented 24 December 1991.

Patent 5,074,187: Rocket Nozzle Shield; filed 4 March 1991; patented 24 December 1991.

Patent 5,074,324: Method and Apparatus for Reducing Drag and Noise Associated With Fluid Flow in a Conduit; filed 12 July 1991; patented 24 December 1991.

Patent 5,074,493: Wing-Extendible Gliding Store; filed 21 December 1990; patented 24 December 1991.

Patent 5,076,134: Launch Container for Multiple Stores; filed 30 October 1990; patented 31 December 1991.

Patent 5,077,699: Digital Bottom Mapping; filed 7 December 1990; patented 31 December 1991.

Patent 5,077,700: Doppler Velocity Profiler; filed 21 December 1990; patented 31 December 1991.

Patent 5,078,009: Transient Impeller Test Facility; filed 24 December 1990; patented 7 January 1992.

Patent 5,080,067: Water-Activated Sonobuoy System; filed 29 April 1991; patented 14 January 1992.

Patent 5,080,120: Replaceable Valve Seat; filed 25 April 1991; patented 14 January 1992.

Patent 5,085,122: Firing Assembly for Stored Energy Launcher; filed 7 February 1991; patented 4 February 1992.

Patent 5,086,423: Crosstalk Correction Scheme; filed 5 July 1989; patented 4 February 1992.

Patent Application 489,161: Electromagnetic Warming of Submerged Extremities; filed 6 March 1990.

Patent Application 544,574: Magnetic Coupler for Electroacoustic Hydrophones; filed 26 June 1990.

Patent Application 573,084: Device to Measure Unwanted Electric and Magnetic Field Induced Voltages in Remote Measurement Sensors; filed 27 August 1990.

Patent Application 599,557: Composition and Method for Producing an Aluminum Alloy Resistant to Environmentally-Assisted Cracking; filed 15 October 1990.

Patent Application 599,559: Broadband Quadrifilar Phased Array Helix; filed 17 October 1990.

Patent Application 605,901: Electrically Actuated Multiple Store Launcher; filed 30 October 1990.

Patent Application 622,658: Piezoelectric Ceramic Hydrostatic Sound Sensor; filed 5 December 1990.

Patent Application 625,720: High Pressure Fiber Optic Connector Plug; filed 7 December 1990.

Patent Application 656,330: Method and Apparatus for Synchronization of Dynamical Physical Systems; filed 19 February 1991.

Patent Application 659,765: Method and Composition for the Preservation of Red Blood Cells by Lyophilization; filed 19 February 1991.

Patent Application 660,364: Polymer-Reinforced Metal Matrix Composite; filed 19 February 1991.

Patent Application 668,289: Fiber Optic Coil Shipping and Storage Container; filed 11 March 1991.
Patent Application 678,580: Method and Apparatus for Signal Prediction in a Time-Varying Signal; filed 27 March 1991.
Patent Application 684,091: Tunable Flashpumped TM—Activated Garnet Lasers Between 1.9 and 2.1um; filed 12 April 1991.
Patent Application 691,071: Interferometric Vibration and Thermal Expansion Compensator; filed 15 April 1991.
Patent Application 691,581: Undersea Data Collection Analysis and Display System; filed 23 April 1991.
Patent Application 700,374: Binders for Melt Castable Plastic Bonded Explosives; filed 10 May 1991.
Patent Application 700,831: Protective Coating System for Aluminum; filed 16 May 1991.
Patent Application 702,570: Muffler for Air Powered Turbine Drive; filed 17 May 1991.
Patent Application 704,563: Synthesis of Microstructurally Toughened (MT) Discontinuous Composite Tubes via Centrifugal Casting; filed 17 May 1991.
Patent Application 704,744: Detection of Explosives by Nuclear Quadrupole Resonance; filed 23 May 1991.
Patent Application 705,048: Resonantly Pumped, Erbium-Doped, 2.8 Micron Solid State Laser With High Slope Efficiency; filed 23 May 1991.
Patent Application 708,254: Electrochemical Noise Measurement Technique for the Determination of Aluminum Alloy Pit Initiation Rates; filed 28 May 1991.
Patent Application 710,848: Pulsed-Gradient Spin-Diffusion NMR Method; filed 6 June 1991.
Patent Application 710,860: Diamond and Diamond-Coated Filaments; filed 6 June 1991.
Patent Application 714,815: Shield Ground Adapter for Kick Pipes and Stuffing Tubes; filed 13 June 1991.
Patent Application 718,123: Material and Method for Fast Generation of Hydrogen Gas and Steam; filed 20 June 1991.
Patent Application 722,447: Plasma Chemical Vapor Deposition of Halide Glasses; filed 27 June 1991.
Patent Application 722,804: Color-Coded Radar Plan Position Indicator; filed 28 June 1991.
Patent Application 724,083: Steady-State, High Dose Neutron Generation and Concentration Apparatus and Method For Deuterium Atoms; filed 1 July 1991.
Patent Application 725,719: Grounding Ring for Ground Adapters; filed 3 July 1991.
Patent Application 726,483: Method of Joining Diamond Structures; filed 8 July 1991.
Patent Application 726,488: Consolidation of Diamond Packed Powders; filed July 8, 1991.
Patent Application 726,489: Method for Doping Single Diamond for Electronic Devices; filed 8 July 1991.
Patent Application 728,905: Method and Apparatus for Acoustically Measuring Rainfall; filed 8 July 1991.
Patent Application 728,918: Energic Composites of Cyclodextrin Nitrate Esters and Nitrate Esters Plasticizer; filed 8 July 1991.
Patent Application 729,919: Nitrate Esters of Cyclodextrins; filed 8 July 1991.
Patent Application 736,327: Fiber Optic Gyroscope with Wide Dynamic Range Analog Phase Tracker; filed 26 July 1991.
Patent Application 749,244: Large Scale Purification of Contaminated Air; filed 23 August 1991.
Patent Application 749,357: Concentration of Isotopic Hydrogen by Temperature Gradient Effect in Soluble Metal; filed 23 August 1991.
Patent Application 751,371: Three Dimensional Ranging Imaging System; filed 28 August 1991.

Dated: June 10, 1992.

**Wayne T. Baucino,**

*Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.*

[FR Doc. 92–14314 Filed 6–17–92; 8:45 am]

BILLING CODE 3810–AEM

## Government-owned Inventions; Availability for Licensing

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice of availability of invention for licensing.

**SUMMARY:** The invention listed below is assigned for the United States Government as represented by the Secretary of the Navy and is made available for licensing by the Department of the Navy.

Requests for copies of the patent application cited should be directed to the Office of the Chief of Naval Research (Code OOCCIP), 800 North Quincy Street, Arlington, Virginia 22217-5000 and must include the application serial number.

**FOR FURTHER INFORMATION CONTACT:** Mr. R.J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCCIP), 800 North Quincy Street, Arlington, Virginia 22217-5000, Telephone (703) 696-4001.

Patent Application Serial No. 07/623.324 filed December 5, 1990 for "Method of Predicting Steady Incompressible Fluid Flow".

Dated: June 10, 1992.

**Wayne T. Baucino,**

*Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.*

[FR Doc. 92–14315 Filed 6–17–92; 8:45 am]

BILLING CODE 3810–AE–F

## Intent to Grant Exclusive License

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Intent to Grant Exclusive License; Biocontrol Technology, Inc.

**SUMMARY:** The Department of the Navy hereby gives notice of its intent to grant to Biocontrol Technology, Inc. a revocable, nonassignable, exclusive license to practice the Government-owned inventions described in U.S. Patent No. 5,026,160, "Monolithic Optical Programmable Spectrograph (MOPS)", issued June 25, 1991, in the field of biomedical use.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the office of the Chief of Naval Research (Code OOCCIP), Arlington, Virginia 22217-5000.

**FOR FURTHER INFORMATION CONTACT:** Mr. R.J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCCIP), 800 North Quincy Street, Arlington, Virginia 22217-5000, Telephone (703) 696-4001.

Dated: June 10, 1992.

**Wayne T. Baucino,**

*Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.*

[FR Doc. 92–14316 Filed 6–17–92; 8:45 am]

BILLING CODE 3810–AE–F

# DEPARTMENT OF ENERGY

## Financial Assistance Award; Intent To Award a Cooperative Agreement National Conference of State Legislatures

**AGENCY:** Department of Energy.

**ACTION:** Notice of noncompetitive financial assistance award.

**SUMMARY:** The U.S. Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(5) it is making a financial assistance award to the National Conference of State Legislatures (NCSL) to facilitate the exchange of information, discussion of issues and to enhance public participation in the implementation of

the Nuclear Waste Policy Act of 1982 as amended (NWPA). The cooperative agreement will also facilitate public understanding of the status of the activities of the DOE Office of Environmental Restoration and Waste Management (EM).

**SCOPE:** Work under the cooperative agreement will include organizing and conducting meetings to involve the State Legislators and their constituents in the implementation of the NWPA and inform them of the activities of the Office of Civilian Radioactive Waste Management (RW). Specifically, the objectives are to highlight and explain environmental, social and economic impacts of DOE nuclear waste management program, i.e., the development of a repository, monitored retrievable storage (MRS) activities, and transportation activities of RW as well as provide background and status information on the EM program.

**BASIS FOR NONCOMPETITIVE AWARD:** Pursuant to 10 CFR 600.7(b)(2)(i)(D), DOE has determined that NCSL has exclusive capacity to perform the activities successfully based upon the unique, non-partisan relationship the organization has with State governments, its familiarity with the historical and ongoing implementation of the NWPA, and its expertise in State and public involvement in radioactive waste and environmental restoration issues.

**FOR FURTHER INFORMATION CONTACT:** U.S. Department of Energy, Attention: Michelle Miskinis, PR-322.1, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-1022.

**Thomas S. Keefe,**

*Director, Operations Division "B", Office of Placement and Administration.*

[FR Doc. 92-14369 Filed 6-17-92; 8:45 am]

BILLING CODE 6450-01-M

## Office of Fossil Energy

**[FE Docket No. 92-45-NG]**

## Cornerstone Natural Gas Co., Application for Blanket Authorization To Import and Export Natural Gas

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of application.

**SUMMARY:** The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on April 2, 1992, of an application filed by Cornerstone Natural Gas Company (Cornerstone) for blanket authorization to import up to 100 Bcf of natural gas and export up to 100 Bcf of natural gas from and to Canada and Mexico, over a two-year term beginning on October 5, 1992, the day after the date Cornerstone's current import/export authority expires. Cornerstone intends to utilize existing pipeline facilities for the transportation of the volumes to be imported and exported and 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.

**DATES:** 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., eastern time, July 20, 1992.

**ADDRESSES:** 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:**

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-094, FE-53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9394.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0503.

**SUPPLEMENTARY INFORMATION:** Cornerstone, a Delaware corporation, with its principal place of business in Dallas, Texas, proposes to import and export natural gas either for its own account or as agent on behalf of both suppliers and purchasers, including local distribution companies, pipelines, municipalities, and end-users. Cornerstone contemplates the following types of import and export transactions:

(1) Importation of supplies of Canadian and Mexican natural gas for consumption in U.S. markets; (2) importation of Canadian and/or Mexican natural gas for eventual return (via export) to Canadian or Mexican markets; (3) exportation of domestically produced natural gas for consumption in Canadian and Mexican markets; and (4) exportation of domestically produced gas to Canada and/or Mexico for eventual return (via import) to U.S. markets. In support of its application, Cornerstone states that the terms of each import or export transaction will be the product of arms-length negotiations and determined by competitive factors in the natural gas market. Cornerstone also asserts that, the proposed export will benefit domestic natural gas producers who have suffered as a result of the current natural gas surplus by lessening the overdeliverability of natural gas currently existing in the United States, and by the way of increased tax receipts and related revenues.

The decision on Cornerstone's application for import authority will be made consistent with the DOE's natural 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, 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 DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to negotiate freely their own trade arrangements. Parties, especially those that may oppose this application, should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that imports made under this arrangement would be competitive and there is no current need for the domestic gas that would be exported. 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 DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until 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 their 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, request for additional procedures 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 Cornerstone's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 12, 1992.

**Charles F. Vacek,**

*Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.*

[FR Doc. 92–14368 Filed 6–17–92; 8:45 am]

BILLING CODE 6450–01–M

**[FE Docket No. 92–63–NG]**

## Goetz Energy Corp.; Application To Import Natural Gas From Canada

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of application.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on May 18, 1992, of an application filed by Goetz Energy Corporation (Goetz) for blanket authorization to import up to 140 Bcf of natural gas from Canada over a two-year term beginning on the date of first delivery. Goetz intends to utilize existing pipeline facilities for the transportation of the volumes to be imported 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.

**DATES:** 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., eastern time, July 20, 1992.

**ADDRESSES:** 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:**

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9394

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

**SUPPLEMENTARY INFORMATION:** Goetz, a New York corporation with its principal place of business in Buffalo, New York, is a marketer of oil and natural gas in the United States. Goetz requests authority to import competitively priced natural gas from reliable Canadian producers for sale to purchasers in the United States on a short-term or spot basis. Goetz proposes to import natural gas for either its own account or as agent for U.S. purchasers and/or Canadian suppliers.

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). Parties, especially those that may oppose this application, should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that imports made under this arrangement will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

### NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until 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 their 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 act, 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 Goetz's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 15, 1992.

**Anthony J. Como,**

*Director, Office of Coal and Electricity, Office of Fuels Programs, Office of Fossil Energy.*

[FR Doc. 92–14367 Filed 6–17–92; 8:45 am]

BILLING CODE 6450–01–M

## Federal Energy Regulatory Commission

**[Docket No. TM92–11–21–000]**

### Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

June 12, 1992.

Take notice that Columbia Gas Transmission Corporation (Columbia) on June 8, 1992, tendered for filing proposed changes to its FERC Gas Tariff, First Revised Volume No. 1:

**To be Effective July 9, 1992**

Eighth Revised Sheet Nos. 30A1–30A05
Fourth Revised Sheet No. 30A06
Third Revised Sheet Nos. 30A10–30A12

By this filing Columbia proposes (i) to reallocate to its customers the currently billed fixed monthly demand surcharges applicable to Transcontinental Gas Pipe Line Corporation (Transco) Docket Nos. RP88–68, RP91–147 and RP90–179, effective November 1, 1991, and to implement a one-month reallocation adjustment, due to the fact that Virginia Electric Power Company (VEPCO), which was included in the development of the allocation factors, had not initiated service by the November 1, 1991 deadline for inclusion in the filing; (ii) to flow through the revised PSP charges from Transco for the Annual Recovery Period May 1, 1992 through April 30, 1993, as reflected in Transco's April 1, 1992 filing in Docket No. TM92–10–29; and (iii) to flow through the revised LPSP charges from Transco for the Annual Recovery Period June 1, 1992 through May 31, 1993, as reflected in Transco's May 1, 1992 filing in Docket No. TM92–12–29.

Columbia states that copies of the filing were served upon Columbia's jurisidictional customers, interested state commissions, and upon each person designated on the official service list in Docket Nos. RP88–187, *et al.*, RP91–41, *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 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 19, 1992. 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. 92–14269 Filed 6–17–92; 8:45 am]

BILLING CODE 6717–01–M

**[Docket Nos. ER92–436–00 and EL92–29–000]**

### Florida Power Corp.; Notice of Initiation of Proceeding and Refund Effective Date

June 12, 1992.

Take notice that on June 4, 1991, the Commission issued an order in the above-indicated dockets initiating an investigation in Docket No. EL92–29–000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL92–29–000 will be 60 days after publication of this notice in the **Federal Register.**

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 92–14270 Filed 6–17–92; 8:45 am]

BILLING CODE 6717–01–M

**[Docket Nos. CP92–184–00 and CP92–184–001 and CP92–185–000 and CP92–185–001]**

### Texas Eastern Transmission Corp. and Algonquin Gas Transmission Co.; Notice of Site Visit

June 12, 1992.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission will conduct a site visit of the pipeline facilities proposed by Algonquin Gas Transmission Company in Phase I of the Integrated Transportation Project. The facilities to be visited are located in Tolland and New London Counties, Connecticut.

No other facilities in Connecticut are proposed for Phase I of the Integrated Transportation Project.

The site visit of the proposed facilities will take place June 30, 1992. Anyone planning to attend must provide their own transportation. For further information, contact Mr. Jeff Gerber at (202) 208–0282.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 92–14271 Filed 6–17–92; 8:45 am]

BILLING CODE 6717–01–M

**[Docket No. GT92–25–000]**

### United Gas Pipe Line Co.; Proposed Change in FERC Tariff

June 12, 1992.

Take notice that on June 9, 1992 United Gas Pipe Line Company ("United"), P.O. Box 1478, Houston, Texas 77251–1478, filed the following tariff sheet as part of its Third Revised Volume No. 1 to reflect to correct maximum daily quantity for Mobile Gas Service Corporation.

*Third Revised Volume No. 1*

Third Revised Original Sheet No. 240A

United states that the tariff sheet serves to correctly reflect the maximum daily quantity for Mobile Gas Service Corporation. This filing will have no effect on United's rates.

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, N.E., Washington, DC, 20426, on or before June 19, 1992 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure 18 CFR 385.211 and 385.214.

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

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 92–14272 Filed 6–17–92; 8:45 am]

BILLING CODE 6717–01–M

## FEDERAL RESERVE SYSTEM

### IBC Bancorp, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; Correction

This notice corrects a previous Federal Register notice (FR Doc. 92-11196) published at page 20491 of the issue for Wednesday, May 13, 1992.

Under the Federal Reserve Bank of Chicago, the entry for IBC Bancorp, Inc. is revised to read as follows:

**A. Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

*1. IBC Bancorp, Inc.*, Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of International Bank of Chicago, Chicago, Illinois.

Comments on this application must be received by July 13, 1992.

Board of Governors of the Federal Reserve System, June 12, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92–14301 Filed 6–17–92; 8:45 am]

BILLING CODE 6210–01–F

### Marvin R. Selden, Jr., et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 that notice or to the offices of the Board of Governors. Comments must be received not later than July 8, 1992.

**A. Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

*1. Marvin R. Selden, Jr.*, Melvin H. Nielsen, Dennis L. Gallagher, Robert F. McLaughlin and Doris R. Olson, as trustees for the Hugh Gallagher Trust; to acquire 54.86 percent of the voting shares of Iowa State Bank Holding Company, Des Moines, Iowa, and thereby indirectly acquire Iowa State Bank, Des Moines, Iowa.

**B. Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

*1. Joe C. Denman, Jr.*, Lufkin, Texas; to acquire an additional 2.32 percent, for a total of 17.26 percent, of the voting shares of Diboll State Bancshares, Inc., Diboll, Texas, and thereby indirectly acquire First Bank & Trust East Texas, Diboll, Texas.

Board of Governors of the Federal Reserve System, June 12, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92–14302 Filed 6–17–92; 8:45 am]

BILLING CODE 6210–01–F

### Society Corporation, et al.; 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 July 13, 1992.

**A. Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

*1. Society Corporation*, Cleveland, Ohio; to acquire 100 percent of the voting shares of First of America Bank - Monroe, Monroe, Michigan.

**B. Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

*1. American Chartered Bancorp II, Inc.*, Lake Zurich, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of American Chartered Bank of Lake Zurich, Lake Zurich, Illinois.

Board of Governors of the Federal Reserve System, June 12, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92–14303 Filed 6–17–92; 8:45 am]

BILLING CODE 6210–01–F

## GENERAL SERVICES ADMINISTRATION

### Information Collection Activities Under Office of Management and Budget Review

**AGENCY:** Public Building Service (PQ), GSA.

**SUMMARY:** The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection, 3090–0043, Appraisal of Fair Annual Parking Rate per Space for Standard Level User Charge, GSA Form 3357. This form is needed by contract and staff appraisers to estimate the assessed parking rates for agencies occupying space in Federal and private buildings.

**ADDRESSES:** Send comments to Ed Springer, GSA Desk Officer, room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

**Annual Reporting Burden**

*Respondents:* 260; annual responses: 5; average hours per response: 1.6; burden hours: 2,100.

**FOR FURTHER INFORMATION CONTACT:** Jerry Yuter, (202) 501–1746.

*Copy of Proposal:* May be obtained from the Information Collection Management Branch (CAIR), 7102, GSA Building, 18th & F St. NW, Washington, DC 20405, by telephoning (202) 501–2691, or by faxing your request to (202) 501–2727.

Dated: June 8, 1992.

**Emily C. Karam,**

*Director, Information Management Division.*

[FR Doc. 92–14317 Filed 6–17–92; 8:45 am]

BILLING CODE 6820–23–M

## Information Collection Activities Under Office of Management and Budget Review

**AGENCY:** Office of the Comptroller (BCDP), GSA.

**SUMMARY:** The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection, 3090–0007, Contractor's Qualification and Financial Information. This information is used to determine whether prospective contractors are financially responsible.

**ADDRESSES:** Send comments to Ed Springer, GSA Desk Officer, room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW, Washington, DC 20405.

### Annual Reporting Burden

*Respondents* 6,250; annual responses: 1.2; average hours per response: 1.8667; burden hours: 14,000.

**FOR FURTHER INFORMATION CONTACT:** Edgar K. Davis, (202) 501–0208. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), 7102, GSA Building, 18th & F St. NW, Washington, DC 20405, by telephoning (202) 501–2691, or by faxing your request to (202) 501–2727.

Dated: June 9, 1992.

**Emily C. Karam,**

*Director, Information Management Division.*

[FR Doc. 92–14318 Filed 6–17–92; 8:45 am]

BILLING CODE 6820–23–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Alcohol, Drug Abuse, and Mental Health Administration

### Drug Abuse Human Development Research Review Committee; Establishment

Pursuant to section 510(j) of the Public Health Service Act, 42 U.S.C. 290aa(j), and the Federal Advisory Committee Act, 5 U.S.C. appendix 2, the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), announces the establishment, effective June 4, 1992, of the following National Institute on Drug Abuse initial review committee:

Drug Abuse Human Development Research Review Committee

The duration of this committee is continuing unless formally determined by the Administrator, ADAMHA, that termination would be in the best public interest.

Dated: June 12, 1992.

**Elaine M. Johnson,**

*Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.*

[FR Doc. 92–14310 Filed 6–17–92; 8:45 am]

BILLING CODE 4160–20–M

## Centers for Disease Control

**[Program Announcement Number 275]**

### National Institute for Occupational Safety and Health; Demonstration of an Ergonomic Intervention in the Red-Meat Packing Industry; Notice of Availability of Funds for Fiscal Year 1992

### Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces the availability of Fiscal Year 1992 funds for a cooperative agreement to develop an intervention to reduce ergonomic hazards in red-meat packing plants.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000 see the section WHERE TO OBTAIN ADDITIONAL INFORMATION.)

### Authority

This program is authorized under section 21(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(a)).

### Eligible Applicants

Eligible applicants include non-profit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, state and local health departments or their bona fide agents or instrumentalities, and small, minority and/or women-owned businesses are eligible for these cooperative agreements.

### Availability of Funds

Approximately $150,000 is available in Fiscal Year 1992 to fund one or more awards. If multiple awards are made, it is expected the awards will range from $30,000 to $70,000. If a single award is made, it is expected the award will be approximately $150,000. The awards are expected to begin on or about September 30, 1992, for a 12-month budget period within a project period of 1 year.

### Purpose

The purpose of this cooperative agreement is to assist in the development of an ergonomic team comprised of plant personnel at a red-meat packing plant. The team, with recipient assistance, will identify ergonomic problems in a task or series of tasks, and develop work practice, engineering, and/or administrative controls to solve the problems. Lessons learned from this targeted project will be used to sustain continued ergonomic improvements in the plant and to transfer information about the team approach to other plants within the industry.

### Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A., below, and CDC will be responsible for conducting activities under B., below.

*A. Recipient Activities*

1. The recipient should secure and sustain a formal relationship with a red-meat (pork and/or beef) packing plant (trial plant) and its work force that assures commitment of the participants to the project and assures access to the plant by the recipient for the project period. The trial plant agrees to make information learned available publicly.

2. With collaboration, the recipient will plan and implement a demonstration ergonomic project at a red-meat packing plant which should include the following elements:

a. *Targeting, with CDC and that plant collaboration, a task or series of tasks within the trial plant for the intervention.*

The task(s) selected will be from among those that are associated with a known high risk of cumulative trauma disorders (CTDs). These include various kill and fabrication tasks. (Example: Fabrication tasks are clod pulling, chuck boning, dropping founds, and boning hams.)

b. *Developing a participatory ergonomic team.*

The team should be comprised of workers and supervisors from the selected job area and other plant personnel such as engineering, management, and medical staff as appropriate.

c. *Training the team in ergonomic awareness.*

The recipient should introduce ergonomic concepts that enable the team to recognize CTD risk factors, ergonomic hazards, analyze tasks, and refine and implement ergonomic controls.

d. *Developing controls.*

The recipient, in collaboration with CDC, will assist the ergonomic team's development of engineering, work practice, and/or administrative controls to reduce ergonomic hazards associated with the selected task.

e. *Implementing controls.*

The recipient should assist the team's implementation of the controls.

(Note: Cooperative agreement funds are not available to be spent by the meat packing plant for the controls.)

f. *Evaluation.*

Using concepts introduced during team training, the recipient will facilitate a team process of evaluation and feedback to refine and improve implemented controls. Measures of the effectiveness of controls could include a demonstrable reduction of ergonomic risk factors.

3. The recipient will monitor and evaluate the success of the team approach. Measures of team success may include effectiveness of implemented controls, whether the team activity is continued and whether controls are sustained and improved.

4. In collaboration with CDC, the recipient will develop a written case study of the participatory ergonomic projects.

*B. CDC Activities*

1. Provide technical information and support concerning ergonomics.

2. Provide technical assistance to the recipient in: (a) Choosing the task or series of tasks for the intervention; (b) developing team awareness training; (c) developing control measures for project success; and (d) developing a case study report.

**Evaluation Criteria**

Applications will be reviewed and evaluated according to the following criteria:

*A. Demonstrate Technical Ability (15%)*

Understands ergonomic problems of meat packing plants and understands participatory ergonomic interventions.

*B. Program personnel (15%)*

Ability to provide the staff, knowledge and other resources and experience to carry out the project. The staff is competent and experienced in the skills required in the scope of work. Resumes of staff should reflect not only academic qualifications but also length and variety of experience in similar tasks.

*C. Proposed Plan (30%)*

Proposed trial plant is committed to a team approach to ergonomic improvements and is representative of the red-meat packing industry in terms of employment and product and process. (Letters from the proposed trial plant and its labor representative, if applicable, documenting their commitment to the project should be included for the proposal to be considered for an award.)

*D. Approach and Capability (30%)*

Approach is sound. Proposal describes an approach and goals consistent with the activities or suggests alternative approaches to achieve the same purpose. Application outlines reasonable approaches to task targeting team building, team training, and control development, implementation, and refinement. Proposed project monitoring and evaluation methods and measures are reasonable.

*E. Schedule (10%)*

Proposed schedule is reasonable and consistent with the proposed approach.

*F. Budget (Not Scored)*

The budget will be evaluated to the extent it is reasonable, clearly justified, and consistent with the intended use of funds.

**Executive Order 12372 Review**

Applications are not subject to review by Executive Order 12372, Intergovernmental Review of Federal Programs.

**Catalog of Federal Domestic Assistance Number (CFDA)**

The Catalog of Federal Domestic Assistance Number for this program is 93.283.

**Application and Submission Deadline**

The original and two copies of the application PHS Form 5161–1 must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305, on or before August 15, 1992.

1. Deadline.

Applications will be considered to have met the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applicants:* Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will be returned to the applicant.

**Where to Obtain Additional Information**

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and telephone number and will need to refer to Announcement Number 275. You will receive a complete program description, information on application procedures, and application forms.

If you have any questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, GA 30305, (404) 842–6630. Programmatic technical assistance is available from Christopher Gjessing, Division of Physical Sciences and Engineering, National Institute for Occupational Safety and Health, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, (513) 841–4354.

Please refer to Announcement Number 275 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1), referenced in the INTRODUCTION, through the Superintendent of Documents, Government Printing Office, Washington, DC, 20402–9325, (202) 783–3238.

Copies of OSHA's ERGONOMICS PROGRAM MANAGEMENT GUIDELINES FOR MEATPACKING PLANTS (OSHA Publication No. 3123) may be ordered through OSHA Publications, U.S. Department of Labor, 200 Constitution Ave. NW., North 3101, Washington DC, 20210.

Dated: June 11, 1992.

**J. Donald Millar,**

*Director, National Institute for Occupational Safety and Health, Centers for Disease Control.*

[FR Doc. 92–14331 Filed 6–17–92; 8:45 am]

BILLING CODE 4160–19–M

## Food and Drug Administration

**[Docket No. 92D–0019]**

### Center for Veterinary Medicine Policy and Procedures Guide: NADA Review of Dosage Form Oral Electrolytes; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of its new Center for Veterinary Medicine (CVM) Policy and Procedures Staff Manual Guide 1240.3150 entitled "NADA Review of Dosage Form Oral Electrolytes." The guide discusses ways of satisfying statutory and other requirements concerning effectiveness, target animal and human food safety, environmental impact, chemistry/manufacturing, and labeling.

**DATES:** Written comments by August 17, 1992.

**ADDRESSES:** Submit written requests for single copies of the Policy and Procedures Guide 1240.3150 entitled "NADA Review of Dosage Form Oral Electrolytes" to the Communications and Education Branch (HFV–12), Center For Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on Guide 1240.3150 to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:**

Regarding general information on guide 1240.3150: Steven M. Solomon, Center for Veterinary Medicine (HFV–214), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8758.

Regarding information on submitting new animal drug applications for approval: George K. Haibel, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8649.

**SUPPLEMENTARY INFORMATION:** Dosage form oral electrolyte products for animal use are intended for the mitigation of fluid and electrolyte losses and subsequent disruptions of metabolic activity associated with animal disease. Dosage form oral electrolyte products for use in animals are ordinarily new animal drugs as defined in section 201(w) of the Federal Food, Drug, and Cosmetic Act (the act). Each such product that is a new animal drug requires an approved new animal drug application (NADA) as provided in section 512 of the act prior to manufacture and marketing. Guide 1240.3150 provides internal guidance to NADA reviewers on how the statutory requirement of a substantial evidence of effectiveness can be satisfied for a dosage form oral electrolyte product. It also provides internal guidance on the review of NADA's for conformance to statutory and other requirements for target animal safety, human food safety, environmental impact, chemistry/manufacturing, and labeling. This guide does not bind the agency nor does it create or confer any rights, privileges, or other benefits for or on any person.

Interested persons may submit written comments on the guide to the Dockets Management Branch (address above). Comments will be considered in evaluating the need to amend the guide. Two copies of comments should be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. The guide and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Requests for assistance in filing applications for oral electrolyte products should be directed to the Office of New Animal Drug Evaluation (HFV–100), Center For Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8620 or 301–295–8623.

Dated: May 27, 1992.

**Gary Dykstra,**

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 92–14353 Filed 6–17–92; 8:45 am]

BILLING CODE 4160–01–F

**[Docket No. 92C–0179]**

### Microbio Resources, Inc.; Filing of Color Additive Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Microbio Resources, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of comminuted *Haematococcus pluvialis* algae meal as a color additive in aquaculture feeds.

**FOR FURTHER INFORMATION CONTACT:** Emily Florio, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9515.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1) (21 U.S.C. 376(d)(1))), notice is given that a petition (CAP 1C0237) has been filed by Microbio Resources, Inc., 6150 Lusk Blvd., Suite B–105, San Diego, CA 92121. The petition proposes to amend 21 CFR part 73 of the color additive regulations to provide for the safe use of comminuted *Haematococcus pluvialis* algae meal as a color additive in aquaculture feeds.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: June 5, 1992.

**Fred R. Shank,**

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 92–14382 Filed 6–17–92; 8:45 am]

BILLING CODE 4160–01–F

**[Docket No. 90G–0412]**

### Fuji Oil Co., Ltd.; Filling of Petition for Affirmation of GRAS Status

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Fuji Oil Co., Ltd., has filed a petition (GRASP 7G0330), proposing to affirm that lipase-protease enzyme preparation derived from *Rhizopus niveus* is

generally recognized as safe (GRAS) as a direct human food ingredient.

**DATES:** Written comments by August 17, 1992.

**ADDRESSES:** Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409(b)(5) (21 U.S.C. 321(s), 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that Fuji Oil Co., Ltd., Osaka, Japan, has filed a petition (GRASP 7G0330), proposing that lipase-protease enzyme preparation derived from *Rhizopus niveus* be affirmed as GRAS for use as a direct human food ingredient.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 and 170.35 (21 CFR 170.30 and 170.35) is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before August 17, 1992, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 5, 1992.

**Fred R. Shank,**

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 92–14383 Filed 6–17–92; 8:45 am]

BILLING CODE 4160–01–F

## Investigational New Drugs; Procedure to Monitor Clinical Hold Process; Meeting of Review Committee and Request for Submissions

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is asking interested drug companies to submit the name and number of any investigational new drug trial placed on clinical hold during fiscal years 1991 and 1992 which the drug companies want reviewed by the committee that periodically reviews selected clinical holds of the Center for Drug Evaluation and Research (CDER). FDA imposes clinical holds on drug studies when it believes it necessary to protect the welfare of clinical subjects. Submissions should be made to the Chief Mediator and Ombudsman to ensure the confidentiality of the request.

**DATES:** The meeting will be held in August 1992. Drug companies may submit review requests for the August meeting before July 15, 1992.

**ADDRESSES:** Submit clinical hold review requests to Amanda B. Pedersen, FDA Chief Mediator and Ombudsman, Office of the Commissioner (HF–7), Food and Drug Administration, rm. 14–84, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1306.

**FOR FURTHER INFORMATION CONTACT:** Deborah Wolf, Center for Drug Evaluation and Research (HFD–362), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8046.

**SUPPLEMENTARY INFORMATION:** FDA is announcing the fourth in a series of meetings of the committee that reviews the clinical holds that CDER has placed on certain investigational new drug trials. If FDA determines that a proposed or ongoing study may pose significant risks for human subjects, or, for Phase 2 or 3 studies, is otherwise seriously deficient, it may impose a clinical hold on a study. FDA is asking interested drug companies to submit to the committee for its review the name and number of any investigational new drug trial placed on clinical hold during fiscal years 1991 and 1992 that the drug companies want the committee to review.

The clinical hold is FDA's primary mechanism for protecting subjects who are involved in investigational new drug trials. A clinical hold is an order that FDA issues to a sponsor to delay a proposed investigation or to suspend an ongoing investigation. The clinical hold may be placed on one or more of the investigations covered by an investigational new drug application (IND). When a proposed study is placed on clinical hold, subjects may not be given the investigational drug as part of that study. When an ongoing study is placed on clinical hold, no new subjects may be recruited to the study and placed on the investigational drug, and patients already in the study should stop receiving therapy involving the investigational drug unless FDA specifically permits it.

In the **Federal Register** of October 2, 1991 (56 FR 49894), the agency published a notice announcing the establishment of an experimental procedure for reviewing clinical holds. The notice described the IND regulations and the provisions governing clinical holds. The notice also described some concerns which IND sponsors have expressed concerning the reasons for imposition of clinical holds.

The procedure involved the creation of a committee composed of senior agency officials to review the process by which clinical holds are imposed. Under the procedure, the committee reviews a number of clinical holds at each of its regularly scheduled meetings. The Chief Mediator and Ombudsman develops the list of clinical holds to be reviewed. Some are selected randomly from CDER's management information system, but others are submitted by IND sponsors. The committee process neither replaces, nor prevents firms from using, the dispute resolution procedures described in the IND regulations (see 21 CFR 312.48).

The committee held a pilot meeting in August 1991 and regular meetings in November 1991 and April 1992, and will hold a meeting in June 1992. The August 1992 meeting will be the fourth regular meeting of the committee.

The meetings of the review committee are closed to the public because committee discussions deal with confidential commercial information. Summaries of the committee deliberations, excluding privileged commercial information, are available from the Chief Mediator and Ombudsman. If the status of a clinical hold changes following the committee's review, the appropriate division will notify the sponsor.

FDA invites drug companies to submit to the FDA Chief Mediator and Ombudsman the name and number of any investigational new drug trial that was placed on clinical hold in fiscal year 1991 or 1992 that they want the committee to review at its August meeting. Submissions should be made by July 15, 1992, to Amanda B. Pedersen, FDA Chief Mediator and Ombudsman (address above).

Dated: June 12, 1992.

**Michael R. Taylor,**

*Deputy Commissioner for Policy.*

[FR Doc. 92–14254 Filed 6–17–92; 8:45 am]

BILLING CODE 4160–01–F–

## Health Care Financing Administration

## Privacy Act of 1974; Report of New System of Records

**AGENCY:** Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS).

**ACTION:** Notice of new system of records.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, we are proposing to establish a new system of records, "Post-Hospitalization Outcomes Studies," HHS/HCFA/ORD No. 09–70–0052. We have provided background information about the proposed system in the "**SUPPLEMENTARY INFORMATION**" section below. Although the Privacy Act requires only that the portion of the system which describes the routine uses of the system be published for comment, HCFA invites comment on all portions of this notice.

**DATES:** HCFA filed a New System Report with the Chairman of the Committee on Government Operations of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on June 12, 1992. The new system of records will become effective August 17, 1992, unless HCFA receives comments which would necessitate alterations to the system.

**ADDRESSES:** The public should address comments to Richard A. DeMeo, Privacy Act Officer, Office of Budget and Administration, Health Care Financing Administration, Room 2–H–4, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187. Comments received will be available for inspection at this location.

**FOR FURTHER INFORMATION CONTACT:** Joan L. Warren, Ph.D., Division of Beneficiary Studies, Office of Research, Office of Research and Demonstrations, Health Care Financing Administration, Room 2504 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187, telephone (410) 966–0677.

**SUPPLEMENTARY INFORMATION:** HCFA proposes to initiate a new system of records for data collected for the Post-Hospitalization Outcomes Studies (PHOS), as part of the federal outcomes and effectiveness initiative. The PHOS have been designed to provide detailed information about Medicare beneficiaries' outcomes following hospitalization for specific conditions or procedures. The purpose of the proposed system of records is to acquire and maintain data necessary to assess patients' outcomes following hospitalization as part of the PHOS. A field test for the PHOS is scheduled to begin in 1992 with a fully study to commence in 1993.

Data for the PHOS are obtained from three sources: (1) Telephone interviews with Medicare beneficiaries who have been recently hospitalized; (2) patients' medical records; and (3) Medicare claims data. The primary goal of the PHOS is to assess the outcomes of elderly Medicare beneficiaries following hospitalization for specific conditions. This information, linked to existing Medicare data about health care utilization, can develop knowledge about: (1) The natural history of disease; (2) the risks, outcomes, and cost-effectiveness of treatments; and (3) indicators of patients who are at high risk for complications following hospitalization.

In order to fulfill this goal and complete the tasks of this project, HCFA and the contractor must have individually identified records. We are proposing to establish this system of records in accordance with the requirements and principles of the Privacy Act. We do not anticipate that establishment of the proposed system of records will have an unfavorable effect on the privacy or other personal rights of individuals.

The Privacy Act permits us to disclose individually identifiable information without the consent of the individual under an exception for "routine uses." Under the "routine uses" exception, disclosure is permitted for purposes that are compatible with the purpose for which HCFA collected the information. The proposed routine uses of the proposed system meet the compatibility criteria because the information in the system is collected for evaluating the PHOS, a collaborative project between HCFA and the Agency for Health Care Policy and Research. We anticipate that disclosures under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: June 8, 1992.

**Wiliam Toby, Jr.,**

*Acting Administrator, Health Care Financing Administration.*

**09–70–0052**

**SYSTEM NAME:**

Post-Hospitalization Outcomes Studies, HHS/HCFA/ORD.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Data will be maintained at the contractor site and at HCFA. Contact system manager for location of contractor. See "System Manager(s) and Address" for system manager location.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Medicare beneficiaries age 65 and over who are hospitalized for specific conditions or procedures in a hospital selected to participate in the study. Hospitals will be randomly selected from geographically clustered sites.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in the system will contain information taken from three sources: (1) Telephone interviews with Medicare beneficiaries who have been recently hospitalized; (2) patients' medical records; and (3) Medicare claims data. The telephone interviews will address information about patients' medical signs and symptoms related to their hospitalization, functional status, quality of life indicators, availability of social supports, and satisfaction with the outcome from the hospitalization. Data from the medical records include clinical information relevant to patient outcomes. Data fields consist of comorbidities and medical history, course of treatment, intra-hospital events, and short-term medical outcomes.

Medicare claims data will include utilization of Medicare services, both pre-hospitalization and post-hospitalization; the type and place of service (physician, hospital, skilled nursing facility, etc.); and the amount charged and paid for the service.

During this project, approval for a beneficiary survey will be requested, in accordance with the Paperwork Reduction Act and 5 CFR part 1320. As described above, data from this survey

would be included in the proposed system of records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

This proposed system of records is authorized by title IX, section 902(a) of the Public Health Service Act (42 U.S.C. 299a(a)), as amended; title III, section 304 of the Public Health Service Act (42 U.S.C. 242b), as amended; and title XVIII, section 1875 of the Social Security Act.

**PURPOSE OF THE SYSTEM:**

The primary objective of the PHOS is to assess the patient outcomes following hospitalization for specific conditions or procedures. This system of records will be used to study the outcomes following hospitalization.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USERS:**

Disclosure may be made:

1. To contractor(s) for the purpose of collating, analyzing, aggregating, or otherwise refining or processing records in the system or for developing, modifying, and/or manipulating automatic data processing (ADP) software. Data may also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance of an ADP or telecommunications system containing or supporting records in the system. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

2. To a congressional office, from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

a. HHS, or any component thereof; or

b. Any HHS employee in his or her official capacity; or

c. Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

d. The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purposes for which the records were collected.

4. To an individual or organization for research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health, if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose for which the proposed disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form.

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is a reasonable probability that the objective of the use would be accomplished;

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record; and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information; and

(3) Make no further use of the record except:

(a) In emergency circumstances affecting the health or safety of any individual,

(b) For use in another research project, under these same conditions, and with written authorization of HCFA,

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law;

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper and electronic media.

**RETRIEVABILITY:**

Information will be retrieved by beneficiary's name, health insurance claim number, or social security number.

**SAFEGUARDS:**

Employees who maintain records in this system will be instructed to grant access only to authorized users. Data stored in computers will be accessed through the use of passwords, keywords, numbers, or some combination thereof known only to the authorized personnel. These passwords, keywords, or numbers will be changed as needed.

Contractors who maintain records in this system will be instructed to make no further disclosures of the records except as authorized by the system manager in accordance with the Privacy Act. (See title and business address of responsible agency official under "System Manager(s) and Address.") Privacy Act requirements will be included in contracts related to this system. The project officer and contract officer will oversee compliance with these requirements. The particular safeguards implemented will be developed in accordance with the HHS Information Resource Manual (IRM), Part 6, "Systems Security Policies" (e.g., use of passwords), and the National Bureau of Standards Federal Information Processing Standards.

**RETENTION AND DISPOSAL:**

Hard copy data collection forms and electronic media with identifiers will be retained in secure storage areas. The disposal technique of degaussing will be used to strip electronic media of all identifying names and numbers by December 2003, 10 years after project completion. Hard copy records will also be destroyed by that time.

**SYSTEM MANAGER(S) AND ADDRESS:**

The responsible agency official (System Manager) is the Director, Office of Research and Demonstrations. The address is the Health Care Financing Administration, Room 2230 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187.

**NOTIFICATION PROCEDURE:**

To determine if a record exists, write to the System Manager at the address indicated above, specifying names, address, and health insurance claim or social security number.

**RECORD ACCESS PROCEDURES:**

Same as notification procedures. Requesters should reasonably specify the record contents being sought. These procedures are in accordance with HHS

regulations 45 CFR 5b.5(a)(2) and 45 CFR 5b.6.

**CONTESTING RECORD PROCEDURES:**

Contact the System Manager named above and reasonably identify the record and specify the information to be contested. State the reason for contesting the record (e.g., why it is inaccurate, irrelevant, incomplete, or not current), the corrective action sought, and give any supporting justification. These procedures are in accordance with HHS regulations (45 CFR 5b.7).

**RECORD SOURCE CATEGORIES:**

Information contained in these records will be obtained from PHOS beneficiary surveys conducted by HCFA's contractor, from patients' medical records, and from existing HCFA Medicare record systems.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 92–14304 Filed 6–17–92; 8:45 am]
BILLING CODE 4120–03–M

## Health Resources and Services Administration

## Availability of Funds for Grants to Provide Health Services in the Pacific Basin

**AGENCY:** Health Resources and Services Administration, DHHS.

**ACTION:** Notice of availability of funds.

**SUMMARY:** The Health Resources and Services Administration (HRSA) announces the availability of approximately $700,000 in fiscal year 1992 for grants to improve delivery of health services, including preventive health services, in the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau. The funds will be awarded under the authority of Section 301 of the Public Health Service (PHS) Act. The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. This program is related to the priority area of improving access to health services in underserved areas. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–01) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9323 (Telephone 202–783–3238).

**ADDRESSES:** Grant application guidelines, application kits and guidance (Form PHS 5161–1 with revised Face Sheets DHHS Form 424, as approved by the OMB under control number 0937–0189) and additional information regarding business, administrative or fiscal issues related to the awarding of grants under this notice may be obtained from Ms. Linda Gash, Chief, Office of Grants Management, Public Health Service, Region IX, room 335, 50 United Nations Plaza, San Francisco, CA 94102. Completed applications should be mailed to Mr. Gary Houseknecht, Grants Management Officer, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, 12100 Parklawn Drive, Rockville, Maryland 20857. The application kit will be available June 15, 1992.

**DATES:** Applications are due on August 1, 1992. Applications shall be considered to have met the deadline if they are: (1) Received on or before the deadline date; or (2) postmarked before the deadline date and received in time for orderly processing. Untimely applications will be returned to the applicant. Applicants should obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service or request a legibly dated U.S. Postal Service postmark. Private metered postmarks shall not be accepted as proof of timely mailing.

**FOR FURTHER INFORMATION CONTACT:** For general program information and technical assistance, contact Ms. Joan Holloway, Director, Division of Special Populations Program Development, Bureau of Health Care Delivery and Assistance (BHCDA), 5600 Fishers Lane, room 7A–22, Rockville, Maryland 20857 (301) 443–8134.

**SUPPLEMENTARY INFORMATION:**

### Background

This initiative is designed to establish a program of grants to improve health services for Pacific Islanders living in the Flag Territories and the Freely Associated States. These entities (or jurisdictions and nations) face rapidly growing populations, poor health status indicators, and poor economic conditions and who have a limited capacity to meet the primary and preventive health care needs of the populace. Programs will be funded to improve the provision of basic public health, prevention, mental health and primary care services. The provision of technical assistance relating to such projects is permitted under the appropriation.

### Available Funds

There will be approximately $700,000 available for discretionary grants to improve health services and provide technical assistance in the Pacific Basin.

### Number of Awards

Approximately 10 to 15 awards will be made, ranging from approximately $15,000 to $100,000. The budget and project periods will be for one year.

### Eligible Applicants

Eligible applicants include public and private nonprofit entities.

### Criteria for Evaluation

Eligible applicants will be evaluated based upon the following:

*Need*

- The relative need of the populations to be served for the proposed services to be provided based upon:

(1) The demographic and health status characteristics of the population to be served; (2) an overview and analysis of the existing services and delivery systems currently available to serve the population, as well as those services which will be developed under this Initiative; and (3) the identification of gaps within the existing services.

*Proposed Plan to Close Gaps in Services*

- The adequacy of experience in and knowledge of the proposed service areas;
- The extent to which goals and objectives are clearly defined, appropriate to the population being served, and achievable within the specified time frame;
- The extent to which the action plan thoroughly describes how the program will achieve its goals and objectives;
- The extent to which the proposed activities go beyond those services which are currently provided through Federal or local funding;
- The adequacy and feasibility of the new or expanded efforts proposed to meet the needs of the population and to improve the health status of the populace;
- Emphasis on improved health service delivery, including preventive health services, public health issues of major importance in one or more of the six Pacific areas and applicable to other jurisdictions, standards of professional practice, and quality assurance; and
- Emphasis on the provision of community based services to isolated or

underserved areas, including outer island populations.

*Collaboration/Coordination*

- The extent to which services will be integrated and coordinated with other Federal and local programs within the community and jurisdictions being served; and
- The extent of community support.

*Budget*

- The appropriateness of the proposed budget in relation to other resources and the adequacy of the budget justification to support the proposed interventions for this Initiative.

*Evaluation*

- The adequacy of the evaluation plan designed to measure how well the goals and objectives will be achieved.
- The extent to which grantees previously funded under this Initiative were successful in meeting their goals and objectives, particularly as they relate to the improvement of the population's health status.

**Other Award Information**

All grants to be awarded under this notice are subject to the provision of Executive Order 12372, as implemented by 45 CFR part 100, which allows States the option of setting up a system for reviewing applications from within their States and local governments for assistance under certain Federal programs. Applicants (other than federally-recongized Indian tribal governments) should contact their Single Points of Contact (SPOC) as early as possible to alert then to the prospective applications and receive any necessary instructions on State process. For proposed projects serving more than one State or jurisdiction, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the appropriate application deadline date. The BHCDA does not guarantee that it will accommodate or explain its response to State process recommendations received after this date.

The OMB Catalog of Federal Domestic Assistance number of this program is 93.163.

Dated: May 4, 1992.

Robert G. Harmon,

*Administrator.*

[FR Doc. 92-14311 Filed 6-17-92; 8:45 am]

BILLING CODE 4160-15-M

## Indian Health Service

## Cessation of Services to Nonmembers of the Pascua Yaqui Tribe

**AGENCY:** Indian Health Service, HHS.

**ACTION:** Notice of cessation of services to nonmembers of the Pascua Yaqui Tribe.

**SUMMARY:** The Indian Health Service (IHS) is correcting a local practice of serving certain individuals who have applied for membership, but have not been enrolled, in the Pascua Yaqui Tribe. The local practice has been to allow such individuals to receive direct health care services in IHS facilities within the Tucson Area IHS, primarily the San Xavier Clinic, without proof that they meet the criteria for membership set out in Public Law 95-375 and the Tribe's governing documents. This practice has been determined to be contrary to Public Law 95-375, as we interpret the law; under that law, individuals of Pascua Yaqui descent are not eligible for IHS services unless they meet the criteria for membership set out in the law and the Tribe's governing documents.

**DATES:** Effective September 18, 1992.

**FOR FURTHER INFORMATION CONTACT:** Richard J. McCloskey, Indian Health Service, room 8A-23, 5600 Fishers Lane, Rockville, MD 20857, Telephone 301-443-1116. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Pursuant to a provision in the Act of October 8, 1964, Priv. L. 88-350, Pascua Yaqui Indians were restricted from receiving benefits, services, and assistance under Federal Indian programs. The Act of September 18, 1978, Public Law 95-375, 25 U.S.C. 1300(f) et seq., repealed that provision of Private Law 88-350, and extended benefits, services, and assistance under Federal Indian programs (including IHS services), to Pascua Yaqui Indians who (1) were members of the Pascua Yaqui Association on September 18, 1978, or (2) thereafter became members of the Pascua Yaqui Tribe in accordance with section 3 of the Act, 25 U.S.C. 1300(f)(2). Section 3 of Public Law 95-375 defines the membership of the Pascua Yaqui Tribe to include (A) the members of the Pascua Yaqui Association, Incorporated, as of September 18, 1978, who apply for enrollment in the Pascua Yaqui Tribe within one year from September 18, 1978, pursuant to the membership criteria and procedures provided for in the official governing documents of the Pascua Yaqui Tribe; (B) all those persons of Yaqui blood who are citizens of the United States and who, within two years from September 18, 1978, apply for and are admitted to membership in the Association pursuant to article VII of the Articles of Incorporation of the Association; and (C) direct lineal descendants of such persons, subject to any further qualifications as may be provided by the Tribe in its constitution and bylaws or other governing documents, 25 U.S.C. 1300(f)(2). Public Law 95-375 also directed the Pascua Yaqui Tribe to adopt a constitution and bylaws, or other governing documents, and a membership roll, within thirty months of September 18, 1978, 25 U.S.C. 1300(f)(1).

Pursuant to the Public Law 95-375, the base membership roll of the Pascua Yaqui Tribe closed on September 18, 1980, and thereafter only those persons who were direct lineal descendants of individuals on the base membership roll and met any further qualifications imposed by the Tribe's governing documents were eligible for membership in the Tribe. Enrollment of eligible lineal descendants of the Tribe was delayed because the Tribe did not adopt its constitution and bylaws until 1988. Subsequent to the enactment of Public Law 95-375, the Tucson Area IHS began providing direct health care services to Yaquis who had applied for membership in the Tribe, but had not completed the enrollment process; this practie was adopted to accommodate Yaquis who had not been able to become tribal members because of the delay in the adoption of the tribal constitution.

The practice of serving all Yaquis who had applied for membership in the Tribe was inadvertently continued by the Tucson Area, however, after the Tribe adopted its constitution in 1988. The Tucson Area's practice was questioned when nonmember Yaquis sought services in IHS facilities in the Phoenix Area IHS, and were denied services because they were not members of the Tribe. The Tribe raised the issue with IHS, thus prompting a review of the Tucson Area's practice. As a result of the review, we have determined that the practice of providing direct IHS health care services to Yaquis who do not meet the criteria for membership is contrary to Public Law 95-375.

Therefore, the purpose of this notice is to withdraw IHS services from those Yaquis who do not meet the criteria for membership set out in the law and the Tribe's governing documents and who are currently receiving treatment at IHS facilities, in a manner which provides such patients adequate and reasonable time to secure another source of medical treatment. In order to accomplish this purpose, as of the effective date of this

notice, we are implementing the following procedures, which will apply to individuals who are not members of the Pascua Yaqui Tribe, as defined by Public Law 95–375 and the Tribe's governing documents, and who are not otherwise eligible for IHS services:

(1) Affected individuals who are presently inpatients in IHS facilities will continue to be hospitalized until the need for hospitalization has ended. The determination as to when hospitalization is no longer needed shall be made by the patient's physician and be based upon the medical circumstances of each patient. These patients will be notified that after discharge, they will no longer be eligible for IHS services other than for necessary follow-up services, and they should be assisted in locating other helth care providers. The need for necessary follow-up services will be determined by the IHS physician, after considering all relevant factors, including medical priorities.

(2) Affected individuals who are presently undergoing a course of outpatient treatment in an IHS facility will not be given further treatment unless, in the judgment of the medical officer in charge, immediate termination of treatment would threaten the life of or seriously impair the health of the patient. These patients will be notified that they are no longer eligible for IHS services, and they should be assisted in locating other health care providers.

(3) Affected individuals who are under treatment for chronic degenerative conditions may be provided additional treatment in IHS facilities for a period of up to one year beyond the effective date of this notice (taking into consideration medical priorities), notwithstanding any determination that it was otherwise safe to transfer treatment to other providers.

This notice will be posted in the public area of the San Xavier Clinic, as well as other IHS facilities, whether operated by IHS or by an Indian tribe or tribal organization under the authority of Public Law 93–638. Every reasonable effort will be made by the Tucson Area IHS to provide a copy of this notice to all affected individuals currently undergoing treatment in an IHS facility, and to assist them in locating other health care providers.

This notice makes no substantive change with respect to the eligibility of Indians for IHS services; rather, the IHS is simply bringing its practice into compliance with the terms of Public Law 95–375. This notice also does not preclude treatment by the IHS of non-beneficiaries on a fee or other basis where otherwise authorized by law (e.g., under section 707(a) of Pub.L. 100–713, 25 U.S.C. 1680(c)).

Dated: May 8, 1992.

**Everett R. Rhoades,**

*Assistant Surgeon General Director.*

[FR Doc. 92–14380 Filed 6–17–92; 8:45 am]

BILLING CODE 4160–16–M

## Public Health Service

## Method for Evaluating and Establishing Reimbursement Rates for Health Care Services Authorized Under the Indian Health Service Contract Health Services Regulations—Selected IHS Sites

**AGENCY:** Indian Health Service, HHS.

**ACTION:** Addition of sites to the IHS pilot project.

**SUMMARY:** The Indian Health Service (IHS) issues this notice to inform the public that additional sites will be added to the IHS Pilot Project now being conducted in the Portland Area. This Pilot Project is to determine whether an alternative method of evaluating and establishing reimbursement rates for contract health services (CHS) will result in greater participation and lower cost to the IHS. The additional sites include the Alaska Native Medical Center and other selected locations within the Alaska Area IHS; the metropolitan Billings, Montana vicinity and other selected locations within the Billings Area IHS; and the Cherokee Service Unit, within the Nashville Area IHS.

**EFFECTIVE DATE:** June 18, 1992.

**FOR FURTHER INFORMATION CONTACT:** Ronald G. Freeman, Director, Division of Health Care Administration/Contract Health Services, rm. 6A–55, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–8373 (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The IHS issued a General Notice on March 13, 1991, 56 FR 10566, to inform the public that IHS was conducting a Pilot Project in the Portland Area IHS, to determine whether an alternative method of evaluating and establishing reimbursement rates for CHS will result in greater participation by health care providers and lower costs to IHS. Providers within the Portland Area were invited to submit their most favorable rate quotations. The response was far greater than the expectation of the IHS. As a result of preliminary information gained from the Portland Area Pilot Project, it has been determined that it will be beneficial to include additional sites in other geographic areas. The additional sites include: The Alaska Native Medical Center and other selected locations within the Alaska Area IHS; the metropolitan Billings, Montana vicinity and other selected locations within the Billings Area IHS; and the Cherokee Service Unit, within the Nashville Area IHS.

The IHS CHS program is administered under regulations last published in the CFR in 1986 [1] and 42 CFR, part 36, subpart G. Under this program IHS purchases health services from hospitals, physicians, and other health care providers to supplement the IHS direct delivery system. The IHS last issued a payment policy in 51 FR 23540 on June 30, 1986.

This policy requires the IHS Area Offices to negotiate contracts with the providers that they expect to use for health care services. With certain specified exceptions, the contract must provide for reimbursement for services at rates that do not exceed Medicare approved amounts (including deductibles and co-insurance), and the service units which report to the IHS Area Offices must procure their health care services under these contracts.

Although the number of contracts that the IHS has in place has been steadily increasing, it has not been possible to enter into contracts with each of the approximately 850 facilities and 4,600 professional providers that the IHS uses on a recurring basis. The Area Offices lack the contracting staff resources to develop solicitations, review proposals, and negotiate contracts with each of these providers; and, some providers are unwilling to review the lengthy solicitations or commit to accept the extensive and restrictive contract clauses required by the Federal Acquisition Regulations (48 CFR part 1). In addition, when contracts are awarded, it is sometimes difficult for the Area Offices to determine which contract provider is offering the most favorable rate.

The additional sites will honor their existing contracts for health care services during the pilot test, but will limit new contract awards to those situations in which it is feasible to fill all requirements for a specific service or set of closely related services from a single source and a requirements contract will yield lower prices that the preferred provider approach described below. For the duration of the Pilot Project, the IHS payment policy of June 30, 1986, will not apply to those sites that will be testing

[1] Copies of these regulations are available at: Division of Legislation and Regulations, rm. 8A–23, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857.

the use of a rate quotation methodology as described in the following paragraph.

The IHS uses most of its providers for broad categories of services rather than for a few specific services (e.g., for physician services rather than for selected medical procedures), and the Pilot Project is directed at testing an approach for simplifying communications and establishing favorable rates with these providers. Under this approach, the selected sites will send each of their current providers a standard rate solicitation letter that invites the provider to submit its most competitive rates for specified categories of services on an attached form. The IHS will use a specialized contractor, who is familiar with the various rate structures used within the health care industry, to analyze these rate quotations and develop a preferred provider list that ranks providers, by service unit and by category of service, based upon the relative favorableness of their rate offer. The sites will use this information to place their purchase order with the lowest cost provider or group of lowest cost providers that meet the quality of care, geographic, and other relevant criteria. Purchase orders will be issued, with rare exceptions, only to those providers on the preferred provider list.

The pilot project will not apply to services rendered by traditional Indian medicine men and women under Public Law 95–341, Joint Resolution on American Indian Religious Freedom.

This method is limited to the Pilot Project and the sites added by this notice. Any decision to institute the method in other sites will be announced in the **Federal Register.**

Dated: April 17, 1992.

**Everett R. Rhoades,**

*Assistant Surgeon General Director.*

[FR Doc. 92–14381 Filed 6–17–92; 8:45 am]

BILLING CODE 92–14381–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. D–92–996]**

### Office of the Manager, Oklahoma City Office, Region VI (Fort Worth); Designation

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Designation of order of succession.

**SUMMARY:** The Manager is designating officials who may serve as Acting Manager during the absence, disability, or vacancy in the position of the Manager.

**EFFECTIVE DATE:** This designation is effective February 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Rita M. Vinson, Director, Management and Budget Division, Office of Administration, Fort Worth Regional Office, Department of Housing and Urban Development, 1600 Throckmorton, P.O. Box 2905, Fort Worth, Texas 76113–2905, telephone (817) 885–5451 (this is not a toll-free number).

**DESIGNATION:** Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence, disability, or vacancy in the position of the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided that no official is authorized to serve as Acting Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Manager
2. Director, Indian Programs Division
3. Director, Housing Development Division
4. Director, Community Planning and Development Division
5. Director, Fair Housing and Equal Opportunity Division
6. Director, Housing Management Division
7. Chief Counsel

This designation supersedes the designation effective May 5, 1985.

**Authority:** Delegation of Authority by the Secretary effective October 1, 1970, in the **Federal Register** issue of February 23, 1971 (36 FR 3389).

**Sam R. Moseley,**

*Regional Administrator—Regional Housing Commissioner, Region VI (Fort Worth).*

[FR Doc. 92–14264 Filed 6–17–92; 8:45 am]

BILLING CODE 4210–01–M

## Office of Administration

**[Docket No. N–92–34–3455]**

### Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–0050. This is a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the followng information:

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submission will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 5, 1992.

**John T. Murphy,**

*Director, Information Resources Management Policy and Management Division.*

### Notice of Submission of Proposed Information Collection to OMB

*Proposal:* Low-Income Public and Indian Housing Financial Statements.

*Office:* Public and Indian Housing.

*Description of the Need for the Information and its Proposed Use:* The reports provide essential financial

information on the operation of Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs). The information is used to determine if residual receipts exist and need to be paid to HUD, and to determine if account balances are correct and have been correctly closed. The information is also used to reconcile balances shown in PHAs/IHAs accounting records with HUD's accounting records.

*Form Number:* HUD–52595, 52596, 52598, 52599, 52603, 52656, and 53049.

*Respondents:* State or Local Governments and Non-Profit Institutions.

*Frequency of Submission:* Semi-Annually, Annually and One-Time.

*Reporting Burden:*

| | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| HUD–52595 | 3,800 | | 1 | | 1.05 | | 3,990 |
| HUD–52596 | 3,300 | | 1 | | 1.21 | | 3,993 |
| HUD–52598 | 3,300 | | 2 | | 1.01 | | 6,666 |
| HUD–52599 | 3,300 | | 2 | | 1.02 | | 6,732 |
| HUD–52603 | 229 | | 1 | | .90 | | 206 |
| HUD–52656 | 200 | | 1 | | .50 | | 100 |
| HUD–53049 | 152 | | 1 | | .50 | | 71 |

*Total Estimated Burden Hours:* 21,758.

*Status:* Reinstatement.

*Contact:* John Comerford, HUD, (202) 708–1872, Jennifer Main, OMB, (202) 395–6880.

Dated: June 5, 1992.

[FR Doc. 92–14293 Filed 6–17–92; 8:45 am]

BILLING CODE 4210–01–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[WO–230–00–6310–02]

### Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for collection of information below has been submitted to the Office of Management and Budget for approval under the provisions of the Paper Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project (1004–0113), Washington, DC 20503, telephone 202–395–7340.

*Title:* Pre-Award Qualification for Timber Sale Contracts.

*OMB Approval Number:* 1004–0113.

*Abstract:* The respondent provides identifying information and amount of bid by value per unit and total value. The BLM uses the information to determine whether minimum bid values have been equaled or exceeded and the high bidder in sealed bid sales and to determine that a bidder is qualified to submit oral bids at an oral auction.

*Bureau Form Number:* 5440–9.

*Frequency:* On Occasion.

*Description of Respondents:* Firms or individuals wishing to submit bids on BLM timber sales.

*Estimated Completion Time:* 1 Hour 15 Minutes.

*Annual Responses:* 500.

*Annual Burden Hours:* 625.

*Bureau Clearance Officer (Alternate):* Gerri Jenkins 202–653–6105.

Dated: April 29, 1992.

**Kemp Conn,**

*Acting Assistant Director, Land and Renewable Resources.*

[FR Doc. 92–14320 Filed 6–17–92; 8:45 am]

BILLING CODE 4310–84–M

[ID–030–02–4352–10]

### Seasonal Restrictions and Limited Land Use, Closure Order; Idaho

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given in accordance with title 43 Group 6000 and 8000, and in accordance with the principles established by the National Environmental Policy Act of 1969, Endangered Species Act of 1973, and the Federal Land Policy and Management Act of 1976, that certain lands included in the Snake River Area of Critical Environmental Concern (ACEC) are closed to all forms of human activity from February 1 to July 31 of each year. Overnight camping in a portion of the Snake River ACEC is limited to Designated Camping Areas only. Camping is limited to a period of not more than 14 consecutive days.

This action implements provisions of the Snake River Activity/Operations Plan completed February 1991 jointly by the Bureau of Land Management and Forest Service and includes three other Bald Eagle nest sites adjacent to the Plan area. Extensive studies of the Bald Eagle (*Haliaeetus leucocephalus*) an endangered species, have resulted in completion of an interagency Bald Eagle Management Plan adopted in 1983. Detailed studies of bald eagles in the Snake River ACEC have allowed Nest Site Management Plans to be drafted. In order to provide nesting bald eagles with habitat suitable for producing young, a 400 meter radius from the nest needs to be free of human activity until the young have fledged and are able to leave the nest site. The critical period for the eagles has been determined to be from February 1 to July 31 and includes nest building, egg laying, incubation, care and feeding of young until they can fly.

Human activity within close proximity to a nest during the critical periods can result in the nesting pair of eagles abandoning the nest, or young eagles prematurely leaving the next to become prey for local predators. Distinctive signs have been placed and will be maintained along the river corridor to identify areas seasonally closed to human activity

Portions of the following described public lands are closed to human use from February 1 to July 31 of each year:

**Boise Meridian, Idaho**

T. 1 N., R. 43 E.,
Sec. 12.
T. 2 N., R. 43 E.,
Sec. 18 and 20.
T. 3 N., R. 42 E.,
Sec. 5.
T. 3 N., R. 43 E.,
Sec. 19 and 32.
T. 4 N., R. 40 E.,
Sec. 23.

T. 5 N., R. 39 E.,
Sec. 18.
T. 7 N., R. 40 E.,
Sec. 10.
T. 9 N., R. 42 E.,
Sec. 10.
T. 9 N., R. 43 E.,
Sec. 21.
T. 15 N., R. 43 E.,
Sec. 27.

The Great Blue Heron (*Ardea herodias*) is an important component of the cottonwood ecosystem. Herons build numerous nests in a relatively small area called a Rookery. As part of the implementation of the Snake River Activity/Operations Plan, four of these rookeries are closed to all forms of human activity from April 1 to July 15 of each year. An additional six rookeries will be monitored and similarly closed to all forms of human activity for that period if necessary to ensure reasonable survival rates of the young.

Portions of the following described public lands are closed to human use from April 1 to July 15 of each year:

**Boise Meridian, Idaho**

T. 1 N., R. 43 E.,
Sec. 12.
T. 3 N., R. 42 E.,
Sec. 4.
T. 4 N., R. 40 E.,
Secs. 7, 17, 21, and 22.
T. 5 N., R. 37 E.,
Sec. 12.
T. 5 N., R. 39 E.,
Secs. 18 and 34.
T. 7 N., R. 40 E.,
Secs. 10 and 11.

Observations and studies conducted for preparation of the Medicine Lodge Resource Management Plan and the subsequent detailed Snake River Activity/Operations Plan identified areas used by the public for overnight camping in the portion of the Snake River ACEC from Conant Landing Boat Access to Lufkin Bottom. This most scenic portion of the ACEC has also been the most heavily used by the public. Existing and presently used camp sites have been grouped into 15 Designated Camping Areas. Two camp areas have also been designated for use by commercial outfitters licensed by the Idaho Outfitter and Guide Board. All camping in this section of the river corridor shall occur in these designated areas and camping in other areas is prohibited. This action is necessary to preserve the integrity and continued health and continuity of the varied biological resources. Maintaining the extensive cottonwood riparian area is key to ensuring that plant and animal communities persist and that existing high public values can be maintained over the long term. This action also ensures that people do not camp in critical eagle zones.

Designated camping areas have been identified on maps made available to the public and by use of distinctive signs along the river corridor. These designated camping areas include portions of the following described lands:

**Boise Meridian, Idaho**

T. 2 N., R. 43 E.,
Secs. 6, 7, 17, 19, 20, 29, and 30.
T. 3 N., R. 42 E.,
Sec. 24.
T. 3 N., R. 43 E.,
Secs. 19, 30, and 32.

**EFFECTIVE DATE:** This seasonal restriction and limited land use closure order becomes effective June 17, 1992 and shall remain in effect until modified or canceled.

**FOR FURTHER INFORMATION CONTACT:** Lloyd H. Ferguson, District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, (208) 524–7500.

Dated: June 4, 1992.

**Lloyd H. Ferguson,**

*District Manager.*

[FR Doc. 92–14326 Filed 6–17–92; 8:45 am]

BILLING CODE 4310–66–M

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**[OR–054–4340–15:GP2–283]**

## Emergency Closure of Public Lands; Oregon

**AGENCY:** Bureau of Land Management, Interior, Prineville District.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that effective June 15, 1992, all public lands as legally defined below, are closed to all motorized vehicle access and travel:

Township 14 South, Range 21 East,
Willamette Meridian:
Section 1: SE¼, S½SW¼.

The purpose of this closure is to protect a fragile watershed with erosive soils, native vegetation, wildlife and scenic values. This action will allow vehicle roads and trails in the area to revegetate and heal, reduce wildlife disturbance, improve natural beauty and reduce trash problems.

The only exception would be for special administrative use and emergency needs.

The authority for this closure is 43 CFR 8341.1. This closure order is effective June 15, 1992 and shall remain in effect until revised, revoked or amended by the authorized officer pursuant to 43 CFR 8360.

**PENALTIES:** Any person who violates this closure notice may be subject to a maximum fine of $1,000 and/or imprisonment not to exceed 12 months under authority of 43 CFR 8360.0–7.

**FOR FURTHER INFORMATION CONTACT:** Dick Cosgriffe, BLM Central Oregon Resource Area, PO Box 550, Prineville, Oregon 97754, (503) 447–8731.

Dated: June 10, 1992.

**James L. Hancock,**

*District Manager, Prineville District Office.*

[FR Doc. 92–14323 Filed 6–17–92; 8:45 am]

BILLING CODE 4310–33–M

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**[OR–110–6334–11–G2–269]**

## Closures and Restrictions; Oregon

June 9, 1992.

**AGENCY:** Bureau of Land Management (BLM), Interior, Medford District Office.

**ACTION:** Notice of closure and restrictions, in the Grants Pass Resource Area, Mount Peavine, French Flat Areas and West Illinois Area.

**SUMMARY:** Pursuant to 43 CFR part 8364, the BLM will close designated areas of the Grants Pass Resource Area to motorized vehicles. Subject to valid existing rights use of 11,980 acres of the Mount Peavine area, 1,160 acres of the French Flat area and 480 acres in the West Illinois area by motorized vehicle is prohibited. This closure shall apply year round. Any Bureau of Land Management employee, agent, contractor or cooperator, while in the performance of official duties is exempt from this closure. The Bureau of Land Management may authorize volunteers, or other parties to enter the areas for administrative, maintenance or other authorized purposes. With the exception of law enforcement officials individuals shall not carry firearms in vehicles which are permitted in the closed area.

The Peavine area supports a herd of Roosevelt elk which has been reduced from approximately fifty in 1970 to a low of nine animals in 1990 by poaching. The purpose of this closure and restriction notice is to provide a means by which the Secretary of the Interior through the Bureau of Land Management, may control and manage public use of the area to effectively carry out management objectives and provide wildlife with habitat that is free from disturbance and poaching from motor vehicles.

The French Flat area contains five sensitive plant species, *Lomatium cookii, Senecio hesperius* and *Microseris howellii* which are Federal candidate species and *Limananthes gracilis* var. *gracilis* which is a Bureau sensitive species and *Erythronium*

*howellii* which is a Bureau assessment species, and two rare plant communities, *Deschampsia-Danthonia* grasslands which is rare at low elevation and white oak pine savanna which is classified as globally threatened by The Nature Conservancy. The purpose of this closure and restriction notice is to provide a means by which the Secretary of the Interior through the Bureau of Land Management, may control and manage public use of the area to effective carry out management objectives and provide plants and plant communities with a habitat which is free from disturbance by motorized vehicles.

Section 17 of the West Illinois area is very similar to the French Flat area in that it contains the same two rare plant communities. The purpose of this closure and restriction notice is to provide a means by which the Secretary of the Interior through the Bureau of Land Management, may control and manage public use of the area to effectively carry out management objectives and provide plants and plant communities with habitat which is free from disturbance of motorized vehicles.

Maps of the closed area are available from the Medford District Office, 3040 Biddle Road Medford, Oregon 97504. This closure and restriction order are effectively immediately and shall remain in effect until revised, revoked or amended by the authorized officer pursuant to 43 CFR 8360.0–7.

Any person who violates this closure and restriction notice may be subject to a maximum fine of $1,000 and/or imprisonment not to exceed 12 months under authority 43 CFR 8360.0–7.

**Closed areas**

Peavine Mountain is located approximately 2 miles west of Galice, Oregon and is further described as follows:

Township 34 South, Range 8 West, Willamette Meridian.
Secs. 3,4,8,9,10,11, all.
Sec. 14 N½, E½SE¼, W½SW¼.
Secs. 15,16,17,20,21, all.
Sec. 22 N½NE¼, W½, NW¼, SW¼, SW¼SE¼.
Sec. 27 W½NE¼, NW¼, N½SW¼, NE¼SW¼, SE¼SW¼, NW¼SE¼.
Secs. 28,29,30,31,32,33, all.

French Flat is located approximately five miles south of Cave Junction, Oregon and is further described as follows:

Township 40 South Range 8 West, Willamette Meridian.
Sec. 10 SW¼.
Sec. 15 NE¼, NE¼NW¼, NW¼NW¼, SE¼NW¼, E½SW¼SW¼, E½SE¼.
Sec. 21 NW¼NE¼, S½SE¼, SE¼SW¼, S½NE¼SW¼.
Sec. 22 NW¼NE¼, N½NW¼, SW¼NW¼, W½SW¼.
Sec. 23 W½W½, SE¼SW¼.

Section 17 of the West Illinois area is located approximately one mile west of Cave Junction, Oregon and is further described as follows:

Township 39 South, Range 8 West, Willamette Meridian.
Sec. 17 NW¼, E½NE¼, NW¼NE¼, N½SW¼.

**FOR FURTHER INFORMATION, CONTACT:** John Dutcher Natural Resource Specialist, Grants Pass Resource Area, Medford District Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504 (telephone 503/770/2277).

**Harold J. Belisle,**
*Grants Pass Area Manager.*

[FR Doc. 92–14325 Filed 6–17–92; 8:45 am]
BILLING CODE 4310–33–M

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**[WY–060–02–4320–04]**

## Casper District Advisory Council Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Meeting of the Casper District Advisory Council.

**SUMMARY:** The Casper District Advisory Council will meet July 15, 1992 at 9 a.m. at the Buffalo Resource Area Office, 189 North Cedar, Buffalo, Wyoming for a tour of public lands administered by the Buffalo Resource Area. On July 16, at 8:30 a.m., the Council will reconvene for a business session at the Buffalo Federal Savings and Loan, 106 Fort Street.

The agenda items for the July 16, 1992 meeting includes (1) election of officers; (2) status reports on Buffalo and Newcastle Resource Management Plans, Platte River Resource Area Habitat Management Plan; (3) Water Monitoring for the Powder River Basin; (4) Land Tenure Adjustments; (5) BLM Visitor and Interpretative Centers; (6) BLM Reorganization 2015 and any other business introduced by council members. The Council will accept public comments on these agenda items or any other issues July 16, 1992, 10 a.m. during the officially established comment period.

**FOR FURTHER INFORMATION CONTACT:** Kate Padilla, Public Affairs Specialist, 307–261–7600, Casper District.

Dated: June 9, 1992.

**Mike Karbs,**
*Acting District Manager.*

[FR Doc. 92–14321 Filed 6–17–92; 8:45 am]
BILLING CODE 4310–22–M

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**[ID–060–02–4333–11]**

## Coeur d'Alene District Advisory Council, Meeting

**AGENCY:** Bureau of Land Management.

**ACTION:** District Advisory Council Meeting.

**SUMMARY:** Notice is hereby given, in accordance with Pub. L. 92–463, that a meeting of the Coeur d'Alene District Advisory Council will be held July 28–29, 1992. The meeting will begin at 12 noon and will be held at the BLM Coeur d'Alene District, Cottonwood Resource Area Headquarters, Cottonwood, Idaho.

Agenda items include: election of officers, update on Lower Salmon River designations, field tour of portions of Lower Salmon River, and updates on other management issues.

The meeting is open to the public and interested persons may make oral statements to the Council between 11 a.m. and 11:30 a.m. on July 29, 1992 or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Coeur d'Alene District Office, 1808 N. 3rd St., Coeur d'Alene, ID 83814, by July 10, 1992.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days after the meeting.

Dated: June 9, 1992.

**Eric Thomson,**
*Acting District Manager.*

[FR Doc. 92–14322 Filed 6–17–92; 8:45 am]
BILLING CODE 4310–GG–M

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**[ID–030–02–4212–14; IDI–28621]**

## Correction to Legal Description Included in the Notice of Intent to Prepare a Planning Amendment to the Medicine Lodge Resource Management Plan

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Correction to Legal Description Included in the notice of intent to prepare a planning amendment to the Medicine Lodge Resource Management Plan.

**SUMMARY:** The legal description included in the original planning amendment published in the **Federal Register** on January 9, 1992, is hereby corrected as follows:

**Boise Meridian, Idaho**

T. 7 N., R. 39 E.
sec. 5, SE¼NE¼SE¼SW¼, E½SE¼S E¼SW¼.

Dated: May 28, 1992.

**Gary L. Bliss,**

*Acting District Manager.*

[FR Doc. 92-14324 Filed 6-17-92; 8:45 am]

BILLING CODE 4310-GG-M

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**[WY-940-4730-12]**

## Filing of Plats of Survey; Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

**Sixth Principal Meridian, Wyoming**

T. 42 N., R. 117 W., accepted June 8, 1992.
T. 51 N., R. 69 W., accepted June 8, 1992.
T. 48 N., R. 88 W., accepted June 8, 1992.
T. 26 N., R. 72 W., accepted June 8, 1992.

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeals(s).

These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 2515 Warren Ave., Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $2.00 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, metes and bounds surveys and subdivisions.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: June 8, 1992.

**John P. Lee,**

*Chief, Branch of Cadastral Survey.*

[FR Doc. 92-14263 Filed 6-17-92; 8:45 am]

BILLING CODE 4310-22-M

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**[ID-943-4214-10; IDI-29282]**

## Proposed Withdrawal and Opportunity for Public Meeting; Idaho

**AGENCY:** Bureau of Land Management; Interior.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Agriculture, Forest Service has filed an application to withdraw 2964 acres of National Forest Systems lands for protection of the Valbois Resort. This notice closes the lands for up to 2 years from surface entry and mining. The land will remain open to mineral leasing and all other uses which may be made of National Forest System lands.

**DATE:** Comments and requests for a meeting should be receive on or before September 16, 1992.

**ADDRESS:** Comments and meeting requests should be sent to the Idaho State Director, BLM, 3380 Americana Terrace, Boise, Idaho 83706.

**FOR FURTHER INFORMATION CONTACT:** Larry Lievsay, BLM, Idaho State Office, (202) 384-3166.

**SUPPLEMENTARY INFORMATION:** On June 1, 1992, the United States Department of Agriculture filed an application to withdraw the following described National Forest System lands from settlement, sale, location or entry under the general land laws, including the mining laws, subject to valid existing rights:

**Boise Meridian**

T. 15N., R. 2 E., those portions of the following described lands lying along and generally to the east of the divide between the Weiser River and Payette River and being in the Payette River Watershed.
Sec. 1, lot 5, E½, E½W½, SW¼NW¼ and W½SW¼;
Sec. 11, NE¼NE¼, SW¼NE¼, SE¼NE¼, NE¼SE¼, W½SE¼ and SE¼SE¼;
Sec. 12, All except part of NW¼NW¼N W¼NW¼ lying in Adams County;
Sec. 13, All of the N½, except for part of NW¼SW¼NW¼NW¼ lying in Adams County.
Sec. 14, E½NE¼.
T. 15 N., R. 3E.,
Sec. 6;
Sec. 7, lots 1 to 4 inclusive, NW¼NE½ and E½W½;
Sec. 18, lots 1 and 2 and E½NW¼.

The area described aggregate 2,964 acres in Valley County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to Idaho State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Idaho State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are existing valid and authorized uses.

Dated: June 9, 1992.

**William E. Ireland,**

*Chief, Realty Operations Section.*

[FR Doc. 92-14327 Filed 6-17-92; 8:45 am]

BILLING CODE 4310-GG-M

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**[OR-943-4214-10; GP2-280; OR-48432 (WASH)]**

## Proposed Withdrawal and Public Meeting; Washington

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Army, Corps of Engineers, proposes to withdraw 9,745.82 acres of public domain lands to expend the Yakima Firing Center in Kittitas County. This notice closes the lands for up to two years from surface entry, mining and mineral leasing.

**DATES:** Comments must be received by September 16, 1992.

**ADDRESSES:** Comments should be sent to the Oregon State Director, BLM, P.O. Box 2965, Portland, Oregon 97208-2965.

**FOR FURTHER INFORMATION CONTACT:** Donna Kauffman, BLM, Oregon State Office, 503–280–7162.

**SUPPLEMENTARY INFORMATION:** On May 18, 1992, the U.S. Department of the Army filed an application to withdraw the following described public domain lands from settlement, sale, location, and entry under the general land laws, including the United States mining laws (30 U.S.C. ch. 2), and from applications and offers under the mineral leasing laws, subject to valid existing rights:

**Willamette Meridian**

*Surface and Mineral Estates*

T. 17 N., R. 20 E.,
Sec. 22, S½;
Sec. 24, S½SW¼ and that portion of the E½ lying south of the Interstate Highway 90 right-of-way;
Sec. 26.
T. 16 N., R. 21 E.,
Sec. 4, SW¼SW¼;
Sec. 12, SE¼;
Sec. 18, lots 1, 2, 3, and 4, E½ and E½W½.
T. 17 N., R. 21 E.,
Sec. 30, lots 3 and 4;
Sec. 32, NE¼/SE¼,
T. 16 N., R. 22 E.,
Sec. 2, lots 1, 2, 3, and 4, S½N½ and S½;
Sec. 4, lots 1, 2, 3, and 4, S½N½ and S½;
Sec. 10;
Sec. 14;
Sec. 20, SE¼SW¼;
Sec. 22;
Sec. 26, N½;
Sec. 28, N½.
T. 16 N., R. 23 E.,
Sec. 18, lots 3 and 4, E½SW¼ and SE¼;
Sec. 20, that portion of the SW¼ lying westerly of the easterly right-of-way line of the railroad;
Sec. 30, lots 1 and 2, NE¼ and E½NW¼.

*Mineral Estate*

T. 16 N., R. 20 E.,
Sec. 12;
Sec. 18, lot 4 and SE¼;
Sec. 20, S½.
T. 16 N., R. 21 E.,
Sec. 4, lots 1, 2, 3, and 4, and S½NE¼;
Sec. 8.
T. 17 N., R. 21 E.,
Sec. 32, S½SE¼;
Sec. 34, W½.
T. 16 N., R. 22 E.,
Sec. 12.

The areas described aggregate approximately 9,745.82 acres in Kittitas County, Washington.

The purpose of the proposed withdrawal is to expand the size of the existing Yakima Firing Center.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Director at the address indicated above.

Notice is hereby given that a public meeting in connection with the proposed withdrawal will be held at a later date. A notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300 and under the provisions of the Engle Act of February 28, 1958 (43 U.S.C. 155–158).

For a period of two years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. Subject to concurrence by the applicant agency the temporary uses which may be permitted during this segregative period are leases, licenses, permits, rights-of-way, and disposal of mineral or vegetative resources other than under the mining or mineral leasing laws.

Dated: June 11, 1992.

**Robert E. Mollohan,**

*Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 92–14309 Filed 6–17–92; 8:45 am]

**BILLING CODE 4310–33–M**

## Minerals Management Service

### Outer Continental Shelf Advisory Board; Gulf of Mexico Regional Technical Group; Meeting

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of Gulf of Mexico Regional Technical Working Group (RTWG) Meeting.

**SUMMARY:** Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. 92–463). The Gulf of Mexico RTWG meeting will be held July 22, 1992, at the Ramada Resort Hotel, 600 South Beltline Highway, Mobile, Alabama.

The business portion of the meeting will be held beginning at 9 a.m. on July 22, 1991. Agenda items are as follows:

- Roundtable Discussion
- Oil Spill Operations System, Marine Spill Response Center
- Panel Discussion of GIS Needs/ Initiatives
- Environmental Studies Update
- Features of new 5-Year Plan and Pending Energy Bill
- Public Comment

**FOR FURTHER INFORMATION CONTACT:** The meeting is open to the public. Individuals wishing to make oral presentations to the committee concerning agenda items should contact Ms. Ann Hanks of the Gulf of Mexico OCS Regional Office at (504) 736–2589 by July 10, 1992. Written statements should be submitted by the same date to the Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123.

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico RTWG is one of six such Committees that advises the Director of the Minerals Management Service on technical matters of regional concern regarding offshore prelease and postlease sale activities. The RTWG membership consists of representatives from Federal Agencies, the coastal States of Alabama, Florida, Louisiana, Mississippi, and Texas, the petroleum industry, the environmental community, and other private interests.

Dated: June 9, 1992.

**J. Rogers Pearcy,**

*Regional Director, Gulf of Mexico OCS Region.*

[FR Doc. 92–14328 Filed 6–17–92; 8:45 am]

**BILLING CODE 4310–MR–M**

## National Park Service

### Backcountry Management Plan, Environmental Assessment; Canyonlands National Park, UT

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of intent to prepare an environmental assessment for the Backcountry Management Plan, Canyonlands National Park.

**SUMMARY:** Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an environmental assessment for the Backcountry Management Plan for Canyonlands National Park.

The effort will result in a comprehensive backcountry management plan that encompasses preservation of natural and cultural resources, visitor use, roads and facilities. Alternatives to be considered include no-action, the preferred alternative, and other alternatives.

Major issues include setting use limits, establishing designated backcountry campsites, facilities and maintenance in the backcountry, limiting visitor impact on natural and cultural resources, rock climbing, horse and pack animal use, and commercial services.

A scoping brochure has been prepared and copies can be obtained from the Chief of Resources, Canyonlands National Park, 125 West 200 South, Moab, Utah 84532, telephone (801) 259–

7164. Scoping comments will be accepted at the above address for 30 days following publication of this notice.

**FOR FURTHER INFORMATION:** Contact Superintendent, Walter D. Dabney, Canyonlands National Park, telephone (801) 259–7164.

Dated: June 5, 1992.

**Michael D. Snyder,**

*Associate Regional Director, Rocky Mountain Region.*

[FR Doc. 92–14258 Filed 6–17–92; 8:45 am]

BILLING CODE 4310–70–M

## Notice of Completion of Inventory of Native American Human Remains and Associated Funerary Objects Within the Campbell Collection, Joshua Tree National Monument, Twentynine Palms, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003(d), of the completion of the inventory of human remains and associated funerary objects within the Campbell Collection, a Federally curated collection at Joshua Tree National Monument, Twentynine Palms, California. Representatives of culturally affiliated Indian tribes are advised that the human remains and associated funerary objects in the Campbell Collection will be retained by the monument until July 20, 1992 after which they may be repatriated to the culturally affiliated groups.

The detailed inventory and assessment of the human remains and associated funerary objects within the Campbell Collection has been made by National Park Service professional curatorial staff, contracted specialists in physical anthropology and prehistoric archeology, and representatives of the following affected tribal organizations:

Agua Caliente Band of Cahuilla Indians
Twentynine Palms Band of Mission Indians
Torez Martinez Reservation
Santa Manual Band of Mission Indians
Cabazon Reservation
Anza Band of Cahuilla Indians
Saboba Reservation
Morongo Reservation
Coyote Reservation
Santa Rosa Reservation
Colorado River Indian Tribes Reservation
Fort Mojave Indian Reservation
Chemehuevi Reservation
Quechan Indian Nation of the Fort Yuma Reservation

Between July 1931 and July 1933, Elizabeth and William Campbell carried out legally authorized archeological studies on Federal public lands now within Joshua Tree National Monument. Among the archeological resources collected were human cremations and artifacts believed to be associated with funerary events practiced by prehistoric and historic Native Americans. Recent assessment studies indicate that eleven individuals are represented; approximately 12,225 Native American artifacts are believed to have been associated with the funerary events. These artifacts include historic glass trade beads, native shell beads, chipped and other stone implements, pottery vessels, clay smoking pipes and human effigies, and animal bone tools. One cremation appears to be 19th Century in date; others may be estimated as being between 9th to 14th Century in date. The collection does not contain materials which meet the definition of sacred object or objects of cultural patrimony.

Artifactual evidence does not allow specific identification as to tribal origin. However, recent assessment studies on portions of the Campbell Collection indicate basic similarities in crematory practice, ceramics, stone tool manufacture, ornamentation, and bone or shell artifacts of known archeological traditions believed ancestral to contemporary Cahuilla, Serrano, and Colorado River tribal peoples. Ten of the cremations are likely affiliated to Cahuilla or Serrano cultural traditions. One cremation is determined possibly to be of either Colorado River area cultural affiliation, represented by contemporary Quechan, Mojave, Maricopa or Chemehuevi peoples, or of Diegueñocultural affiliation to the southwest of the monument.

Representatives of any Indian tribe believed to be culturally affiliated with the human remains and associated funerary objects of the Campbell Collection that have not been contacted should talk with Superintendent David E. Moore, Joshua Tree National Monument, 74485 National Monument Drive, Twentynine Palms, CA 92277, (619) 367–6376, before July 20, 1992.

Dated: June 9, 1992.

**Francis P. McManamon,**

*Departmental Consulting Archeologist, Chief Archeological Assistance Division.*

[FR Doc. 92–14257 Filed 6–17–92; 8:45 am]

BILLING CODE 4310–70–M

## Office of Surface Mining Reclamation and Enforcement

## Contemplated Settlement of Case Involving Valid Existing Rights Determination Within the Wayne National Forest, Ohio

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Notice of Contemplated Settlement Agreement and Reconsideration of VER Determination.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM), the United States Forest Service (USFS), and Belville Mining Company (BMC) are contemplating a settlement of *Belville Mining Co.* v. *United States*, No. 90–244–L (Cl. Ct.) (*Belville III*). To implement such a settlement, OSM would reconsider its Valid Existing Rights (VER) determination with respect to the McMullen property, located within the boundaries of the Wayne National Forest in Ohio. OSM would use a takings standard to make two VER determinations concerning the McMullen property. In anticipation of a possible settlement, OSM is announcing that it solicits additional relevant factual information on its contemplated reconsideration of its VER determination on the McMullen tract.

**DATES:** OSM will accept written materials on all issues pertaining to the McMullen property until 5 p.m. eastern time on July 20, 1992.

**ADDRESSES:** Hand deliver written materials to the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, room 5131L, 1100 L Street NW., Washington, DC; or mail written materials to the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, room 5131L, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240. Documents comprising the administrative record are available for public review and copying during regular business hours at the Administrative Record Room, room 5131L, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1100 L Street NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Richard Miller, Chief, Planning and Analysis Staff, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240, (202) 208–2618.

**SUPPLEMENTARY INFORMATION:**

**I. VER Required**

Section 522(e) of SMCRA provides that:

> After the enactment of this Act and subject to valid existing rights no surface coal mining operations except those which exist on the date of enactment of this Act shall be permitted * * * on any federal lands within the boundaries of any national forest: * * *

30 U.S.C. 1272(e). Under the Federal regulations at 30 CFR 740.4(a)(4) and 745.13(o), the Secretary of the Interior retains responsibility for making VER determinations for surface coal mining operations on Federal lands within the boundaries of areas specified in section 522(e)(2) of SMCRA. This responsibility is exercised by OSM.

**II. McMullen VER Determination and Belville III.**

The McMullen property is approximately 81.32 acres in Lawrence County, Ohio, within the boundaries of the Wayne National Forest. For analythical purposes, the McMullen property may be divided into two tracts, the "North 40" and the "South 40', corresponding to two conveyances that created mineral reservations on the McMullen property. In an October 28, 1966 deed from certain grantors to the United States, the grantors reserved the following mineral rights:

> [T]he right under the rules and regulations of the Secretary of Agriculture dated April 30, 1963, * * * to explore for and remove oil, gas, coal, and clay until the termination of March 24, 1990.

This deed, however, was subject to a 1955 mineral reservation in a conveyance of the South 40 in which the grantor had reserved:

> All of the fireclay, and any coal that may be mined in conjunction or connection with the mining of said fireclay * * * together with the right to * * * remove said clay and/or coal by any recognized mining method, including stripping, * * * the said Grantors hereby discharging and releasing the said Grantee from any liability on account of injury to the surface of said lands, * * * arising through the mining and removal of said clay and/or coal.

On December 21, 1989, OSM determined that BMC did not have VER for the McMullen tract. The 1989 determination was a reconsideration of a December 1988 determination in which OSM found that BMC did have VER for the McMullen tract. See 54 FR 52465.

On March 19, 1990, BMC filed suit challenging the December 21, 1989, VER determination as a taking of BMC's property in violation of the Fifth Amendment. After extensive negotiations, the parties are considering the following proposal for settlement: in return for the Government recognizing BMC's entitlement to surface mine the South 40, BMC would surrender any rights it might have to the North 40, leaving the Government with a fee simple interest in that tract. BMC would be allowed to transport coal from the South 40, using an existing road as a haul road, for which the Forest Service would grant a special use permit.

To implement such a settlement, OSM would determine whether BMC had demonstrated VER both for surface mining the South 40 and for using the haul road. If on reconsideration OSM determines that BMC does not have VER for either surface mining the South 40 or for using the haul road, the settlement described above would not be implemented.

**III. Effect of Belville I on Contemplated VER Determination**

OSM's VER policy was set forth in a **Federal Register** notice published on November 20, 1986 (51 FR 41952). In that notice, OSM stated that under 30 CFR 740.11(a), the approved State regulatory program is applicable to Federal lands in a State. The notice provided that OSM would use the State program definition of VER on Federal lands subject to SMCRA section 522(e) (1) and (2) in States with approved regulatory programs.

On July 22, 1991, in *Belville Mining Co.* v. *Lujan*, No. C–1–89–790 (S.D. Ohio) (*Belville I*), pursuant to a challenge by BMC, the court enjoined OSM from enforcing the VER policy established in the 1986 Federal Register notice. OSM has filed for reconsideration of the court's decision, but must comply with the court's order until it is either reconsidered, stayed, or overturned on appeal. OSM thus decided to use the definition of VER which the same court has used in an earlier case. Accordingly, in a document entitled Defendants' Notice of Publication of Proposed Rule and of Interim Response to Court's Decision, filed on August 2, 1991, OSM stated:

> OSM intends to make VER determinations on a case-by-case basis during the interim period between the Court's decision and promulgation of a final rule * * *. OSM plans to use the approach followed by the court in *Sunday Creek Coal Co.* v. *Hodel* ("*Sunday Creek*"), No. 88–0416, slip op. (S.D. Ohio June 2, 1988). *Sunday Creek* effectively applied a "takings" analysis as the basis for VER determinations.

**IV. Applicable VER Standard**

If a settlement agreement is reached in *Belville III*, OSM anticipates using the approach followed by the court in *Sunday Creek*, to reconsider its VER determination concerning the South 40. OSM would determine whether denial of VER would result in a compensable taking under the Fifth Amendment to the Constitution.

If OSM determines that denial of VER would constitute a compensable taking, then OSM would determine that BMC has demonstrated VER for the South 40.

The use by OSM of a takings standard in a VER determination is not intended to prejudge OSM's pending national VER rulemaking. It merely reflects the agency's need to conduct business in the interim prior to the promulgation of a final VER definition, in accordance with the constraints imposed by the district court in *Belville I*.

For the contemplated haul road on the McMullen Tract, OSM would apply the existing regulation concerning the VER standard for haul roads. This regulation, at 30 CFR 761.5, provides as follows:

> Valid existing rights means: * * * [f]or haul roads—(1) A recorded right of way, recorded easement, or a permit for a coal haul road recorded as of August 3, 1977, or (2) Any other road in existence as of August 3, 1977;

All approved state regulatory programs, including Ohio, also apply such a VER test for haul roads.

On reconsideration, OSM would make its VER determination for both the South 40 and the haul road based on the existing administrative record concerning BMC's request for a VER determination on the McMullen property, and any additional relevant information submitted in response to this notice.

**V. Comments Solicited**

OSM is inviting interested persons to submit relevant information pertaining to OSM's anticipated reconsideration of the VER determination for the McMullen property, and the merits of BMC's request for a VER determination for surface mining on the South 40 and a haulroad.

Dated: June 10, 1992.

**Harry M. Snyder,**

*Director, Office of Surface Mining Reclamation and Enforcement.*

[FR Doc. 92–14255 Filed 6–17–92; 8:45 am]

BILLING CODE 4310–05–M

## INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32072]

### SPCSL Corp—Lease and Acquistion Exemption—IMX Intermodal Yard—Illinois Central Railroad Company and Chicago Intermodal Company

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Commission, under 49 U.S.C. 10505, exempts SPCSL Corp., from the requirements of 49 U.S.C. 11343, *et seq.*, for its lease and acquisition of the IMX Intermodal Yard in Chicago, IL from Illinois Central Railroad Company and its subsidiary Chicago Intermodal Corp. The exemption is subject to employee labor protective conditions.

**DATES:** This exemption is effective on June 23, 1992. Petitions to stay or reopen must be filed by June 22, 1992.

**ADDRESSES:** Send pleadings referring to Finance Docket No. 32072 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Karl Morell, Louis E. Gitomer, 919 18th Street, NW., suite 210, Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Felder, (202) 927–5610 (TDD for hearing impaired: (202) 927–5721).

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up 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) 927–5721).

*Decided:* June 11, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

**Sidney L. Strickland, Jr.,**

*Secretary.*

[FR Doc. 92–14357 Filed 6–17–92; 8:45 am]

BILLING CODE 7035–01–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### National Advisory Commission on Work-Based Learning; Open Meeting

**SUMMARY:** The National Advisory Commission on Work-Based Learning was established in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) on December 14, 1990, (**Federal Register** December 26, 1990, pg. 53063). The Commission has broad responsibility to advise the Secretary of Labor on ways to increase the skill levels of the American work force and expand access to work-based learning. The Commission, in partnership with the Labor Department, is developing implementation strategies for:

- Establishing a voluntary, industry-led system of skill standards and for certification;
- Integrating human resource development and technology diffusion efforts;
- Promoting labor-management cooperative efforts to implement work-based learning;
- Changing accounting methods to promote human resource development;
- Valuing diversity as a corporate strategic asset;
- Developing a national quality award for excellence in human resource development.

**TIME AND PLACE:** The meeting will convene on Wednesday, July 22, 1992, from 1:30 p.m. until 5 p.m. at the Holiday Inn by the Bay, 88 Spring Street, Portland, Maine. (Phone: 207–775–2311 or 800–345–5050.) The meeting will reconvene from 8:30–12 on Thursday, July 23.

**AGENDA:** The agenda for the meeting will include:

Update on Commission Activities
Subgroup Reports/Discussion of Strategic Plans
Report on Skills Standards Public Hearings
Final Approval: "Framework for Action" Paper
Presentation on Cultural Diversity
Public Comment Period

The meeting will be open to the public. Thirty minutes will be set aside for public comments. Seating will be available for the public on a first-come, first-serve basis. Handicapped individuals wishing to attend should contact the Commission on Work-Based Learning in advance, so that staff can make appropriate accommodations. Individuals or organizations wishing to submit written statements should send 10 copies to Peter Carlson, Managing Director, National Advisory Commission on Work-Based Learning, FPB S2028, 200 Constitution Avenue NW., Washington, DC 20210, by July 11, 1992.

**FOR FURTHER INFORMATION CONTACT:** Peter E. Carlson, Managing Director, National Advisory Commission on Work-Based Learning, FPB S2028, 200 Constitution Avenue NW., Washington, DC 20210; Tel. (202) 523–8271.

Signed at Washington, DC, this 12th day of June 1992.

**Roberts T. Jones,**

*Assistant Secretary of Labor.*

[FR Doc. 92–14350 Filed 6–17–92; 8:45 am]

BILLING CODE 4510–30–M

### Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities which plan on employing nonimmigrant alien nurses. These organizations have attestations of file with DOL for that purpose.

**ADDRESSES:** Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the Immigration Nursing Relief Act Public Disclosure Room, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N4456, 200 Constitution Avenue NW., Washington, DC 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, room S3502, 200 Constitution Avenue NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:**

*Regarding the Attestation Process:* Chief, Division of Foreign Labor Certifications, U.S. Employment Service. Telephone: 202–535–0163 (this is not a toll-free number).

*Regarding the Complaint Process:* Questions regarding the complaint process for the H–1A nurse attestation program shall be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202–523–7605 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H–1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR part 655 and 29 CFR part 504, 55 FR 50500 (December 6, 1990). The Employment and training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staffs. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities' chief executive officers also are listed, to aid public inquiries. In addition, attestations and supporting short explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under that attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, DC, this 5th day of June 1992.

**Robert J. Litman,**

*Acting Director, United States Employment Service.*

## Division of Foreign Labor Certifications Approved Attestations

[05/01/92 to 05/31/92]

| CEO-name facility name/address | State | Approval date |
|---|---|---|
| Mr. Edward Mann, Ketchikan Gen'l Hosp., 3100 Tongas Avenue, Ketchikan, 99901, 907–225–5171 | AK | 05/14/92 |
| Mr. Omar Miller, Hillcrest Home, 1111 Maplewood Rd., Harrison, 72601, 501–741–5001 | AR | 05/19/92 |
| Mr. Robert C. Benjamin, Southeast Arizona Med. Ctr., Route 1, Box 30, Douglas, 85607, 602–364–7931 | AZ | 05/22/92 |
| Mr. Michael K. Conner, Mohave Valley Hospital, Inc., 1225 E. Hancock Road, Bullhead City, 86442, 602–758–0105 | AZ | 05/22/92 |
| Mr. Sam Pangburn, St. Luke Medical Center, 2632 E. Washington, Pasadena, 91109, 818–797–1141 | CA | 05/15/92 |
| Mr. Frank D. Alvarez, Kaiser Foundation Hosp., French Campus, San Francisco, 94115, 415–202–2000 | CA | 05/15/92 |
| J.D. Northway, M.D., Valley Children's Hosp., 3151 N. Millbrook, Fresno, 93703, 209–225–3000 | CA | 05/15/92 |
| Mr. Bernard Salick, M.D., Salick Health Care, Inc., 8201 Beverly Blvd., Los Angeles, 90048, 213–276–0732 | CA | 05/15/92 |
| Ms. Joann O'Boyle, Hi-Desert Memorial Hosp., Dist, 6601 White Feather Rd., Joshua, Tree, 92252, 619–366–6185 | CA | 05/15/92 |
| Mr. Robert M. Jaramillo, Specialty Care Nur. Ser. Agen Travel Corps.—Jaramillo Cares, Inc. Los Angeles, 90048, 213–653–1792 | CA | 05/19/92 |
| Mr. Dale Iversen, Warrack Hospital, 2449 Summerfield Road, Santa Rosa, 95405, 707–542–9030 | CA | 05/19/92 |
| Mr. Robert C. Shaw, Irvine Medical Center, 16200 Sand Canyon Avenue, Irvine, 92718, 714–753–2114 | CA | 05/22/92 |
| Ms. Barbara M. Yorobe, Health Power, Inc., 10850 Baroque Lane Ste. B, San Diego, 92124, 619–560–1638 | CA | 05/22/92 |
| Ms. Lorraine Zippiroli, Lucile Salter Packard Childrens Hospital at Stanford, Palo Alto, 94304, 415–497–8681 | CA | 05/22/92 |
| Mr. Manuel T. Balanos, Jr., Nurses of Wellbest, 329 Eremland Drive, Covina, 91723, 818–332–5576 | CA | 05/22/92 |
| Mr. Solomon M. Guerrero, Victor Valley Comm. Hosp., 15248 Eleventh Street, Victorville, 92392, 619–245–8691 | CA | 05/22/92 |
| Mr. Steven Mattachions, Orthopaedic Hospital, 2400 S. Flower Street, Los Angeles, 90007, 213–742–1114 | CA | 05/22/92 |
| Mr. Charles S. Ricks, White Memorial Medical Center, 1720 Brooklyn Avenue, Los Angeles, 90033, 213–268–5000 | CA | 05/22/92 |
| Mr. Solomon Goldner, Golden State Health Centers, 13347 Ventura Blvd., Sherman Oaks, 91423, 213–872–2618 | CA | 05/29/92 |
| Mr. Ralph N. Tisdial, Rosscare Convalescent Hosp., 370 Noble Court, Morgan Hill, 95037, 408–779–7346 | CA | 05/29/92 |
| Mr. Stephen Dixon, La Palma Intercommunity Hosp., 7901 Walkter Street, La Palma, 90623, 714–670–7400 | CA | 05/29/92 |
| Mr. Jack Stephens, Lakeland Reg'l Med. Ctr., 1324 Lakeland Hills Blvd., Lakeland, 33804, 813–687–1100 | FL | 05/06/92 |
| Mr. James Tally, Ph.D., Scottish Rite Children's Med., 1101 Johnson Ferry Road, N.E., Atlanta, 30363, 404–256–5252 | GA | 05/06/92 |
| Mr. William Dimas, Lee Manor Health Care Residen, 1301 Lee Street, Des Plaines, 60018, 708–635–4000 | IL | 05/06/92 |
| Halm Perlstein, Mid America Conval. Ctr., 4920 N. Kenmore Avenue, Chicago, 60640, 312–769–2700 | IL | 05/15/92 |
| Mr. Jeff S. Berns, Norridge Nursing Centre, Inc., 7001 W. Cullom Ave., Norridge, 60634, 708–457–0700 | IL | 05/22/92 |
| Mr. Bradley Alter, Glenwood Terrace, LTD, 19330 S. Cottage Grove, Glenwood, 60425, 708–758–6200 | IL | 05/22/92 |
| Ms. Virginia Barry, Villa Scalabrini Home for the, 480 North Wolf Road, Northlake, 60164, 708–562–0040 | IL | 05/22/92 |
| Mr. Peter Fine, Grant Hospital of Chicago, 550 W. Webster, Chicago, 60614, 312–883–3500 | IL | 05/22/92 |
| Chung S. Kim, M.D., Lake Bluff Health Care Ctre., d/b/a KBC Health Centre Inc., Lake Bluff, 60044, 708–295–3900 | IL | 05/22/92 |
| Mr. Bradley Alter, Danville Care Center, LTD, 1701 N. Bowman, Danville, 61832, 217–443–2955 | IL | 05/22/92 |
| Ms. Joanne Minorini, Abbott House, 405 Central Avenue, Highland Park, 60035, 708–432–6080 | IL | 05/29/92 |
| Reverend Stephen A Dahl, Methodist Hospital of Chicago, 5025 N. Paulina Street, Chicago, 60640, 312–271–9040 | IL | 05/29/92 |
| Mr. Lyman V. Giner, Cardinal Hill Rehab. Hosp., 2050 Versailles Road, Lexington, 40504, 606–254–5701 | KY | 05/15/92 |
| Chalmette, Chalmette Medical Ctr., 9001 Patricia Street, Chalmette, 70043, 504–278–6772 | LA | 05/06/92 |
| Ms. Nini Bu, Health Care Specialist, Inc., 2040 Pioneer Court, Ste. #2, San Mateo, 9403, 415–571–7323 | LU | 05/22/92 |
| Ms. Nancy Hsu, South Cove Manor Nursing Home, 120 Shawmut Avenue, Boston, 02118, 617–423–0590 | MA | 05/15/92 |
| Mr. Andrew Riddell, AtlantiCare Medical Center, 500 Lynnfield Street, Lynn, 01940, 617–581–9200 | MA | 05/15/92 |
| Mr. A. Jason Geisinger, VFW Parkway Nursing Home, First Healthcare Corp., d.b.a. West Roxbury, 02132, 617–325–1688 | MA | 05/15/92 |
| Mr. Michael J. Geaney, Jr., Salem Hospital, 81 Highland Avenue, Salem, 01970, 508–741–1215 | MA | 05/19/92 |
| Mr. James O. Dague, Bon Secours Hospital, Inc., 2000 West Baltimore Street, Baltimore, 21223, 410–362–3000 | MD | 05/22/92 |
| Mr. Ronald A. Ommen, Trinity Lutheran Hospital, 3030 Baltimore, Kansas City, 64108, 816–753–4600 | MO | 05/15/92 |
| Mr. A. Jason Geisinger, Hillhaven Convalescent Ctr., First Healthcare Corp. d.b.a. Raleigh, 27605, 919–828–6251 | NC | 05/15/92 |
| Ms. Sharon Stiles, Brian Center Nursing Care/Gas, 969 Cox Road, Gastonia, 28054, 704–866–5496 | NC | 05/22/92 |

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[05/01/92 to 05/31/92]

| CEO-name facility name/address | State | Approval date |
|---|---|---|
| Ms. Deborah Ann Sheffield, Brian Ctr. Nur. Care/Salisbury, 635 Statesville Blvd., Salisbury, 33401, 704–633–7390 | NC | 05/22/92 |
| Mr. Robert D. Donovan, Meadowlands Hosp. Med. Ctr., Meadowlands Parkway, Secaucus, 07096, 201–392–3100 | NJ | 05/11/92 |
| Mr. Geoffrey S. Perselay, B.S. Pollak Hosp. of Hudson C, 100 Clifton Place, Jersey City, 07304, 201–915–1035 | NJ | 05/15/92 |
| Mr. Laurence M. Merlis, East Orange Gen'l Hosp., 300 Central Ave., East Orange, 07018, 201–672–8400 | NJ | 05/15/92 |
| Ms. Blanquita Bonifacio, Beverwyck Nursing Home, d/b/a M.&B. Bonifacio, Inc., Parsippany, 07054, 201–887–0156 | NJ | 05/15/92 |
| Mr. Robert Van Dyk, Christian Health Care Center, 301 Sicomac Avenue, Wyckoff, 07481, 201–848–6163 | NJ | 05/19/92 |
| Mr. Michael P. Duffy, Essex County Hospital Center, 125 Fairview Avenue, Cedar Grove, 07009, 201–228–8000 | NJ | 05/22/92 |
| Mr. Egon Scheil, King James Care & Rehab. Cter, 465 Easton Avenue, Somerset, 08873, 908–246–4100 | NJ | 05/22/92 |
| Michael H. Ford, M.D., Manhattan Psychiatric Center, Ward's Island, New York, 10035, 212–369–0500 | NY | 05/08/92 |
| Mr. Warren J. Morris, Deepdale Gen'l Hosp., Inc., 55–15 Little Neck Parkway, Little Neck, 11362, 718–428–3000 | NY | 05/13/92 |
| Ms. Mary Ann Dolak, Hudson Management Consultants, 50 Maine Avenue, Rockville Centre, 11570, 516–536–8000 | NY | 05/15/92 |
| Mr. Jeffrey Sicklick, Hebrew Home for the Aged/Fairfield Div., Bronx, 10463, 212–549–9400 | NY | 05/15/92 |
| Sister Mary Linehan, Saint Joseph's Hosp., Yonkers, 127 South Broadway, Yonkers, 10701, 914–378–7000 | NY | 05/19/92 |
| Mr. Alexander Skutzka, Terrence Cardinal Cooke Health Ctr., New York, 10029, 212–360–3620 | NY | 05/22/92 |
| Mr. Allan H. Channing, New York Downtown Hospital, 170 William Street, New York, 10038, 212–312–5000 | NY | 05/22/92 |
| Mr. A. Jason Geisinger, Hillhaven Convalescent Ctr., First Healthcare Corp., d.b.a. Akron, 44310, 216–762–0901 | OH | 05/15/92 |
| Ms. A. Susan Bernini, Albert Einstein Med. Ctr., York and Tabor Roads, Philadelphia, 215–456–7050 | PA | 05/15/92 |
| Ms. Doris Powell, Brian Center Nursing Care/Col, 2451 Forest Drive, Columbia, 29204, 803–354–5960 | SC | 05/22/92 |
| Mr. Paul S. Winton, Chesterfield General Hospital, Highway 9 West, Cheraw, 29520, 803–537–7881 | SC | 05/22/92 |
| Mr. Boone Powell, Jr., Baylor University Med. Ctr., 3500 Gaston Avenue, Dallas, 75246, 214–820–2525 | TX | 05/06/92 |
| Mr. Michael F. O'Keefe, Irving Healthcare System, 1901 N. MacArthur Blvd., Irving, 75061, 214–579–8180 | TX | 05/06/92 |
| Ms. Cynthia McCreary, Memorial Hosp. and Med. Ctr., 2200 West Illinois, Midland, 79701, 915–685–1111 | TX | 05/06/92 |
| Mr. L. Marcus Fry, Jr., Sierra Medical Center, National Medical Enterprises, El Paso, 79902, 915–747–4000 | TX | 05/15/92 |
| Mr Louis Bremer, Jr., Medical Center Hospital, Montgomery County Hosp. Dist., d/b/a Conroe, 77304, 409–539–7485 | TX | 05/22/92 |
| Mr. Robert M. Bryant, Memorial City Med. Ctr. Hosp., 920 Frostwood, Houston, 77024, 713–932–3470 | TX | 05/22/92 |
| Mr. Ray Ramon, Texas Valley Health Services, 509 W. Harrison, Harlingen, 78550, 512–412–2222 | TX | 05/22/92 |
| Mr. Earnest Gibson, III, Riverside Gen'l Hosp., 3204 Ennis Street, Houston, 77004, 713–526–2441 | TX | 05/29/92 |
| Ms. Callie Smith, Baptist Memorial Hosp. System, 111 Dallas Street, San Antonio, 78205, 512–554–2060 | TX | 05/29/92 |
| Joel Warner, Northwest General Hosp., Inc., 5310 W Capitol Dr., Milwaukee, 53216, 414–447–8520 | WI | 05/15/92 |
| Total Attestations: 74. | | |

[FR Doc. 92–14349 Filed 6–17–92; 8:45 am]

BILLING CODE 4510–30–M

## JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

### Payment Request Form

**AGENCY:** James Madison Memorial Fellowship Foundation.

**ACTION:** Request for information.

**SUMMARY:** The information sought on the proposed Payment Request Form will help implement the James Madison Memorial Fellowship Act of 1986. The information gathered will enable the Foundation to pay awards to James Madison Fellows for the expenses of such tuition, fees, books, room, and board at the universities in which they are matriculating for graduate study. The information provided by fellows on the payment request form and by those university officials they ask to certify their enrollment and costs on the Payment Request will be used by the Foundation staff to determine the appropriate payment amount due. The form will be used for payment purposes and to project costs for budget estimates.

**DATES:** Comments must be submitted in writing on or before July 6, 1992 in the **Federal Register.**

**ADDRESSES:** Send written comments to: James Madison Memorial Fellowship Foundation, 2000 K Street NW., suite 303, Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Gary S. Foy, (202) 653–8700.

**SUPPLEMENTARY INFORMATION:** As required by the Paperwork Reduction Act of 1980, the James Madison Memorial Fellowship Foundation has submitted a copy of the proposed form to the Office of Management and Budget for its review (40 U.S.C. 3540 (h)). Organizations and individuals desiring to submit comments on these information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok. The annual public reporting burden for this collection of information is estimated to average .5 hours per response for an anticipated 53 fellows.

For the reasons set forth in the preamble and under authority of 20 U.S.C. 4501 et seq., the following information will be solicited one to four times annually depending on how a fellow is enrolled (i.e. by semester, trimester, or in summer sessions or quarter). Fellows will be both experienced high school teachers of American history, American government, and social studies (senior fellows) and graduating college seniors and recent college graduates who wish to become secondary school teachers of the same subjects (junior fellows). The Payment Request will be used for both types of fellows.

**Paul A. Yost, Jr.,**

*President, James Madison Memorial Fellowship Foundation.*

BILLING CODE 6820–05–M

## JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION (P.L. 99-591)

2000 K Street. N.W., Suite 303, Washington, D.C. 20006
Telephone: (202) 653-8700 Fax: (202) 653-6045

**Payment Request**

**Part 1—To Be Completed By Each James Madison Fellow** *(typed or printed in black ink)*

1. **Name:** _____ (last name, first name, middle initial)
2. **University of Graduate Study:** _____
3. **School/Department of Study:** _____
4. **Degree Sought:** _____
5. **Subject of Degree Sought:** _____
6. **Credit Hours Required for Master's Degree:** _____
7. **University Operates on** ☐ Semesters ☐ Trimesters ☐ Quarters ☐ Others (explain) _____
8. **Year Named a Madison Fellow:** 19___
9. **Payment for Academic Year:** 19___-19___
10. **Payment Request Number:** ___ of ___(see instructions)
11. **Starting Date of Term:** ___/___/19___
12. **Your Home Address:**
    Street Address _____
    City/State/Zip _____
    Telephone (___) _____
13. **Your Address at University:** (if different from home)
    Street Address _____
    City/State/Zip _____
    Telephone (___) _____
14. **Where Do You Want the Payment Sent** (check one): ☐ Home Address ☐ University Address

| 15. Expenses for *TERM* on each line below: (see instructions) | Amount | 16. Foundation Adjustments: (do not write in area below) | Code | 17. Foundation Approved Amount: (do not write in area below) |
|---|---|---|---|---|
| a. Tuition | $ | $ | | $ |
| b. Fees | | | | |
| c. Books | | | | |
| d. Room & Board | | | | |
| e. TOTAL | $ | $ | | $ |

18. **Credit Hours Required for Full-Time Status Per Term:** ___ 19. **Number of Hours Fellow is Registered for this Term:** ___
20. **Fellow Will Live:** ☐ In University Housing ☐ In Off-Campus Housing ☐ At Home with Parent, Spouse, or Other
21. **List all scholarships, grants and loans you will receive for the *NEXT TERM* from all sources** (except family, Veteran's Administration, or your own employment). You should include University Scholarships, Fellowships, Tuition Waivers, National Direct Student Loans, Guaranteed Student Loans, Rotary Club Awards, and other similar forms of support. Indicate whether the awards are granted for: tuition, fees, books, room and board, travel, miscellaneous expenses or undesignated purposes. Include only those amounts that are applicable to the *NEXT TERM*. For yearly awards prorate the amount applicable for the *NEXT TERM*.

**Initial if you will not receive any awards other than the Madison Fellowship** _____ (see note)

| Code | Source | Purpose of Award | Amount | Amount Deductible (do not write in area below) |
|---|---|---|---|---|
| A | | | $ | $ |
| B | | | $ | $ |
| C | | | $ | $ |
| D | | | $ | $ |

**FOR FOUNDATION USE ONLY**

| AUDITED BY | PAYMENT SUMMARY | PAYMENT APPROVAL |
|---|---|---|
| Initials | Payment Request Number: $ | Appropriation: 95-X-8282 |
| | | Document Number: MF |
| Date | Total Payments to Date: $ | Amount Approved: $ |

Approved by: _____ Signature _____ Date _____

22. I certify that the information given in item 15 for my *NEXT TERM* is correct, and that funds received will be utilized for the purposes specified in accordance with the provisions of the Madison Fellowship. I understand that benefits payable by the Foundation are limited to the four categories listed in 15 a-b-c-d above. I certify that the figures given in item 21 are true amounts paid for *NEXT TERM* on my behalf by other organizations, and any differences in payments will be reported immediately to the Madison Foundation. I agree to refund the payment if I withdraw from the university before the end of the term.

Signature of Madison Fellow _____ Date _____

**Part 2—For Academic Officer**—I certify that the Madison Fellow is a full-time ☐ or part-time ☐ student taking a course of study appropriate for a teaching career in secondary school; is not engaged in employment interfering with study; is in good academic standing; and is maintaining satisfactory progress toward a career in teaching. (see instructions below)

Signature and Title of Academic Officer _____ Date _____

**Part 3—For Financial Aid Officer**—I certify that the information given in items 15, 18, 19, and 21 is correct.

Signature and Title of Financial Aid Officer _____ Date _____

## HOW TO COMPLETE THE PAYMENT REQUEST

*Item 10*—Payment Requests should be numbered as follows: 1 of 2, 1 of 3, etc. You may be required to submit additional payment requests for summer or other sessions.

*Item 15*—Give figures for the costs for the *NEXT TERM* (semester, trimester, quarter, or summer session). Do not deduct any amounts that are paid for you by other sources or waived by your university.

(a) Tuition: the amount normally charged for the courses you will take *NEXT TERM*;
(b) Fees: any required, nonrefundable charges you will pay *NEXT TERM*;
(c) Books: an estimate of the cost of books for the *NEXT TERM* (the Foundation can provide a maximum annual allowance of $400);
(d) Room and Board: university charges for a double room on campus for the *NEXT TERM*, whether you plan to live on campus or not;
(e) Total: your total costs for the *NEXT TERM*.

*Item 16*—The Foundation will use this space to make adjustments based upon the information you provide in item 21. The Foundation is not authorized to reimburse you for expenses that are already being met from other sources. The Foundation will show this amount as an adjustment in item 16 and deduct it from the amount you will receive from the Foundation. The code "x" indicates adjustments that were necessary to achieve the maximum allowances for books and for room and board, based on cost estimates from your university.

*Item 17*—The Foundation will use this space to indicate the approved amounts for the *NEXT TERM*. The figure shown in item 17, Total, will be the amount of your payment for the *NEXT TERM*. (A copy of this form will be sent to you with the check.) The Foundation cannot pay Fellows more than $12,000 per academic year, regardless of their actual costs. The Foundation will prorate allowable payments on a term basis. (For example, if you are attending half-time next term, 50% of allowable room, board, and books will be paid.) The Foundation will provide an allowance (not actual expenses) for room and board. This figure, obtained from the average room and board costs for that type of housing certified by the financial aid director of your university, will be given in item 17 (d).

*Item 18*—Provide the number of credit hours the university considers full-time status for graduate study.

*Part 2*—This certification is not required for a Fellow's first term at a university.

## NOTES

You should count on a minimum of 3-4 weeks from submission of this form to receipt of payment providing all other documentation has been received. (see notes) Be sure all required certifications are signed.

Be sure to list all fellowships, scholarships, grants, and loans in item 21. If you have more than four, list them on an additional sheet. If you do not expect to receive any awards other than the Madison Fellowship, please initial. Failure to list all awards or to notify the Foundation immediately of any additional awards may result in the loss of the fellowship and prosecution by the U.S. Department of Justice.

The Foundation must have a Fellow's annual report, a current transcript of grades (for Junior Fellows), evidence of a teaching contract (for Senior Fellows), and a current payment request from the institution before the first payment request of each academic year can be processed.

Fellows are responsible for having their financial aid officers return completed payment request forms to the Madison Foundation. We suggest that Fellows submit payment request forms to their institutions two or three months before the start of the academic year.

## PRIVACY ACT STATEMENT

The *Privacy Act of 1974* (P.L. 93-579) requires that you be given the following information in connection with this Payment Request:

- the authority for collecting this information is Public Law 99-591;
- furnishing the information is voluntary; the information will be used primarily to determine payment of the fellowship award;
- other uses of the information are for statistical analyses;
- although you may choose not to supply the requested information, your payment cannot be processed without it.

[FR Doc. 92-14306 Filed 6-17-92; 8:45 am]
BILLING CODE 6820-05-C

## NATIONAL SCIENCE FOUNDATION

### Committee Management; Establishment

The Assistant Director for Social, Behavioral and Economic Sciences has determined that the establishment of the Advisory Committee for the Social, Behavioral, and Economic Sciences (SBE) is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by 42 U.S.C. 1861 et seq. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

*Name of committee:* Advisory Committee for the Social, Behavioral, and Economic Sciences (SBE).

*Purpose:* To provide advice, recommendations, and oversight concerning support for research, education, and human resources in the areas of the social, behavioral, and economic sciences

*Balanced membership plan:* Membership will consist of about 10 persons selected to be representative of the scientific areas and types of institutions encompassed by SBE activities. Every effort is made to achieve a balanced membership with representation including women, minority scholars, disabled persons, as well as different geographic regions of the U.S.

*Responsible NSF official:* Dr. Cora Marrett, Assistant Director, Social, Behavioral, and Economic Sciences. National Science Foundation, room 538, Washington, DC 20550 (202) 357–7631.

Dated: June 15, 1992.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 92–14294 Filed 6–17–92; 8:45 am]

BILLING CODE 7555–01–M

### Assessing Innovative Approaches to Calculus Instruction; Workshop

The National Science Foundation (NSF) will hold a two and one-half day workshop on Assessing Innovative Approaches to Calculus Instruction. The meeting will begin at 8:30 a.m. July 6, 1992 and end at 12 noon on July 8, 1992, at One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Discussions will include various issues regarding evaluating the effectiveness of the curricular and pedagogical innovations in calculus reform projects.

(1) Goals and Objectives of Calculus Reform Projects. One purpose of the workshop will be to articulate goals and objectives of calculus reform efforts.

(2) Assessment Approaches. Alternative assessment approaches will be identified.

(3) Mathematics Learning Theory. The implications of research in the learning of mathematics for assessment of student learning will be discussed.

(4) An Agenda for Assessment. An agenda for further discussions and research will be developed.

Although the workshop will not operate as an advisory committee, the public is invited to attend. Participants will include the calculus projects directors and representatives from several communities: assessment/evaluation, mathematics education, client disciplines, and mathematics. A report of the workshop will be published.

For additional information, contact James Lightbourne, Program Director, Division of Undergraduate Science, Engineering, and Mathematics Education, NSF, 1800 G Street, NW, Washington, DC 20550 (202) 357–7051.

Dated: June 15, 1992.

**Dr. Robert Watson,**

*Director, Division of Undergraduate Science, Engineering, and Mathematics Education.*

[FR Doc. 92–14299 Filed 6–17–92; 8:45 am]

BILLING CODE 7555–01–M

### Integrating FPGAs Into Microelectronics Education; Notice of Workshop

The National Science Foundation (NSF) will hold a one and a half day workshop on Integrating FPGAs Into Microelectronics Education on July 16, 1992, 1 p.m. to 6 p.m. and July 17, 1992, 8:30 a.m. to 5 p.m. at the National Science Foundation in room 540 at 1800 G Street, NW., Washington, DC 20550.

The objective is to derive from this workshop information that will aid in formulating a basic implementation plan for FPGA integration into microelectronics education and a clear idea of any problems or weaknesses in the FPGA approach. Some issues to be considered are: the level of FPGA intregation; the role that semi-custom VLSI will play in the future; the role of simulation in system design; the extent of system-level design experience required in graduate and undergraduate training, and the mechanism for FPGA technology training distribution.

Although the workshop will not operate as an advisory committee, the public is invited to attend. Participants will include individuals from the microelectronics education community who are innovative leaders of FPGA-based instruction and other experts who have had wide research or educational experience with microelectronics design.

For additional information, contact Dr. Paul T. Hulina, Program Director for Systems Prototyping and Fabrication, 1800 G Street, NW., Washington, DC 20550 (202) 357–7853.

Dated: June 10, 1992.

**Dr. Bernard Chern,**

*Division Director, Microelectronic Information Processing Systems.*

[FR Doc. 92–14298 Filed 6–17–92; 8:45 am]

BILLING CODE 7555–01–M

### Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

*Name:* Special Emphasis Panel in Electrical and Communications Systems.

*Date and Time:* July 8–10, 1992; 8:30 a.m. to 5 p.m.

*Place:* Room 500, NSF—1110 Vermont Avenue, NW., Washington, DC 20005.

*Type of Meeting:* Closed.

*Contact Person:* Kishan Baheti, Program Director, ECS Division, NSF, 1800 G Street NW., room 1151, Washington, DC 20550. Telephone: (202) 357–9618.

*Purpose of meeting:* To provide advice and recommendations concerning proposals submitted to NSF for financial support.

*Agenda:* To review and evaluate research proposals submitted to the Intelligent Control Initiative.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: June 15, 1992.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 92–14296 Filed 6–17–92; 8:45 am]

BILLING CODE 7555–01–M

### Special Emphasis Panel in Mechanical and Structural Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463,

as amended), the National Science Foundation announces the following meeting.

*Date and Time:* July 7 & 8, 1992, 8:30 a.m.–5:00 each day.

*Place:* State Plaza Hotel, Diplomat and Envoy Conference Rooms, 2117 E St. NW., Washington, DC.

*Type of Meeting:* Closed.

*Contact Person: Drs. Jerome L. Sackman & Huseyin Sehitoglu, Program Directors, Rm 1108, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9542.*

*Purpose of Meeting:* To provide advice and recommendations concerning proposals submitted to NSF for financial support.

*Agenda:* To review and evaluate Individual Investigator Award proposals as part of the selection process for awards.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4), and (6) of the Government in the Sunshine Act.

Dated: June 15, 1992.

M. Rebecca Winkler,

*Committee Management Officer.*

[FR Doc. 92–14295 Filed 6–17–92; 8:45 am]

BILLING CODE 7555–01–M

## Special Emphasis Panel in Science Resources Studies; Meeting

In accordance with the Federal Advisory Committee Act (Pub.L. 92–463, as amended), the National Science Foundation announces the following meeting.

*Name:* Special Emphasis Panel in Science Resources Studies.

*Date and Time:* July 9, 1992, from 6 p.m. to 9 p.m.; and July 10, 1992, from 9 a.m. to 2:30 p.m.

*Place:* National Science Foundation, 1800 G Street, NW., room 540, Washington, DC.

*Type of Meeting:* Open.

*Contact Person:* Lawrence Burton, Project Officer, Division of Science Resources Studies, room L–609, National Science Foundation, Washington, DC 20550, (202) 634–4300.

*Purpose of Meeting:* Final advice and discussion before field testing of new survey questionnaire for the Joint NSF/NIH Survey of Public Understanding of Science.

*Agenda:* Review sample design, draft survey questionnaire, and analysis plans.

Dated: June 15, 1992.

M. Rebecca Winkler,

*Committee Management Officer.*

[FR Doc. 92–14297 Filed 6–17–92; 8:45 am]

BILLING CODE 7555–01–M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 030–21276 License No. 37–20865–01 EA 91–129]**

## George S. Wineburgh Associates, Ltd. Philadelphia, PA; Order Imposing Civil Monetary Penalties

I

George S. Wineburgh Associates, LTD (Licensee), was the holder of Byproduct Material License No. 37–20865–01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) on October 24, 1986. The license authorized the Licensee to use certain byproduct materials for medical diagnosis. The license was terminated on October 4, 1990.

II

On September 1, 1991, the NRC received a notification from the City of Philadelphia that a container with a radioactive materials label had been found on a street in Philadelphia on that date. The NRC immediately responded to the location and took possession of that container. Its label indicated that it contained a gadolinium-153 (Gd–153) source of approximately 0.6 curies. Since papers in the trash indicated that it came from an office occupied by George S. Wineburgh Associates, LTD, the NRC contacted the licensee on September 3, 1991. During that telephone conservation, the licensee confirmed that the source had been possessed by the licensee pursuant to NRC License No. 37–20865–01. That license was terminated by the NRC on October 4, 1990, based upon the Licensee's submittal of a Certificate of Disposition of Materials (Form NRC–314), dated July 23, 1990, which indicated a transfer of the source to an authorized recipient in New Hampshire on July 25, 1990.

Based on subsequent NRC review of this event, the NRC determined that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties (Notice) was served upon the Licensee by letter dated March 5, 1992. The Notice states the nature of the violations, the provision of the NRC's requirements that the Licensee had violated, and the amount of the civil penalties proposed for the violations. The Licensee responded to the Notice by a letter dated March 27, 1992. In its response, the Licensee admitted the violations but requested that the civil penalties be mitigated.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that an adequate basis has not been provided for mitigation of the civil penalties.

IV

In view of the foregoing, and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby ordered that:*

The Licensee pay civil penalties in the full amount of One Thousand Five Hundred Dollars ($1,500) by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, USNRC, Washington, D.C. 20555. This payment shall be made within thirty days of the date of this Order or in accordance with a promissory note agreed to by the Licensee and NRC.

V

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region, I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time and the Licensee has either not entered into a promissory note to pay this penalty over time or properly made payments inaccordance with a promissory note, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be whether, on the basis of the violation admitted by the Licensee, this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 9th day of June 1992.

**Hugh L. Thompson,**

*Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support.*

**Appendix—Evaluations and Conclusion**

On March 5, 1992, a Notice of Violation and Proposed Imposition of Civil Penalties (Notice) was issued to George S. Wineburgh Associates, LTD (Licensee), whose license had previously been terminated by the NRC on October 4, 1990. Dr. Wineburgh responded to the Notice by letter dated March 27, 1992. The licensee admitted the violations but requested either mitigation of the penalties, or that a deferred payment plan be permitted. The NRC's evaluations and conclusions regarding the licensee's requests are as follows:

*1. Restatement of Violations*

A. 10 CFR 30.36(b) and (c)(1(iv) require, in part, that submitted requests for license termination include a completed Form NRC–314, which certifies information concerning the proper disposal of licensed materials. 10 CFR 30.41(c) requires, in part, that prior to transferring byproduct material, the licensee verify that the transferee's license authorizes the receipt of the type, form, and quantity of byproduct material to be transferred. 10 CFR 30.9(a) requires, in part, that information provided to the Commission by a licensee be complete and accurate in all material respects.

Contrary to the above, on Form NRC–314, "Certificate of Disposition of Materials", (signed and dated by George S. Wineburgh, M.D., on July 23, 1990), the former licensee, (whose license was subsequently terminated on October 4, 1990), provided to the Commission information that was not complete and accurate in all material respects. Specifically, the former licensee failed to verify that Biosources, LTD, Nashua, New Hampshire, the company to which all licensed materials were to be transferred, was authorized to receive licensed material as evidenced by the fact that Biosources, LTD's license to receive and possess licensed material had been terminated in 1988. As a result, the statement that the material was transferred to Biosources, LTD on July 25, 1990, or any other subsequent date was inaccurate. Further, the material described on the Form NRC–314 was not properly disposed of as it was discovered in the normal trash on a sidewalk in Philadelphia, Pennsylvania on August 31, 1991. The statements in the Form NRC–314 were material because the NRC would not have issued Amendment No. 04, terminating the license, on October 4, 1990, had it known that the licensee still possessed any licensed material.

This is a Severity Level III violation. (Supplement VII) Civil Penalty—$750

B. 10 CFR 30.3 requires, in part, that except for persons exempted, no person shall possess or use byproduct material except as authorized by a specific or general license issued pursuant to Title 10, Chapter 1, Code of Federal Regulations.

Contrary to the above, from October 4, 1990, until August 31, 1991, when it discarded the material in the normal trash, George S. Wineburgh Associates, LTD, possessed a sealed source containing approximately 0.6 curies of gadolinium-153 without a valid license and was not exempted from requiring a license.

This is a Severity Level III violation. (Supplement VI) Civil Penalty—$750

*2. Summary of Licensee's Response*

In his response, Dr. Wineburgh admits the violations, but attributes the violations to "general unintended negligence" and "terrible judgement and laxity" in handling the byproduct material. Dr. Wineburgh further attributes this, in part, to severe emotional and financial turmoil which he is still experiencing at present. Dr. Wineburgh requests that the civil penaktues be reduced to $250, stating this is what he can afford at this time, or that a deferred payment plan be permitted.

*3. NRC Evaluation and Conclusion*

The NRC has evaluated Dr. Wineburgh's response and has determined that an adequate basis has not been provided for reduction in the amount of the civil penalty. While Dr. Wineburgh may have experienced personal difficulties, it was still his responsibility to ensure that the conditions of his NRC license were followed, that radioactive material was properly disposed (so that it would not present a hazard to members of the public), and that information provided to the NRC was complete and acurate. Dr. Wineburgh did not meet those responsibilities. Consequently, the civil penalties in the cumulative amount of $1,500 should be imposed. However, given his statements that personal and financial difficulties still exist, the NRC has agreed to allow Dr. Wineburgh to pay the civil penalties in 36 monthly installments, if he so chooses

[FR Doc. 92–14371 Filed 6–17–92; 8:45 am]

BILLING CODE 7590–01–M

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**[Docket No. 50–260]**

## Tennessee Valley Authority; Browns Ferry Nuclear Plant, Unit 2; Exemption Regarding Schedule for Containment Local Leak Rate Tests

I.

The Tennessee Valley Authority (the licensee) is the holder of Facility Operating License No. DPR–52, which authorizes operation of the Browns Ferry Nuclear Plant, Unit 2 (the facility) at steady-state reactor power levels not in excess of 3293 megawatts, thermal. The facility consists of a boiling water reactor located at the licensee's site in Limestone County, Alabama. Two other boiling water reactors located at this site are not affected by this exemption. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II.

Section III of appendix J to 10 CFR part 50 requires the development of a program to conduct periodic leak testing of the primary reactor containment and related systems and components, and components penetrating the primary containment pressure boundary. The interval between local leak rate tests for certain components (Type B and Type C testing) is specified by sections III.D.2(a) and III.D.3 to be no greater than 2 years.

III.

By letter dated December 20, 1991, the licensee, the Tennessee Valley Authority, requested a one-time exemption from the requirements of 10 CFR part 50, appendix J, sections III.D.2(a) and III.D.3 regarding the periodic Type B and Type C local leak rate test schedule for 87 components at the Browns Ferry Nuclear Plant, Unit 2. The requested exemption would permit continued operation of the facility until its next refueling outage, which will begin no later than January 29, 1993. Otherwise, the required testing would require a plant shutdown no later than July 31, 1992, well before the end of the current fuel cycle.

IV.

Sections III.D.2(a) and III.D.3 of appendix J to 10 CFR part 50 state that Type B and Type C tests shall be performed during reactor shutdowns for refueling, at an interval not to exceed 2 years. The licensee has requested a one-time exemption from these regulations.

The 2-year interval requirement for Type B and C components is intended to be often enough to preclude significant deterioration and long enough to permit the tests to be performed during routine plant outages. Leak rate testing of the penetrations during plant shutdown is preferable because of the lower radiation exposures to plant personnel. Furthermore, some penetrations cannot be tested at power. For penetrations that cannot be tested during power operation, or for which testing at power would yield unnecessary radiation exposure of personnel, the Commission staff believes the increase in confidence of containment integrity following a successful test is not significant enough to justify the hardships and costs associated with a plant shutdown specifically to perform the tests within the 2-year time period.

V.

The Commission has determined that

pursuant to 10 CFR 50.12(a)(1) this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption; namely, that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of Sections III.D.2(a) and III.D.3 of Appendix J to 10 CFR part 50 is to provide an interval short enough to prevent serious deterioration from occurring and long enough to permit testing to be performed during regular plant outages. For components that cannot be tested at power, or for components where testing involves unreasonable risk to personnel and equipment, the increased confidence in containment integrity following successful testing is not significant enough to justify a plant outage merely to perform the tests within the 2 year interval. The licensee has presented information accepted by the Commission, which gives a high degree of confidence that the components affected by this exemption will not degrade to an unacceptable extent. Acceptable leakage limits are defined by sections III.B.3(a) and III.C.3 of appendix J to 10 CFR part 50.

Accordingly, the Commission hereby grants an exemption as described in section III above, from sections III.D.2(a) and III.D.3 of appendix J to 10 CFR Part 50 to the effect that Type B and Type C testing for 87 components at Browns Ferry Nuclear Plant, Unit 2, that would otherwise be required to be performed at an earlier date, can be postponed to an outage which will begin no later than January 29, 1993, as specified in the staff's safety evaluation.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this Exemption will not have a significant impact on the environment (57 FR 24063).

This Exemption is effective upon issuance.

Dated at Rockville, Maryland this 10th day of June 1992.

For the Nuclear Regulatory Commission.

**Steven A. Varga,**

*Director, Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation*

[FR Doc. 92–14372 Filed 6–17–92; 8:45 am]

BILLING CODE 7590–01–M

## OFFICE OF PERSONNEL MANAGEMENT

### Federal Prevailing Rate Advisory Committee; Cancellation of Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that the meeting of the Federal Prevailing Rate Advisory Committee schedule for Thursday, June 25, 1992, has been canceled.

Information on other meetings can be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, room 1340, 1900 E Street, NW., Washington, DC 20415, (202) 606–1500.

Dated: June 10, 1992.

**Anthony F. Ingrassia,**

*Chairman, Federal Prevailing Rate Advisory Committee.*

[FR Doc. 92–14188 Filed 6–17–92; 8:45 am]

BILLING CODE 6325–01–M

### Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—Thursday, August 6, 1992, Thursday, August 27, 1992, Thursday, September 10, 1992, Thursday, September 24, 1992.

The meetings will start at 10:45 a.m. and will be held in room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Public Law 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, room 1340, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: June 10, 1992.

**Anthony F. Ingrassia,**

*Chairman, Federal Prevailing Rate Advisory Committee.*

[FR Doc. 92–14189 Filed 6–17–92; 8:45 am]

BILLING CODE 6325–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–18769; 811–5401]**

### RXR Dynamic Government Fund, Inc.; Application

June 11, 1992.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

**APPLICANT:** RXR Dynamic Government Fund, Inc.

**RELEVANT ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company.

**FILING DATES:** The application was filed on October 9, 1990, and amended on February 26, 1992 and June 9, 1992.

**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 the 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 7, 1992 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 may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 30 Buxton Farm Road, Stamford, Connecticut 06905.

**FOR FURTHER INFORMATION CONTACT:** C. Christopher Sprague, Senior Staff Attorney, at (202) 272–3035, or Nancy M. Rappa, 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.

### Applicant's Representations

1. Applicant is an open-end, diversified management investment company organized as a Maryland corporation. On January 12, 1987, applicant registered under the Act and registered an indefinite number of its common shares under the Securities Act of 1933. The registration statement was declared effective on April 17, 1987, and applicant began the initial public offering of its shares immediately thereafter.

2. In a letter to shareholders accompanying applicant's semi-annual report for the period ended April 30, 1990, applicant noted that its expense ratio had risen to approximately 4.35% due to the effect of redemptions, and stated that it was considering liquidation. Shortly thereafter, all of applicant's remaining shareholders (other than RXR Capital Management, Inc., applicant's investment adviser) redeemed their shares. On October 8, 1990, applicant's Board of Directors and RXR Capital Management, Inc. each approved the liquidation of applicant. RXR Capital Management, Inc. redeemed all its shares on December 31, 1990.

3. As of August 31, 1990, applicant had 8,830 outstanding common shares, with an aggregate net asset value of $86,370 and a per share net asset value of $9.78.

4. Applicant has not incurred, and does not expect to incur, any expenses in connection with its liquidation, apart from legal fees totalling $4,211 that were borne by RXR Capital Management, Inc. Applicant's portfolio securities were sold in ordinary brokerage transactions to meet the redemption requests of its shareholders.

5. Upon receiving a Commission order on this application, applicant will terminate its status as a Maryland corporation by filing Articles of Dissolution with the Secretary of State of the State of Maryland.

6. Applicant has no assets, debts, or liabilities, and has no remaining shareholders.

7. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of applicant.

8. Applicant is not a party to any litigation or administrative proceeding.

9. Applicant is not now engaged, and does not propose to engage, in any business activity other than that needed to windup its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 92–14273 Filed 6–17–92; 8:45 am]

BILLING CODE 8010–01–M

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**[Rel. No. IC–18768; 811–5949]**

## StarTrade Fund, Inc.; Application

June 10, 1992.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Deregistration under the Investment Company .Act of 1940 ("Act").

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**APPLICANT:** StarTrade Fund, Inc.

**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 was filed on April 24, 1992 and amended on June 5, 1992.

**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 6, 1992, and should be accompanied by proof of service on the applicant, in the from 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 such notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 40 Cutter Mill Road, suite 509, Great Neck, New York 11021.

**FOR FURTHER INFORMATION CONTACT:** James E. Anderson, Law Clerk, at (202) 272–7027, or C. David Messman, Branch Chief, at (202) 272–3018 (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 from the SEC's Public Reference Branch.

### Applicant's Representations

1. Applicant, a Maryland corporation, is an open-end, diversified management investment company. On October 20, 1989, applicant filed a notification of registration pursuant to section 8(a) of the Act and a registration statement pursuant to the Securities Act of 1933. Applicant's registration statement was declared effective and its initial public offering commenced on July 23, 1990.

2. In October 1991, a majority of applicant's shareholders voted, in compliance with Maryland law, to authorize the liquidation of applicant. In November 1991, applicant distributed all of its assets, totaling $158,099, to its shareholders on a pro rata basis.

3. All expenses incurred in the liquidation were paid by the StarTrade Management, Inc., applicant's investment adviser (the "Adviser"). The organizational expenses of applicant were also borne exclusively by the adviser.

4. Applicant has no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 92-14274 Filed 6-17-92; 8:45 am]

BILLING CODE 8010-01-M

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**[Rel. No. IC-18777; 812-7880]**

## Waddell & Reed Funds, Inc., et al.; Application

June 11, 1992.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

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**APPLICANTS:** Waddell & Reed Funds, Inc. ("Waddell"), Waddell & Reed Investment Management Company ("WRIMCO"), and Waddell & Reed, Inc. ("W&R").

**RELEVANT ACT SECTIONS:** Exemption requested pursuant to section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c-1 thereunder.

**SUMMARY OF APPLICATION:** Applicants seek an order that would permit them to impose a contingent deferred sales charge ("CDSC") on the redemption of certain shares purchased at net asset value and to waive the CDSC in certain instances.

**FILING DATE:** The application was filed on March 4, 1992 and amended on June 5, 1992.

**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 6, 1992, 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 may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 6300 Lamar, Shawnee Mission, Kansas 66201-9217.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Rappa, 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.

### Applicants' Representations

1. Waddell is a newly organized Maryland corporation comprised of five separate portfolios: Total Return Fund; Growth Fund; Intermediate Bond Fund; Municipal Bond Fund; and Global Income Fund. On February 25, 1992, Waddell filed its registration statement on Form N-1A under the Securities Act of 1933 and the Act. The registration statement has not yet been declared effective.

2. It is contemplated that WRIMCO, a wholly owned subsidiary of W&R, will serve as investment adviser and W&R will serve as the principal underwriter for each of the funds. After effectiveness of Waddell's registration statement, shares of the common stock of the funds will be available tot he general public through W&R and its registered representatives.

3. Pursuant to a distribution and service plan under rule 12b-1 of the Act (the "Plan"), each fund may pay W&R an amount not to exceed on an annual basis 0.75% of each fund's average daily net assets as a distribution fee to finance the distribution of that fund's shares and may also pay W&R an amount not to exceed on an annual basis 0.25% of each fund's average daily net assets as a service fee to finance shareholder servicing by W&R or its affiliates.

4. Applicants propose that shares of certain of the funds will be subject to deferred charges consisting of a distribution fee and a service fee imposed pursuant to the Plan and a CDSC. In no event would the aggregate amount of the CDSC exceed 3% of the aggregate purchase payments made by an investor for shares of a fund. The distribution and service fees and the CDSC will be paid to W&R to defray expenses incurred by it in connection with the offer and sale of shares of the funds, including commission paid to its registered representatives, and certain other distribution and servicing expenses.

5. The amount of the CDSC will depend on the number of years since the investor purchased the shares being redeemed, as will be set forth in each fund's prospectus. The CDSC will comply with the requirements of section 26(d) of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

6. The CDSC will not be imposed on redemptions of shares that were purchased more than four years prior to the redemptions the "CDSC Period") on those shares representing payment of dividends or distributions. Furthermore, no CDSC will be imposed on an amount that represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for shares purchased in the CDSC Period. As a result, the amount of the CDSC will be calculated as the lesser of the amount representing a specified percentage of the net asset value of the shares at the time of purchase, or the amount representing such percentage of the net asset value of the shares at the time of redemption. In determining the applicability and rate of any CDSC, it will be assumed that a redemption is made first of shares representing capital appreciation, next of shares representing payment of dividends and distributions, and finally of other shares held by the shareholder for the longest period of time. In accordance with rule 11a-3 under the Act, no CDSC will be applied in connection with the exercise of an exchange privilege whereby an investor exchanges shares of a fund for shares of another fund. No CDSC will be charged on shares of a fund purchased before the date of issuance of the order requested.

7. Applicants request the ability, either initially or in the future, as the board of directors may determine, to waive the CDSC: (a) On redemptions following death or disability, as defined in section 72(m)(7) of the Internal Revenue Code of 1986, as amended (the "Code"), of a shareholder if Waddell is notified of the death or disability at the time redemption is requested and such request is made within one year after death or disability of the shareholder, as relevant; (b) in connection with redemptions of fund shares held by an individual retirement account ("IRA") or other qualified retirement plan and which redemptions (i) result from the death or disability of the employee or the tax-free return of an excess contribution, (ii) are made to effect a lump-sum or partial distribution from a qualified retirement plan in the case of retirement, or (iii) are made to effect a distribution from an IRA, a Keogh Plan or section 403(b)(7) custodial account that is required because the distributee has reached the age at which distributions are required to commence, or as an alternative, if the board of directors so determines, Waddell may reduce the age so as to waive the CDSC with respect to distributions from such accounts after the distributee has attained the age at which distributions may be made without tax penalty; (c) in

connection with redemptions of shares of a fund purchased by current or retired directors of Waddell or by current or retired officers or employees of Waddell, WRIMCO, W&R, or their affiliated companies, registered representatives of W&R, and by members of the immediate families of such persons; (d) in connection with redemptions of shares made pursuant to a shareholder's participation in any systematic withdrawal plan adopted for a fund; (e) in part, in connection with redemptions by shareholders holding shares of a fund worth over $1 million (or other specified amount) immediately prior to redemption; (f) in connection with redemptions effected by advisory accounts managed by WRIMCO or any affiliated company or by any such affiliated company itself; (g) in connection with redemptions by any tax-exempt employee benefit plan for which continuation of its investment in a fund would be improper under applicable law or regulation; (h) in connection with redemptions effected by another registered investment company as part of a merger or other reorganization with a fund or by a former shareholder of such investment company of fund shares acquired pursuant to such reorganization; and (i) on redemptions effected pursuant to Waddell's right to liquidate a shareholder's account if the aggregate net asset value of shares held in the account is less than the applicable minimum account size.

8. Applicants also propose to waive the CDSC so as to provide a *pro rata* credit for any CDSC paid in connection with a redemption of shares followed by a reinvestment within 30 days, or other specified period, of all or part of the redemption proceeds. Such credit will be distributed by W&R from its house account where the CDSC will be held. The house account will maintain a sufficient balance to make such credits.

9. If Waddell waives or reduces the CDSC, such waiver or reduction will be uniformly applied to all offerees of the particular fund's shares. If the board of directors of Waddell determines, (a) with respect to a fund which has been waiving or reducing its CDSC, not to waive or reduce such CDSC any longer, or (b) with respect to a fund which is not then waiving or reducing its CDSC pursuant to a particular item, to waive or reduce its CDSC, the disclosure in the fund's prospectus will be appropriately revised. If the board of directors of Waddell makes a determination as described in (a) in the preceding sentence, the CDSC will be waived with respect to redemptions of fund shares as provided in that fund's prospectus as in effect at the time those shares were purchased.

**Applicants' Legal Analysis:**

1. Section 2(a)(32) of the Act defines "redeemable security" as "any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer * * * is entitled (whether absolutely or only out of surplus) to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof." Applicants assert that the CDSC in no way restricts a shareholder from receiving his or her proportionate share of the current net assets of the fund, but merely defers the deduction of a sales charge and makes it contingent upon an event which may never occur. However, in order to avoid uncertainty as to the funds' status as open-end companies, applicants request an exemption from section 2(a)(32) of the Act to the extent necessary to permit implementation of the proposed CDSC.

2. Section 2(a)(35) defines "sales load" as "the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer * * *" to determine the amount properly chargeable to sales or promotional activities. Applicants state that a CDSC is functionally a sales charge because it is paid to W&R to reimburse it for expenses related to offering shares of the funds for sale to the public. Therefore, applicants submit that the deferral of the sales charge, and its contingency upon the occurrence of an event which might not occur, does not change the basic nature of the charge, which is in every other respect a traditional sales load. However, to avoid uncertainty in this regard, applicants request an exemption from section 2(a)(35) to the extent necessary to implement the proposed CDSC.

3. Applicants also believe that implementation of the proposed CDSC does not violate section 22(c) of the Act or rule 22c–1 thereunder. Section 22(c) and rule 22c–1 thereunder preclude a registered investment company issuing a redeemable security from selling, redeeming, or purchasing any such security except at a price based on the current net asset value of such security. Applicants submit that, when a redemption of a fund's shares is effected, the price of the shares on redemption will be based on current net asset value. The CDSC will merely be deducted at the time of redemption in arriving at the shareholder's proportionate redemption proceeds. However, to avoid any question as to Waddell's compliance with section 22(c) and rule 22c–1, applicants request an exemption from rule 22c–1 to the extent necessary or appropriate to permit Waddell to implement the CDSC.

4. Section 22(d) of the Act generally requires a registered investment company and its principal underwriter to sell the company's securities at a current public offering price described in the company's prospectus. Subject to certain conditions, rule 22d–1 permits variation or elimination of sales loads to "particular classes of investors or transactions" provided that such variation or elimination is described in the registration statement. Applicants believe that an order would be consistent with the policies embodied in rule 22d–1. However, to avoid uncertainty in this regard, applicants request an exemption for Waddell from section 22(d) to the extent necessary to implement the CDSC and waivers therefrom as described above.

**Applicants' Condition**

Applicants agree that the following condition may be imposed in any order of the Commission granting the requested relief:

Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 92–14281 Filed 6–17–92; 8:45 am]

BILLING CODE 8010–01–M

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**[Rel. No. IC–18771; 811–5266]**

## The Williamsburg Fund, Inc.; Application

June 11, 1992.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

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**APPLICANT:** The Williamsburg Fund, Inc.

**RELEVANT 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 February 3, 1992 and an amendment was filed on May 18, 1992.

**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 6, 1992, and should be accompanied by proof of service on applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o BV Capital Management, Inc., 575 Fifth Avenue, New York, New York 10017.

**FOR FURTHER INFORMATION CONTACT:** James M. Curtis, Staff Attorney, at (202) 504–2406, or Barry D. Miller, Senior Special Counsel at (202) 272–3018 (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.

**Applicant's Representations**

1. Applicant is an open-end non-diversified management investment company that was organized as a corporation under the laws of Maryland. On July 10, 1987, applicant filed a notification of registration pursuant to section 8(a) of the Act. On October 26, 1987, applicant filed a registration statement pursuant to section 8(b) of the Act. On that same date, applicant filed a registration statement under the Securities Act of 1933 to register an indefinite number of shares of applicant's common stock. Applicant's registration statement never became effective, applicant never made a public offering, and applicant does not propose to do so.

2. Applicant had two shareholders with whom shares were privately placed. The investment company was formed because of beneficial tax treatment, however due to the expiration of the tax treaty, each shareholder redeemed their shares.[1]

3. Pursuant to the liquidation, applicant's portfolio securities were sold at competitive bid through primary government securities dealers without payment of brokerage commissions.

4. On January 3, 1990, one shareholder redeemed its entire holdings of applicant, 5,043,234.995 common stock shares for $53,499,157.03, which applicant distributed to such shareholder on January 4, 1990. On December 19, 1990, the sole remaining shareholder redeemed 7,629,704.985 common stock shares for $75,282,259.

5. Unamortized organizational expenses in the amount of $8,065 were charged to applicant.

6. The amount of $10,000 was withheld from the final securityholder and held in escrow for liquidation expenses. Liquidation expenses consisted of dissolution fees of $505.50, tax expenses of $2,635.50, and a custodian fee of $877.01. The remaining $5,981.99 was returned to the securityholder.

7. Applicant filed Articles of Dissolution with the State of Maryland, which became effective on October 18, 1991.

8. Applicant retains no securityholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding.

9. Applicant is not now engaged in, nor does it intend 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. 92–14282 Filed 6–17–92; 8:45 am]

BILLING CODE 8010–01–M

[1] By letter dated June 5, 1992, Alasdair Findlay-Shirras, Vice President of applicant, stated that applicant was organized to provide institutional investors of the Federal Republic of Germany with an investment subject to favorable tax treatment. Pursuant to a new income tax treaty between the United States and what was then the Federal Republic of Germany, these tax advantages were eliminated as of December 31, 1990. Consequently, applicant's shareholders requested the redemption of all outstanding shares. Because of the redemptions, on December 4, 1990, applicant's board of directors authorized the dissolution of applicant.

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[CGD8 92–17]**

### Lower Mississippi River Waterway Safety Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II) notice is hereby given of a meeting of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, July 14, 1992, in the 29th floor Boardroom of the World Trade Center, 2 Canal Street, New Orleans, Louisiana at 9 a.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Minutes of the April 21, 1992 meeting.
3. Old Business.
4. New Business.
5. Report from the VTS Subcommittee.
6. Adjournment.

The purpose of this Advisory Committee is to provide recommendations and guidance to the Commander, Eighth Coast Guard District on navigation safety matters affecting this waterway.

All meetings are open to the public. Members of the public may present written or oral statements at the meetings.

Additional information may be obtained from Mr. M.M. Ledet, USCG, Recording Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone number (504) 589–4686.

Dated: June 10, 1992.

**J.M. Loy,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 92–14346 Filed 6–17–92; 8:45 am]

BILLING CODE 4910–14–M

## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirements Submitted to OMB for Review.

Date: June 12, 1992.

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.

**U.S. Customs Service**

*OMB Number:* 1515–0041
*Form Number:* CF 6059B
*Type of Review:* Revision
*Title:* U.S. Customs Declaration
*Description:* The CF 6059B facilitates the clearance of persons and their goods upon arrival in the territory of the United States by requiring basic

information necessary to determine Customs exception status and if any duties or taxes are due. The form is also used for the enforcement of Customs and other Federal agencies laws and regulations.

*Respondents:* Individuals or households, Small business or organizations

*Estimated Number of Respondents:* 39,000,000

*Estimated Burden Hours Per Respondent:* 3 minutes

*Frequency of Response:* On occasion

*Estimated Total Reporting Burden:* 1,950,000 hours

*OMB Number:* 1515–0108

*Form Number:* None

*Type of Review:* Reinstatement

*Title:* Declaration by Person Abroad Who Received and is Returning Merchandise to the United States

*Description:* The declaration is used under conditions where articles are imported and exported and reimported, and are brought in duty free into the United States to insure Customs control over duty free merchandise

*Respondents:* Individual or households, Businesses or other for-profit, Small businesses or organizations

*Estimated Number of Respondents/ Recordkeepers:* 500

*Estimated Burden Hours Per Respondent/Recordkeeper:* 10 minutes

*Frequency of Response:* On occasion

*Estimated Total Reporting Burden:* 292 hours

Clearance Officer: Ralph Meyer (202) 566–9182, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

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. 92–14359 Filed 6–17–92; 8:45 am]

BILLING CODE 4820–02–M

## Departmental Offices' Performance Review Board

**AGENCY:** Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** This notice lists the membership to the Departmental Offices' Performance Review Board (PRB) and supersedes the list published in 56 FR 139 dated July 19, 1991, in accordance with 5 U.S.C. 4314(c)(4). The purpose of the PRB is to review the performance of members of the Senior Executive Service and make recommendations regarding performance ratings, performance awards, and other personnel actions.

The names and titles of the PRB members are as follows:

David M. Nummy, Assistant Secretary (Management) Chairperson

Joan Affleck-Smith, Director, Office of Thrift Institutions Oversight and Policy

Jeanne S. Archibald, General Counsel

John H. Auten, Director, Office of Financial Analysis

William E. Barreda, Deputy Assistant Secretary (Trade and Investment Policy)

Ralph L. Bayrer, Director, Office of Synthetic Fuels

Steven W. Broadbent, Deputy Assistant Secretary (Information Systems)

Mary E. Chaves, Director, Office of International Debt Policy

R. Blair Downing, Executive Secretary (Policy Management)

John C. Dugan, Deputy Assistant Secretary (Domestic Finance)

Lowell Dworin, Director, Office of Tax Analysis

James H. Fall, III, Deputy Assistant Secretary (Developing Nations)

George A. Folsom, Deputy Assistant Secretary (International Development and Debt Policy)

Jon M. Gaaserud, Director, U.S. Saudi Arabian Joint Commission Program Office

Geraldine A. Gerardi, Director for Business Taxation

Robert F. Gillingham, Deputy Assistant Secretary (Policy Coordination)

Fred T. Goldberg, Assistant Secretary (Tax Policy)

John R. Hauge, Deputy Assistant Secretary (Eastern Europe and Former Soviet Union)

Sidney L. Jones, Assistant Secretary (Economic Policy)

John W. Mangels, Director, Office of Operations (Enforcement)

Hollis S. McLoughlin, Assistant Secretary (Policy Management)

David C. Mulford, Under Secretary for International Affairs

Edward E. Murphy, Senior Economist (Economic Policy)

Gerald Murphy, Fiscal Assistant Secretary

Barry S. Newman, Deputy Assistant Secretary (International Monetary Affairs)

Peter K. Nunez, Assistant Secretary (Enforcement)

Thomas P. O'Malley, Director, Management Programs Directorate

Jill K. Ouseley, Director, Office of Market Finance

Marcus W. Page, Deputy Fiscal Assistant Secretary

Jerome H. Powell, Under Secretary for Finance

Charlene J. Robinson, Director, Human Resources Directorate

Ronald A. Rosenfeld, Deputy Assistant Secretary (Corporate Finance)

Charles Schotta, Deputy Assistant Secretary (Arabian Peninsula Affairs)

John P. Simpson, Deputy Assistant Secretary (Regulatory, Trade & Tariff Enforcement)

Mary C. Sophos, Assistant Secretary (Legislative Affairs)

Desiree Tucker-Sorini, Assistant Secretary (Public Affairs and Public Liaison)

Edwin A. Verburg, Director, Financial Services Directorate

Olin L. Wethington, Assistant Secretary (International Affairs)

Alan J. Wilensky, Deputy Assistant Secretary (Tax Policy)

**FOR FURTHER INFORMATION CONTACT:** Larry G. Hicks, Executive Secretary, PRB, room 1318, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Telephone: (202) 622–1440. This notice does not meet the Department's criteria for significant regulations.

**David M. Nummy,**

*Assistant Secretary of the Treasury (Management).*

[FR Doc. 92–14329 Filed 6–17–92; 8:45 am]

BILLING CODE 4820–25–M

## DEPARTMENT OF VETERANS AFFAIRS

### Information Collection Under OMB Review

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information:

(1) The title of the information collection, and the Department form number(s), if applicable;

(2) A description of the need and its use;

(3) Who will be required or asked to respond;

(4) An estimate of the total annual reporting hours, and recordkeeping burden, if applicable;

(5) The estimated average burden hours per respondent;

(6) The frequency of response; and

(7) An estimated number of respondents.

**ADDRESSES:** Copies of the proposed information collection and supporting documents may be obtained from Ann Bickoff, Veterans Health Administration (161B3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 535–7407.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer on or before July 20, 1992.

Dated: June 12, 1992.

By direction of the Secretary:

**Frank E. Lalley,**

*Associate Deputy, Assistant Secretary for Information Resources Policies and Oversight.*

**Reinstatement**

1. Locality Pay System Survey (Department of Veterans Affairs Nurse Pay Act of 1990).

2. The telephone survey will allow VA to collect pay data for registered nurses, nurse anesthetists, and other health care personnel based on beginning rates of compensation for corresponding position in the local labor market. The information will be used to implement a locality pay system within VA.

3. State and local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations.

4. 2,531 hours.

5. 45 minutes.

6. On occasion.

7. 3,375 respondents.

[FR Doc. 92–14300 Filed 6–17–92; 8:45 am]

BILLING CODE 8320–01–M

# Sunshine Act Meetings

Federal Register
Vol. 57, No. 118
Thursday, June 18, 1992

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).

**U.S. COMMISSION ON CIVIL RIGHTS**

**DATE AND TIME:** June 26, 1992, 8:00 a.m.

**PLACE:** Ralph Metcalfe Federal Office Building, 77 East Jackson Boulevard, Chicago, Illinois.

**STATUS:** Open to the Public.

*June 26, 1992*

I. Approval of Agenda
II. Approval of Minutes of May 22 Meeting
III. Announcements
IV. Update on Prospective Los Angeles Hearing
V. *Education Opportunities for American Indians in Minneapolis and St. Paul Public Schools*
VI. *Shelter Issues in New York, the New Fair Housing Amendments and Eastern New York Public Housing*
VII. Appointments to the Montana (interim), South Dakota, and Wyoming (interim) Advisory Committees
VIII. Staff Director's Report
IX. Future Agenda Items

Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division (202) 376-8105, (TDD 202-376-8116), at least five (5) working days before the scheduled date of the meeting.

**CONTACT PERSON FOR FURTHER INFORMATION:** Barbara Brooks, Press and Communications, (202) 376-8312.

Dated: June 16, 1992.

**Carol McCabe Booker,**

*General Counsel.*

[FR Doc. 92-14513 Filed 6-16-92; 3:15 pm]

BILLING CODE 6335-01-M

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**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 11:00 a.m., Thursday, July 2, 1992.

**PLACE:** 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 254-6314.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 92-14444 Filed 6-16-92; 12:49 pm]

BILLING CODE 6351-01-M

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**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 11:00 a.m., Friday, July 10, 1992.

**PLACE:** 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 254-6314.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 92-14445 Filed 6-16-92; 12:49 pm]

BILLING CODE 6351-01-M

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**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 11:00 a.m., Friday, July 17, 1992.

**PLACE:** 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 254-6314.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 92-14446 Filed 6-16-92; 12:49 pm]

BILLING CODE 6351-01-M

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**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 11:00 a.m., Friday, July 24, 1992.

**PLACE:** 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 254-6314.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 92-14447 Filed 6-16-92; 12:49 pm]

BILLING CODE 6351-01-M

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**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 11:00 a.m., Friday July 31, 1992.

**PLACE:** 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 254-6314.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 92-14448 Filed 6-16-92; 12:49 pm]

BILLING CODE 6351-01-M

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**FEDERAL ELECTION COMMISSION**

**DATE AND TIME:** Tuesday, June 23, 1992, 10:00 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

**ITEMS TO BE DISCUSSED:**

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

**DATE AND TIME:** Thursday, June 25, 1992, 10:00 a.m.

**PLACE:** 999 E Street, NW., Washington, DC (Ninth Floor.)

**STATUS:** This meeting will be open to the public.

**ITEMS TO BE DISCUSSED:**

Correction and Approval of Minutes
Title 26 Certification Matters
Advisory Opinion 1992-16: Mr. Roy A. Vitousek, III on behalf of Nansay
Advisory Opinion 1992-17: Mr. Ken Mack on behalf of Du Pont Merck
Advisory Opinion 1992-21: Senator Moynihan
Administrative Matters

**PERSON TO CONTACT FOR INFORMATION:** Mr. Fred Eiland, Press Officer, Telephone: (202) 219-4155.

**Delores Harris,**

*Administrative Assistant.*

[FR Doc. 92-14517 Filed 6-16-92; 3:16 pm]

BILLING CODE 6715-01-M

**FEDERAL HOUSING FINANCE BOARD**

**TIME AND DATE:** 10 a.m. Wednesday, June 24, 1992.

**PLACE:** Board Room Second Floor, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

**STATUS:** Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:**

**PORTIONS OPEN TO THE PUBLIC:** The Board will consider the following:

1. Monthly Reports
   A. District Banks Directorate
   B. Housing Finance Directorate

**PORTIONS CLOSED TO THE PUBLIC:** The Board will consider the following:

1. Approval of the May Board Minutes
2. Examination and Regulatory Oversight Report
3. Legislative/Strategic Discussion
   A. Strategic Plan
   B. Legislative Update
4. Los Angeles/Community Investment Program Update
5. FHL Bank System Conference—July 1, 1992

The above matters are exempt under one or more of sections 552b(c)(2), (8), (9)(A) and (9)(B) of title 5 of the United States Code. 5 U.S.C. 552b(c)(2), (8), (9)(A) and (9)(B).

**CONTACT PERSON FOR MORE INFORMATION:** Elaine L. Baker, Executive Secretary to the Board, (202) 408–2837.

**J. Stephen Britt,**

*Executive Director.*

[FR Doc. 92–14412 Filed 6–15–92; 4:18 pm]

**BILLING CODE 6725–01–M**

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**FEDERAL HOUSING FINANCE BOARD**

**TIME AND DATE:** 8:00 a.m. Wednesday, July 1, 1992.

**PLACE:** Park Ballroom C, The Park Hyatt Hotel, 24th and M Street, N.W., Washington, DC 20037.

**STATUS:** The meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** The Finance Board will be hosting a conference of the Federal Home Loan Bank System. Matters to be considered are the following:

1. Housing Finance Economic Environment
2. Federal Housing Finance Board Strategic/Housing Legislative Plans for 1993
   A. Strategic Plan
   B. Housing Finance Profile
   C. Legislative Program
3. FHLBank System Financial Plan for 1993
   A. 1992 FHLBank System Financials in Review
   B. 1993 Financial Plan

The above matters are exempt under one or more of sections 552b(c) (9)(A) and (9)(B) of title 5 of the United States Code. 5 U.S.C. 552b(c) (9)(A) and (9)(B).

**CONTACT PERSON FOR MORE INFORMATION:** Elaine L. Baker, Executive Secretary to the Board, (202) 408–2837.

**J. Stephen Britt,**

*Executive Director.*

[FR Doc. 92–14413 Filed 6–15–92; 4:18 pm]

**BILLING CODE 6725–01–M**

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**FEDERAL MARITIME COMMISSION**

**TIME AND DATE:** 10:00 a.m., June 24, 1992.

**PLACE:** Hearing Room One, 1100 L Street, NW., Washington, DC 20573–0001.

**STATUS:** Part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

**MATTER(S) TO BE CONSIDERED:**

Portion open to the public:

1. Docket No. 90–23—Automated Tariff Filing and Information System—Consideration of comments.

Portion closed to the public:

1. Fact Finding Investigation No. 16, Fifth Report.

**CONTACT PERSON FOR MORE INFORMATION:** Joseph C. Polking, Secretary, (202) 523–5725.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 92–14526 Filed 6–16–92; 4:01 pm]

**BILLING CODE 6730–01–M**

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**NATIONAL CREDIT UNION ADMINISTRATION**

Notice of Previously Held Emergency Meeting

**TIME AND DATE:** 10:10 a.m., Monday, June 15, 1992.

**PLACE:** Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

**STATUS:** Closed.

**MATTERS CONSIDERED:**

1. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
2. Personnel Actions. Closed pursuant to exemptions (2) and (6).

The Board voted unanimously that Agency business required that a meeting be held with less than the usual seven days advance notice.

They voted unanimously to close the meeting under the exemptions listed above. Deputy General Counsel James Engel certified that the meeting could be closed under those exemptions.

**FOR MORE INFORMATION CONTACT:** Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

**Becky Baker,**

*Secretary of the Board.*

[FR Doc. 92–14442 Filed 6–16–92; 12:48 pm]

**BILLING CODE 7535–01–M**

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**NATIONAL CREDIT UNION ADMINISTRATION**

Notice of Meetings

**TIME AND DATE:** 9:30 a.m., Tuesday, June 23, 1992.

**PLACE:** Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

**STATUS:** Open.

**BOARD BRIEFINGS:**

1. Central Liquidity Facility Report and Report on CLF Lending Rate.
2. Insurance Fund Report.
3. Progress Report—NCUA's Long Range Plan.

**MATTERS TO BE CONSIDERED:**

1. Approval of Minutes of Previous Open Meeting.
2. NCUA's Long Range Plan—FY 1993–1997.
3. Proposed Rule: Amendment to Part 702, NCUA's Rules and Regulations, Reserves.
4. Final Rule: Amendment to Part 722, NCUA's Rules and Regulations, Appraisals.

**TIME AND DATE:** 11:00 a.m., Tuesday, June 23, 1992.

**PLACE:** Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Approval of Minutes of Previous Closed Meeting.
2. Request from State for Exemption from Section 701.21(h), NUCA's Rules and Regulations. Closed pursuant to exemptions (4), (8), (9)(A)(ii), and (9)(B).
3. Central Liquidity Facility Line of Credit. Closed pursuant to exemptions (4) and (9)(A)(ii).

4. Appeal under Parts 701 and 747, NCUA's Rules and Regulation. Closed pursuant to exemptions (8) and (9)(A)(ii).

5. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

6. Proposed National Corporate Credit Union Program. Closed pursuant to exemptions (2), (8), and (9)(B).

7. Delegations of Authority. Closed pursuant to exemptions (2) and (9)(B).

8. Conversion under Part 708, NCUA's Rules and Regulations. Closed pursuant to exemptions (8) and (9)(A)(ii).

9. FY 1992 Budget Reprogramming. Closed pursuant to exemptions (2) and (9)(B).

10. Personnel Actions. Closed pursuant to exemptions (2) and (6).

**FOR MORE INFORMATION CONTACT:** Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

**Becky Baker,**

*Secretary of the Baord.*

[FR Doc. 92–14443 Filed 6–16–92; 12:48 pm]

BILLING CODE 7535–01–M

federal register

Thursday
June 18, 1992

Part II

# Department of Health and Human Services

## Health Care Financing Administration

42 CFR Parts 405, 420, 421 and 424
Medicare Program; Criteria and Standards for Evaluating Regional Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS); Final Rule and Request for Comments

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Health Care Financing Administration**

**42 CFR Parts 405, 420, 421 and 424**

**[BPO-102-FC]**

**RIN 0938-AF59**

# Medicare Program; Carrier Jurisdiction for Claims for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) and Other Issues Involving Suppliers, and Criteria and Standards for Evaluating Regional DMEPOS Carriers

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Final rule with comment period.

**SUMMARY:** This final rule—

- Modifies regulations to provide that claims for durable medical equipment, prosthetics, orthotics and certain other items covered under part B of Medicare be processed by designated carriers.
- Specifies the jurisdictions each designated carrier will serve.
- Changes the method by which claims for these items are allocated among the carriers from "point of sale" to "beneficiary residence."

Establishes certain minimum standards for suppliers for purposes of submitting the above claims.

Incorporates in regulations certain supplier disclosure requirements imposed under section 4164 of the Omnibus Budget Reconciliation Act of 1990, as part of the process for issuing and renewing a supplier's billing number. Describes the criteria and standards to be used beginning October 1, 1993 for evaluating the performance of designated carriers processing claims for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) in the administration of the Medicare program. Section 1842(b)(2) of the Social Security Act requires us to publish criteria and standards against which we evaluate Medicare carriers for public comment in the **Federal Register.**

We expect the above changes to lead to more efficient and economical administration of the Medicare program.

**DATES:** These regulations are effective August 17, 1992 with the exception of § 424.57(f) that imposes information collection and record keeping requirements subject to the Paperwork Reduction Act.

Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on August 17, 1992.

**ADDRESSES:** Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO-102-FC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your written comments to one of the following addresses: Room 308-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, or Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Due to staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

In commenting, please refer to file code BPO-102-FC. Written comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in room 309-G of the Department's office at 200 Independence Ave., SW., Washington, DC on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

If you wish to submit comments on the information collection requirements contained in this final rule with comment, you may submit comments to: Allison Herron Edyt, HCFA Desk Officer, Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:**

Lisanne Bradley, (410) 966-3359, for carrier jurisdiction for claims for durable medical equipment, prosthetics, orthotics and supplies, and other issues involving suppliers.

Larry Pratt, (410) 966-7403, for criteria and standards for evaluating designated carriers processing durable medical equipment, prosthetics, orthotics, and supplier claims.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Under sections 1816(a) and 1842(a) of the Social Security Act (the Act), public and private organizations and agencies may participate in the administration of the Medicare program under agreements or contracts entered into with HCFA (acting on behalf of the Secretary of HHS). These Medicare contractors are known as fiscal intermediaries (section 1816(a) of the Act) and carriers (section 1842(a) of the Act). Intermediaries primarily perform part A bill processing and benefit payment functions, and carriers perform part B claims processing and benefit payment functions. Section 1842(a) of the Act authorizes contracts with carriers for the payment of claims for Medicare covered services and items. The statute does not place any restriction on the area which any carrier must serve. Consequently, we have contracts for carriers to process claims in areas that are multi-State, State-wide, or lesser areas.

Our experience has been that there is diversity among carriers in their interpretation of coverage policies, local medical review policies, and pricing for similar items and services. To some extent a carrier's performance is affected by the nature of its workload. That is, the more unusual a piece of equipment or supply is in an area, the more difficult it is to make a coverage or pricing determination. To the extent that carrier determinations reflect local norms, diversity is desirable, but to the extent that local norms result in unwarranted variations in payment amounts, utilization parameters, or claims documentation policies for items furnished nationally, such diversity is undesirable.

Claims for DMEPOS are submitted by suppliers. The term "supplier" is defined in our regulations at 42 CFR 400.202 as a physician or other practitioner, or an entity other than a "provider", that furnishes health care services, including items, under Medicare. A "provider" as defined in § 400.202 means a hospital, a skilled nursing facility, a comprehensive outpatient rehabilitation facility, a home health agency, or a hospice that has in effect an agreement to participate in Medicare, or a clinic, a rehabilitation agency, or a public health agency that has a similar agreement to furnish outpatient physical therapy or speech pathology services (see sections 1861(u) and 1866(e) of the Act). In practice, an entity, including a provider, that wishes to become a supplier to Medicare beneficiaries does so merely by issuing bills for Medicare covered items and services. Most carriers require some identifying information from a supplier before it receives a billing number, but there are no national requirements that a DMEPOS supplier must meet. The absence of a well-defined process for issuing supplier numbers and the diversity in handling claims have resulted in some abuses under the Medicare program by some entities that hold themselves out to be suppliers. Some suppliers exploit current carrier jurisdiction policies by submitting claims only to those carriers whose claims review policies result in more inclusive or expansive determinations of Medicare coverage or in higher payment amounts, for the items they supply.

Section 1834(a)(12) of the Act authorizes the Secretary to designate, by regulation under section 1842 of the Act, one carrier for one or more entire regions to process all claims within the region for certain covered items. When read in conjunction with sections 1834 (a)(13) and (h)(3), the covered items include all covered durable medical equipment, prosthetics, prosthetic devices, and orthotics. Other items for which claims may be processed by regional carriers include: Home dialysis supplies and equipment; surgical dressings; splints, casts, and other devices used for reduction of fractures and dislocations; immunosuppressive drugs; parenteral and enteral nutrients, equipment and supplies; and other items, including those provided by a physician for which separate payment is appropriately made outside the Medicare physician fee schedule, but not those items covered "incident to" a physician's service or bundled into a facility payment.

## II. Notice of Proposed Rulemaking

On November 6, 1991 we published a proposed rule (NPRM) with a 60-day comment period (56 FR 56612) that would amend 42 CFR parts 400, 420, 421 and 424. Specifically, the rule proposed to change 42 CFR part 421, Intermediaries and Carriers, to allocate DMEPOS claims among carriers based on beneficiary residence. In the preamble to that NPRM we proposed that we would choose four carriers nationally that would each process an approximately equal number of claims. The concentration of claims processing would achieve economies as well as consistency of processing within each designated area. The area boundaries would coincide with those of existing Common Working File (CWF) sectors (which store data on Medicare beneficiaries residing within the area). We also proposed that the responsibility for processing claims for beneficiaries residing within each regional area would be allocated to the regional carrier for that area.

We proposed the types of criteria to be used for designating these carriers which would include experience in processing DMEPOS claims and establishing DMEPOS local medical review policy and pricing, quality, timeliness and processing cost per claim.

We proposed to establish in 42 CFR part 424, certain minimum standards for entities seeking to qualify as suppliers. In order to obtain a Medicare billing number, an entity would be required to meet, and to certify that it meets, a number of supplier standards. A supplier must receive and fill orders for DMEPOS from its own inventory or inventory in other companies with which it has contracted to fill such orders. In addition, a supplier must be responsible for delivering Medicare covered items to Medicare beneficiaries or arranging for their delivery to an outlet convenient to the beneficiary, honoring any warranties, answering any questions or complaints the beneficiaries might have, maintaining and repairing rental items and accepting returns of substandard or unsuitable items from beneficiaries. We also proposed that each supplier must maintain a complaint log.

We proposed a number of changes to 42 CFR part 420, which concerns Medicare program integrity. To improve out ability to curtail abusive practices on the part of some suppliers, we proposed to require a supplier to furnish ownership and control information. These requirements would implement the reporting requirements in section 1124A of the Act, as enacted by section 4164(b) of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90).

We proposed to make several clarifying or conforming changes. We would—

Delete the definition of "supplier" in § 420.201 as it is unnecessary for program integrity purposes and conflicts with the definition in part 400.

Add the requirement that any physician with a Unique Physician Identification Number (UPIN) provide that number. This is now our most consistently used physician identifier.

Add a requirement that suppliers must report changes in ownership or control within 180 days. This would make our requirement consistent with provisions of section 1124A of the Act, as revised by OBRA 90.

Revise the definition of "disclosing entity" to include a part B supplier.

## III. Analysis of and Responses to Public Comments, and Revisions to the Proposed Rule.

In response to the November 6, 1991 proposed rule, we received 42 timely items of correspondence. Comments were submitted from Medicare carriers, various associations and organizations representing facilities and suppliers, medical and other professional individuals, and law firms. A summary of individual comments and responses, and summarized changes, if any, to our rule are discussed below:

### *Effective Date*

Comment: Two commenters were apprehensive that if pending legislation, which contains similar, but not identical, provisions to those of this regulation were passed, it would impede implementation of these amendments of the regulations. They suggested that we wait until legislation is passed before proceeding. One commenter thought that legislative authority would give more weight to some of our changes.

Response: Our plans for this regulation preceded any of the proposed legislation, and we expect that this regulation will be published in the **Federal Register** before any new legislation can be promulgated. Most of the provisions of the proposed legislation are generally consistent with what we are trying to achieve in this regulation, so if legislation is passed, we believe it will only strengthen the authority we already have to make these changes.

### *Regionalization*

Comment: There was a general consensus from the commenters that regionalization of claims processing for DMEPOS items was desirable for the reasons mentioned in the proposed rule.

Response: We appreciate the support we have received for regionalization of claims processing for DMEPOS items.

Comment: One commenter expressed concern that success with the parenteral and enteral nutrition (PEN) specialty carriers was no reason to believe that there would be similar success with DMEPOS claims due to the much larger number of claims. Several commenters from the orthotic and prosthetic, PEN and home dialysis supply industries preferred that special arrangements be made for processing their claims.

Response: We believe that the processing of DMEPOS claims is significantly different from that of claims for medical services. We do not, however, see that there is a significant difference in the system used to process claims for different types of medical items. It is true that each type of DMEPOS is subject to its own coverage, utilization and documentation requirements, but medical review to determine whether a particular DMEPOS item is medically necessary follows essentially the same process for all such items.

Regionalization allows us to pool sufficient numbers of each type of claim so that carrier staff, including fair hearing officers; can be proficient in its review. No type of DMEPOS item is so rare that there will not be a sufficient number of claims at each of the four regional carriers to develop this expertise. While even greater expertise could be developed if certain types of claims were sent to only one or two

carriers, as is currently done with PEN claims, we cannot justify the higher average processing costs that are inevitable when a smaller number of claims are separately processed. We continue to believe that the designation of four carriers to process claims for all types of medical items continues to be the most feasible answer to the problems we have recently experienced with these claims. We note that the four regional carriers will assure that face-to-face fair hearings are conducted throughout their regions.

Comment: One commenter wanted a single carrier to process claims, while another commenter preferred that we consider establishing fewer than four regional carriers. Another suggested 10 regional carriers, one for each HCFA administrative region.

Response: Our major concern in establishing the number of regional carriers was that there be few enough to allow the carriers to develop medical review and pricing expertise for all types of Medicare part B covered items, but enough that each carrier would receive a manageable workload, i.e., about 6–7 million claims. We believe that four regional carriers best meet HCFA's needs for increased claims processing expertise and eoncomical and efficient processing.

The areas chosen as DMEPOS regions divide the national DMEPOS workload into approximately equal parts and conform to the areas established by CWF sector boundaries. Having the DMEPOS regions coincide with CWF boundaries is efficient because it minimizes the number of out of area claims to be processed. Out of area claims are more expensive to process. We also considered the number of suppliers in each area and the location of major metropolitan areas located on CWF boundaries.

Comment: A few comments were received on the configuration of the regions. One commenter suggested that if each of the regional carriers were linked to all CWF host sites, there could be a reconsideration of the boundaries described in the proposed regulation. Other commenters suggested that we choose our carriers first and then configure our regions around the carriers.

Response: We have decided to issue a competitive request for proposals for the regional carrier contracts. In order to effectively bid for these contracts, the offerors must know the number of claims and the area for which they are bidding. Therefore, we affirm the boundaries of the four regions specified in the proposed regulation.

*Competitive Bidding*

Comment: Most commenters agreed that the regional carriers should be determined as a part of a competitive procurement process.

Response: We have the authority either to select non-competitively carriers under section 1842 of the Act, or to procure the contracts competitively. We have chosen to use a competitive procurement this time. We have issued a Pre-Solicitation Notice for Comment which will be followed by a Request for Proposals (RFP).

Timely proposals will be accepted from all offerers which meet the definition of "carrier" in section 1842(f) of the Act: "* * * a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization * * *."

*Criteria for Designation of Contractors*

Comment: Several commenters expressed a great deal of interest in the criteria which HCFA would use to designate the four regional carriers. Of the four definite criteria listed in the proposed regulation, there was general agreement that they should all be factors in designation. Some commenters expressed some concern that cost might be treated as the overriding factor and actually put our current PEN carriers at a competitive disadvantage. There was also concern that two much reliance would be placed on Contractor Performance Evaluation Program (CPEP) data, since it reflects carrier overall performance and does not focus on a carrier's ability to process the 5 percent of its claims which are for DMEPOS. Most commenters specified indicia for judging that the four criteria were met or added other criteria. One of the commenters wanted to know the weights that would be applied to each of the criteria. Most commenters wanted the final criteria published in the **Federal Register.**

Response: We published the abbreviated criteria for carrier selection in the proposed regulation to notify the public of the general parameters we intended to use for either a selection or procurement of regional carriers. More specific criteria as well as the weights for those criteria will be included in the RFP.

Many excellent ideas for criteria were presented. We will seriously consider the criteria suggested by commenters for inclusion in the RFP, but we do not plan to publish those specific criteria in the **Federal Register.** That type of detailed information is more appropriate for inclusion in procurement documents, such as the RFP. After the initial contract period we may wish to change our emphasis and publish new criteria. However, we are including the general criteria in the regulation to make clear HCFA's intent to designate regional carriers with experience in claims processing to process claims with quality and timeliness, at a reasonable price.

Comment: Some of the commenters wanted suppliers, and associations representing them, to have a role in the selection of the regional carriers.

Response: It is not permissible to involve suppliers or their representatives in a competitive government procurement which is subject to the Federal Acquisition Regulations.

*Regional Carrier Contract*

Comment: One commenter believed that the regional carrier contracts should be totally separate and distinct from any other contracts the carrier might have with HCFA.

Response: We agree and will be executing separate contracts for the DMEPOS regional carriers. Pertinent portions of the proposed contract have been published with the Pre-Solicitation Notice. The DMEPOS regional carrier statement of work will also be included in the contracts.

*Transition and Implementation*

Comment: A large number of commenters expressed concern about the delays in payments which occurred in previous carrier transitions. Some commenters stated that a system for advance payments should be established for this transition.

Response: HCFA is committed to an orderly transition process which does not cause undue delays in payment. The details of that plan have been published in the Pre-Solicitation Notice. Comments on that notice have been received and are being analyzed before the RFP is published. We do not believe a special procedure for advance payments will be necessary, but we are developing general guidelines as to when advance payments will be appropriate for all carriers. The DMEPOS regional carriers

will follow the same procedures as all other carriers.

Comment: Several commenters thought some sort of phase-in would be appropriate. Most of the commenters preferred a phase-in by type of DMEPOS, and one commenter suggested a phase-in by States.

Response: An integral part of implementation will be a phase-in plan. We considered phasing-in by type of equipment, type of beneficiary, type of supplier, etc., but determined that phase-in on any of those criteria would cause some suppliers to be billing both regional and local carriers for an interim period. The plan we have chosen will first phase-in suppliers which operate in more than one State and which choose "early boarding," that is, to begin submitting all their DMEPOS claims to the regional DMEPOS carriers in the first month, and those that submit claims for Railroad Retirement beneficiaries, since the Railroad Retirement Board has agreed to contract with the four DMEPOS regional carriers for the processing of DMEPOS claims. As a result, suppliers will no longer need to obtain separate billing numbers for their Social Security and Railroad Retirement Medicare beneficiaries. During subsequent months of the four month implementation period, we will phase in claims State-by-State for claims currently being processed by the carriers located in each State. Under our current schedule, PEN claims will be phased-in at the same time as the other DMEPOS claims processed by Blue Cross and Blue Shield for South Carolina and Transamerica Occidental Life Insurance Company, unless PEN suppliers choose "early boarding" during the first month of implementation. The exclusive use of beneficiary residence for determining claims jurisdiction is required for the regional DMEPOS carriers only. During the implementation period, "point of sale" will continue to be used as the jurisdiction policy for DMEPOS claims processed at local carriers and "home office" claims jurisdiction policy for PEN claims processed by the two PEN specialty carriers.

Comment: Commenters placed emphasis on the need for education about the procedures to be used by the regional carriers for beneficiaries, physicians, suppliers and local carrier personnel.

Response: We agree. Education is an integral part of the transition plan published in the Pre-Solicitation Notice.

Comment: One commenter suggested that sufficient funding be allocated to the local carriers to assure that they provide the regional DMEPOS carriers with the support they need for a successful transition.

Response: We do not anticipate any problems resulting from less than full cooperation from the local carriers. Unlike transitions in the past, the local carriers will continue to be under contract with HCFA and process all other types of claims. Cooperation with the transition effort will be considered critical and will be evaluated as part of the total contractor evaluation.

We do not believe that some of the specific expected transition problems mentioned by commenters will exist. For example, we do not plan to require transfer of claims history or medical necessity documentation files from the local carriers to the regional DMEPOS carriers. Instead, we currently plan to have the regional carriers rely on CWF which will collect this information and make it an integral part of the query process, rejecting duplicate claims, ascertaining the existence of current medical necessity documentation, alerting questionable situations, etc. The files which local carriers must transfer, such as pricing data, will be transferred early in the transition period and can be tested rigorously before the "live" date.

Comment: Several commenters suggested that we first consolidate the non-PEN claims at the regional carriers; then, move the PEN claims.

Response: As mentioned above, we do not currently plan on moving the PEN claims after transition of other types of claims. We view these claims, with their one national pricing locality and well-established coverage policy and utilization parameters, as the claims which will be easiest for the new regional carriers to absorb.

Comment: One commenter suggested that administration of the regional carriers, at least on an interim basis, ought to be centered in HCFA's central operations, rather than in the regional offices, to assure timely and comprehensive resolution of any transition problems.

Response: Both the central and regional offices of HCFA will have integral roles in the monitoring of the transition. After operations at the regional carriers have stabilized, the four regional offices parallel to the regional carriers will assume primary operational responsibility for the regional carriers.

*Evaluation of Regional Carriers*

Comment: Commenters generally were in favor of a separate evaluation program for the regional carriers. The critieria they suggested for inclusion in that evaluation were very similar to the criteria they suggested for selection of the regional carriers.

Response: We agree that a separate evaluation of DMEPOS functions should be performed at the regional carriers, even if those carriers have other Medicare contracts. We have considered the many, excellent ideas presented by all commenters. The criteria for evaluation which we believe best address HCFA needs are included later in the preamble of this final rule, and we invite comment.

*Claims Jurisdiction Policy*

Comment: Most commenters agreed that using "point of sale" to determine carrier jurisdiction for processing claims for DMEPOS had served its purpose and that it was time to establish another policy. A few commenters suggested that there would be no need to change jurisdiction policy if we established pricing, coverage policy and utilization parameters on a national basis. A few commenters preferred using "point of delivery" as the point of reference for claims jurisdiction policy.

Response: We have thoroughly examined all possible bases for determining carrier claims processing jurisdiction. "Point of delivery" was analyzed when a component within the Department of Health and Human Services suggested that HCFA consider it. Our analysis concluded that in border areas, point of delivery could be manipulated by requiring beneficiaries to pick up their purchases or rentals from a location within the higher priced area. "Point of delivery" would be more expensive for HCFA to administer, since the claim histories for most beneficiaries are housed on the CWF host local to their permanent address. Under the current system, some suppliers have forced beneficiaries to call out of area offices to obtain items stored locally. We want to return to a system where beneficiaries have a choice of purchasing items their physicians find medically necessary for them, locally or from an out-of-State supplier. Whatever supplier the beneficiary chooses, the beneficiary's claim will be subject to the same carrier's regional coverage guidelines and the same State-wide payment rates, based on the site of the beneficiary's permanent address.

Comment: Several commenters requested exceptions to using beneficiary residence to determine carrier jurisdiction for beneficiaries living within a 60 mile radius of a border, those obtaining medical care in a tertiary care facility, and beneficiaries who are traveling or who have two homes.

Response: Exceptions to the beneficiary residence rule would not be appropriate, since one of the major intentions of these changes is to establish beneficiary specific records in the regional carrier within whose area a beneficiary has a permanent residence. Exceptions to the rule will result in the type of system we currently have where claims for a beneficiary may be processed anywhere in the country. No matter where borders are drawn there will be suppliers, which service a limited market area, that will be disadvantaged by having to submit claims to more than one regional carrier. Of course, there will be many fewer carriers, so that many claims for the exceptions cited above will actually be submitted to the same regional carrier. We have drawn the borders of the four regions to avoid, as much as possible, major metropolitan areas located on State borders, while conforming to the CWF sections.

Comment: Several commenters expressed concern about how a supplier was to determine the "legal address for tax purposes of a beneficiary," as required by the proposed rule.

Response: Concern about how to determine a beneficiary's legal address for tax purposes has led us to change the terminology to "permanent residence." Permanent residence is defined as the address at which a beneficiary intends to spend over six months of the calendar year. When a beneficiary moves to another address with the intent to stay at that address for over six months of the calendar year, then that address becomes the permanent residence. Thus, only the beneficiary can designate his/her permanent residence. A supplier must obtain permanent residence information from its customer, the Medicare beneficiary or his/her authorized representative.

A regional carrier will pay the rate applicable for the address shown on a claim unless it has reason to believe that the address is incorrect. If there is a question as to the correct permanent address, the regional carrier will conduct an investigation to determine the correct permanent address for the beneficiary.

Comment: One commenter suggested that the regional carrier be responsible for the determination of beneficiary residence or that suppliers be given access to the CWF to verify legal residence.

Response: There will be no need for the carriers to track beneficiary residence, except where there is evidence of abuse by a supplier. Likewise, suppliers will not need to verify, with the carrier or the CWF, the permanent residence of a beneficiary.

*Issuance of Supplier Numbers*

Comment: Commenters generally supported the supplier number issuance process. It was noted that the process is "akin to a license."

Response: The commenter is not correct in comparing the issuance of a supplier number to a license. A DMEPOS supplier can still furnish items to individuals other than Medicare beneficiaries, even if it is not approved for Medicare billing. However, if an entity meets the Medicare supplier standards it is a "supplier" and, therefore, eligible to receive Medicare payments or to have beneficiaries reimbursed for purchases or rentals it makes to them.

Comment: A few commenters preferred that suppliers be accredited or certified in a fashion similar to that used under Part A of Medicare, rather than the supplier numbering process we proposed.

Response: The certification process is authorized by statute for providers and certain suppliers, but not for DMEPOS suppliers. In general, that process is reserved for entities that furnish direct patient care and would not be appropriate for suppliers of items. We think it is appropriate, however, to require that entities which sell DMEPOS items to Medicare beneficiaries meet certain minimum business requirements in order to be recognized as Medicare suppliers.

Comment: A few commenters suggested that stating that we would reissue supplier numbers every two to three years did not give suppliers the certainty they need to plan adequately. It was also suggested that the supplier number re-issuance process be limited to suppliers in noncompliance with HCFA requirements. Another commenter thought that the process would be costly and an administrative nightmare, with little positive results. It was suggested that an annual purge of billing numbers which had not been used during the previous twelve months would avoid the problem of having defunct entities with supplier numbers.

Response: We agree that the two to three year language is ambiguous. We intend to require that suppliers reapply for supplier numbers every three years. For suppliers initially issued numbers in 1993, however, we will require about one-third of the suppliers to reapply for numbers two year later. In the third year we will require that another third of all suppliers reapply for supplier numbers and in the fourth year require the final third of suppliers to reapply. Supplier numbers issued in any of those years will not be subject to renewal for another three years. However, if no claims are submitted by a DMEPOS supplier over a period of four consecutive quarters, the supplier will also be asked to reapply for a supplier number. This process is intended to assure that only active suppliers have billing numbers. We plan to minimize cost and administrative effort for both the regional carriers and suppliers by providing to each supplier reapplying for a supplier number a copy of its current enrollment information and having the supplier check the information, make any necessary corrections and recertify that supplier standards are being met and that all ownership information is correct.

Comment: Several commenters stated their need for multiple supplier numbers for different addresses or product lines to aid in their accounting controls.

Response: We agree that for accounting purposes it is reasonable for suppliers with more than one business outlet to be allowed more than one billing number, in the form of a basic supplier number followed by a modifier. We do not agree to allow multiple numbers for multiple product lines, since a supplier can easily determine the amounts paid for each product line using the HCPCS codes.

Comment: One commenter requested that it be allowed to apply for billing numbers for all of its branch offices at one time.

Response: We would prefer that a supplier with multiple outlets submit supplier number application forms for all of it branches at the same time. Large suppliers should find this convenient, since only information on the addresses and managing employees, including any past or current associations with other suppliers and any sanctions they may have received, would differ.

Comment: We also received comments about implementation which emphasized the need for us to allow ample time for processing applications and obtaining any necessary additional or clarifying information. One carrier commented that it would be better to implement the disclosure statute in concert with the implementation of the regional carriers.

Response: We agree that sufficient implementation time is critical. We plan to collect supplier address information from all carriers this year and mail instructions and enrollment forms to all current suppliers. These forms will be returned to a single National Supplier Clearinghouse, one of the four regional carriers. New billing numbers should be

issued to DMEPOS suppliers approximately 2 months before claims are first processed by the regional carriers. The new numbers will not be used at local carriers.

*Disclosure of Ownership*

Comment: One commenter felt that the requirement proposed in § 420.206(b)(3) to provide updated information only 180 days after a change in ownership, etc., was too liberal.

Response: We agree. Although section 1124A(b) of the Act provides that a supplier must update ownership information within 180 days after a change, we believe that we have the authority to shorten the period, in the interest of effective implementation of the statute, and especially in light of our need to make correct payment decisions. We are revising § 420.206(b)(3) by shortening that period to 35 days to coincide with that for requested information.

This change would make the period for disclosure of changes the same as the period for response to requests for ownership information. Because of the problems we have experienced with fraudulent and abusive suppliers, the regional carriers will need to track closely changes in ownership to assure that suppliers related to problem suppliers are also closely scrutinized.

Comments: Several commenters requested a more precise definition of "control interest" and "managing employee." Some commenters suggested that we limit managing employees to those with ownership interests or that we use a standard commercial law definition. One commenter asked that specific ownership information on companies publicly traded on a major exchange be limited to those with a 10 percent or more interest.

Response: Section 1124A of the Act specifies the requirements for disclosure of ownership and defines "person with an ownership or control interest" as (1) a person described in section 1124(a)(3) of the Act or (2) a person who has one of the 5 largest direct or indirect ownership or control interests in a supplier. Section 1124(a)(3) defines "person with an ownership or control interest" as "a person who (A)(i) has directly or indirectly (as determined by the Secretary in regulations) an ownership interest of 5 per centum or more in an entity; or (ii) is the owner of a whole or part interest in any mortgage, deed or trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof, which whole or part interest is equal to or exceeds 5 per centum of the total property and assets of the entity; or (B) is an officer or director of the entity, if the entity is organized as a corporation; or, (C) is a partner in the entity, if the entity is organized as a partnership." We also believe that "control interest" includes any person meeting the above definitions for an entity which is involved in a joint venture which is seeking to qualify as a supplier and receive a billing number. Most of this definition is repeated in 42 CFR 420.201, published in 44 FR 41642, July 17, 1979, under the definition of a "person with an ownership or control interest." We will amend the definition in the regulations to bring it completely into accord with the above definition. The above definition makes clear that we cannot adopt the suggestion to limit reporting to those with a ten percent interest.

"Managing employee" is defined in section 1124A of the Act as a person described in section 1126(b) of the Act. Section 1126(b) defines "managing employee" as "an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the entity, or who directly or indirectly conducts the day-to-day operations of the entity." This definition is repeated in 42 CFR 420.201 and needs no amendment.

Comments: One commenter asked that we not include criminal offenses against title XX of the Act, pertaining to the Social Services Block Grant program, in our definition of reportable criminal offenses. Another requested that only histories of administrative sanctions, i.e., multiple offenses, by managing employees be reportable.

Response: Section 1124A(a)(2) of the Act also requires disclosure of any administrative sanctions, i.e., "penalties, assessments or exclusions" which have been assessed against any person with an ownership or control interest or a managing employee under section 1128, 1128A or 1128B of the Act. Those sections deal, respectively, with mandatory an permissive exclusions, civil monetary penalties, and criminal penalties for acts involving Medicare or State health care programs. Section 1128(h) defines a "State health care program" as (1) a State health plan approved under title XIX of the Act (Medicaid), (2) any program receiving funds under title V (Maternal and Child Health Services Block Grant Program), or from an allotment to a State under such title or (3) any program receiving funds under title XX or from an allotment to a State under such title. Thus, we must include convictions for criminal offenses under title XX of the Act in the information to be reported. We also cannot agree that only "histories" of administrative sanctions be reported, when the statute is clear that any such instance must be reported.

*Application of Disclosure of Ownership Requirements to Suppliers not Accepting Assignment*

Comment: Two commenters questioned HCFA's authority to expand disclosure of ownership requirements to suppliers not accepting assignment. Another praised HCFA for extending the requirements.

Response: Section 1833(e) of the Act gives HCFA the general authority to obtain any information it needs to correctly pay part B claims. We believe that this authority extends to ownership information, which can be relevant in determining whether there are outstanding overpayments for individuals involved with a supplier. We also believe that the disclosure provision in section 4164(b) of OBRA 90 also provides authority, as specified in section 1124A of the Act, to request information from all suppliers. The statute states that "* * * no payment may be made for items or services furnished by any disclosing part B provider unless such provider has provided the Secretary with full and complete information * * *" A "disclosing part B provider" means any entity receiving payment on an assignment related basis for furnishing items * * *" Even suppliers which do not "participate," i.e, agree to always accept assignment, may accept assignment on any claim. The statute does not require that more than one assigned claim be presented, but does require that full disclosure be made prior to payment of that claim. Therefore, it is reasonable to require disclosure routinely from all suppliers. It is also much more administratively efficient, since over 90 percent of all DMEPOS claims are, indeed, assigned.

We are also making disclosure a supplier standard. All entities must attest that they have made full and accurate disclosure in order to qualify as a Medicare supplier and to obtain a billing number.

*National Database of Supplier Information*

Comment: One commenter recommended a national supplier database to assemble and analyze relationships among suppliers.

Response: We agree. As mentioned above, we plan to designate one of the regional carriers as a National Supplier Clearinghouse. That carrier will process all supplier number applications, house files on all suppliers, including

ownership and other information collected on the HCFA–192, and correlate that information routinely, so that each regional carrier can annotate its files. It will also assist in special studies conducted by the regional carriers, HCFA or the DHHS Office of Inspector General (OIG).

*Supplier Standards—General*

Comment: There was general agreement that standards need to be set for suppliers. Several commenters thought that these standards ought to be quality, rather than business oriented, and more like the survey and certification process for Part A providers.

Response: As stated above, we do not want to establish quality of service standards for DMEPOS suppliers, since we can not pay suppliers for direct patient care, but can only pay for items and, in certain circumstances, maintenance, servicing, and repair. HCFA does have the responsibility and the authority to determine correct payment amounts and to ascertain that we are paying the correct suppliers. In order to assure we are paying the correct supplier, we must collect ownership information. We further have a responsibility to Medicare beneficiaries to assure that suppliers meet certain minimum business standards.

Comment: One commenter thought that certification as a part A provider ought to obviate the need for meeting the part B supplier standards.

Response: Since the part B supplier standards do not measure the same factors as the certification process, provider status will not automatically qualify the provider as a supplier. Any provider or physician who sells or rents items to a Medicare beneficiary for which a part B claim will be submitted to a DMEPOS regional carrier, must qualify as a supplier in order to be paid for those items.

Comment: One commenter felt that self-certification seemed ineffective and recommended that, at least, random validation would be necessary.

Response: We believe that self-certification is sufficient for almost all suppliers, especially since a false report to the government could constitute a serious offense. The regional carriers will investigate suppliers with which we experience problems and about which we received complaints.

Comment: Another commenter thought that while the idea of standards was admirable, these particular standards impede a supplier's ability to maintain business flexibility and result in excessive paperwork.

Response: We do not believe that the minimum standards proposed for suppliers will limit their business flexibility. We are adding a new § 424.57 Special payment rules for items provided by DMEPOS suppliers and issuance of DMEPOS supplier billing numbers, to clear up any misunderstandings there may be. We address these changes below, when we answer comments on specific standards. The paperwork associated with supplier standards, except for the complaint log, which is discussed below, consists of signing a certification that the standards are being met, usually only once every three years, and distributing copies of the supplier standards to Medicare customers.

*Inventory Requirements*

Comment: A few commenters were concerned about the requirement that suppliers fill orders from their own inventories or from inventory in companies with which they have contracted. The suppliers of prosthetics and orthotics were especially concerned since they maintain no inventory, but rather, custom fabricate items for each of their patients.

Response: We agree that we need to address the situation of the suppliers of prosthetics and orthotics. We specify in the requirement in new § 424.57(c)(1) the phrase: "or fabricates or fits items for sale from supplies it buys under a contract." The contracts referred to in this phrase and in the "inventory in other companies" need not be detailed written contracts, but they should be objectively provable. This provision is designed to exclude entities which merely act as brokers for other suppliers.

*Delivery*

Comment: Several commenters wanted clarification on the meaning of "delivery."

Response: Delivery does not necessarily mean delivery to the beneficiary's home. It also includes direct delivery to a beneficiary or his/her representative in the supplier's place of business. What we are trying to address with this provision are suppliers which accept orders from beneficiaries and then sell those orders to another company. This provision affirms that the supplier which accepts the order from the beneficiary has the responsibility to assure that the beneficiary receives what is ordered and that the supplier is responsible if the order is not received or is substandard or unsuitable.

*Warranties*

Comment: A number of commenters requested that we more narrowly define "warranties" as either those defined under the Uniform Commercial Code, under applicable State law or as "express and implied."

Response: We agree that further clarification is needed. In new § 424.57(c)(3), we clarify that "warranties" means "all warranties express and implied under applicable State law."

Comment: One commenter questioned how this provision would apply to customized devices and "service intensive treatments."

Response: Warranties for customized devices will be those applicable under State law for a completed device (materials and labor) as furnished to a Medicare beneficiary. "Service intensive treatments" are not reimbursable under any of the DMEPOS benefits.

*Answers Questions and Complaints*

Comment: One commenter recommended that we limit this standard to questions pertinent to the item being provided and not require suppliers to answer questions, in general, or, in specific, about the Medicare program.

Response: We agree. We are adding language to new § 424.57(c)(4) limiting what questions must be answered to those pertinent to the use of the item at issue. Suppliers will also be requested to refer beneficiaries with Medicare questions to the appropriate regional carrier beneficiary toll-free line.

*Maintains and Repairs Rental Items*

Comment: One commenter requested that language be added to make clear that a supplier may meet that requirement through a service contract with another company.

Response: We agree that service contracts are acceptable. We make this clear in new § 424.57(c)(5).

Comment: Two commenters asked that we include a standard which would require suppliers to disclose patients' rights information.

Response: We agree and have added a new § 424.57(c)(7). Suppliers will be required to supply to each Medicare beneficiary with whom it does business a copy of the supplier standards it must meet in order to enroll as a Medicare Part B supplier. The handout will include the telephone number of the regional carrier for the area and will invite beneficiaries to call if they feel that their suppliers are not complying with the standards.

Comment: Another commenter asked what arrangements should be made for items which beneficiaries take with them when they travel.

Response: A supplier remains responsible for repairs even when a beneficiary is traveling. We suggest that suppliers inform their customers what procedures should be followed in emergency situations.

Comment: Another commenter asked that suppliers of prosthetics and orthotics be exempted from this standard.

Response: If items are not rented, the standard is inapplicable.

*Returns of Substandard and Unsuitable Items*

Comment: One commenter was concerned that orthotic and prosthetic devices could be considered substandard when compared with another device of "higher quality" or with more elaborate features and that when a beneficiary's condition changes, custom devices may no longer be "suitable." Similar comments were received from commenters representing durable medical equipment suppliers.

Response: It is not intended that "substandard" or "unsuitable" include the situations mentioned by the commenter. "Substandard" means less than full quality for the particular item, not as that item is compared to other types of items. An example would be an item which is unusable for the purpose for which it was purchased. "Unsuitable" means not appropriate for the beneficiary at the time it was fitted and/or sold.

Comment: Another commenter stated that suppliers should be required to accept as returns only those items that are in compliance with company policy on packaging integrity and/or local health laws, since some items cannot be resold.

Response: We do not agree that suppliers should not be obliged to accept opened packages of sterile products, if those packages contain defective parts or items or are not what was ordered by the physician for the beneficiary or what the beneficiary thought he/she was purchasing. Suppliers should not be reselling defective items. To avoid selling unsuitable items and, especially, if there is a question about what has been ordered for the beneficiary, the supplier should contact the beneficiary's physician for clarification.

*Other Standards*

Comment: Several Commenters suggested additional standards: maintenance of a physical facility and personnel; proof of product/professional liability insurance; proof of meeting basic business, health and safety standards; proof of meeting more rigorous standards for ostomy and PEN suppliers; successful completion of an on-site inspection; documentation of a quality assessment and improvement plan; and an equipment management plan and documentation of management, administration, and governing body.

Response: We agree that every supplier should have a physical facility and personnel. Since both a street address and an employer identification number or Social Security number will be required for every supplier on the disclosure of ownership form, we do not believe that it is also necessary to make physical facility and personnel a standard.

We do not believe it is necessary to require proof of liability insurance. We do not wish to interfere in the way suppliers conduct their business any more than is absolutely necessary. We also feel that such a provision might prevent some small, local suppliers from providing DMEPOS to Medicare beneficiaries.

The disclosure of ownership from also requires the number of any license the supplier holds and the name of the licensing body. Since every State and locality has different licensing requirements, we cannot monitor that all of these are met in every case. We would expect the appropriate licensing bodies to monitor compliance with their own requirements.

We do not intend to require stricter standards for some types of suppliers than other suppliers. We have seen nothing to justify that the business operations of some types of suppliers are more problematic than others.

Routine on-site inspections would be extremely expensive. We do not believe they would be relevant to the types of business standards in this regulation.

We do not agree that a supplier quality assessment plan is relevant and should be required, nor do we agree that an equipment management plan is necessary. We believe that acceptance/rejection of such plans would be undue interference in the way suppliers do business.

Documentation about individuals involved in management, administration and governing of the supplier is already required on the disclosure of ownership form. Since failure to disclose ownership information has the same effect as failure to meet supplier standards, we are, as a matter of organization, making disclosure of ownership a supplier standard.

*Complaint Log*

Comment: Some commenters were concerned that a few clerical errors in a log might be cause for suspension. Two commenters felt that the requirement for a complaint log was reasonable. Most commenters expressed concern that the complaint log requirement was too expensive, especially if oral complaints had to be documented, would not be useful and was duplicative of existing complaint resolution processes, such as those for pharmacists. Several commenters thought that a viable alternative would be a protocol for receiving and maintaining complaints and to demonstrate actions taken to resolve or respond to the complaint.

Response: First, we would note that the requirement to maintain a complaint log is not a supplier standard, and, thus, a failure to maintain it would not, in the absence of violation of one or more supplier standards, be cause for revocation of a supplier number. Failure to maintain a complaint log is merely evidence that a supplier standard may not have been met.

We agree that the requirement for a complaint log, as presented in the proposed regulation at § 424.55(g) (now new § 424.57(f)), was more onerous and burdensome than is necessary. Instead, we require in § 424.57(f) that suppliers must have documentable complaint resolution processes and maintain a separate file of all written complaints, related correspondence, and notes of action taken in response to oral or written complaints. We reserve the right for a carrier to, on its own initiative or at the direction of HCFA, require that a full complaint log be kept by any supplier for which there has been one or more beneficiary complaints (depending on the gravity of those complaints) which a carrier has had to help resolve about the supplier's failure to meet supplier standards or comply with the law. Limiting required documentation to complaint protocols and recordkeeping of materials produced in the normal course of supplier operations should eliminate most of the paperwork burden from most suppliers, focusing more intensive requirements on suppliers with a history of possible abuse. In all cases, however, suppliers will bear the burden of proof when a carrier follows up on complaints. Records of notes and other documentation may be useful in demonstrating: (1) A supplier's efforts to resolve such complaints; and (2) the effectiveness of its complaint protocol. Among the factors that a carrier may employ in evaluating a supplier's performance will be the gravity of the

complaint(s) and the overall effectiveness of the complaint protocol and its implementation. We welcome any comments on the efficacy of this revised requirement: (1) focusing burden on the appropriate suppliers; and (2) improving supplier complaint protocols over time.

Comment: Several commenters wanted to know what constitutes a complaint. One commenter recommended that the regional carriers disclose to the suppliers, upon request, any complaints received and validated by the carrier, with enough detail so that suppliers can take corrective action.

Response: A complaint is an allegation that a supplier is not fully complying with a regional carrier requirement, a standard, regulation or law. Normally, when a complaint is received by a carrier, the carrier works with the supplier and beneficiary to resolve the complaint. If, however, the complaint is part of a larger pattern of abuse which is being reviewed, or the supplier is under investigation for fraud, the beneficiary is usually advised that his/her complaint will be handled as part of the larger review or investigation. In these situations, it could be inappropriate to inform a supplier about the existence of a complaint.

*Appeals Process*

Comment: Many of the commenters were concerned about the lack of due process afforded those entities which are denied supplier numbers or which have their supplier numbers revoked. Notice and fair hearing, with a chance to submit evidence, were requested. One commenter suggested that no revocation should be imposed until after all administrative appeals had been exhausted, or at least, until a supplier has had time to respond to a notice of revocation. Another commenter suggested that suspension of payment was sufficient punishment.

Response: We agree that there should be a timely appeals mechanism for the decision to not grant or to revoke a supplier number. However, we do not view either action as a punishment. As explained above, we are instituting a system where only entities which meet certain standards can be issued a billing number. If those standards are not met, the entity no longer qualifies as a supplier for Medicare payment purposes. We believe this to be an administrative determination rather than a sanction, to be effective as of 15 days after a notice that the entity no longer qualifies as a supplier is sent by the carrier to the supplier.

As a result of these comments, we are adding a new § 405.874, Appeals of carrier decisions that supplier standards are not met. We specify in this section that the carrier must send notice of its determination by certified letter. The determination will be effective 15 days after the notice is sent by the National Supplier Clearinghouse, that is, claims for items or services furnished to beneficiaries on the 15th day after the notice, and later, will not be allowed. We will, therefore, require that the carrier make arrangements for the entity to have a fair hearing, before a carrier official uninvolved with the original determination, within one week after the notice is sent, or later, if at the request of the entity. A decision based on information presented by both the carrier and entity will be issued no later than two weeks after the hearing is held and will be sent by certified mail to the supplier. The entity or carrier may then appeal that decision, if unfavorable, to the Health Care Financing Administration (HCFA). A HCFA official will decide the appeal based on the information submitted by the carrier hearing officer within two weeks of receipt of the entity's or carrier's appeal, unless the HCFA official feels the information provided is incomplete. HCFA may request additional written information from either the carrier or entity. A decision will be issued within two weeks of when the last information is received by the official, or four weeks from when it was requested, whichever is earlier. The decision will be sent by certified mail to both the carrier and entity. Until all administrative appeals are exhausted, any claims submitted by the entity for the period the National Supplier Clearinghouse has determined the entity does not qualify as a supplier will be logged in and held by the carrier, but not processed.

The National Supplier Clearinghouse may reinstate a "supplier" if the entity completes a corrective action plan which rectifies its past violations of supplier standards and provides sufficient assurance of its intent to comply fully with the supplier standard in the future.

*Coverage Policy*

Comment: Many commenters favored establishing national standard coverage policy. A number of commenters focused on the fact that some beneficiaries, in the absence of point of sale jurisdiction, will no longer have Medicare coverage for some few items and, in other situations, will not be able to have Medicare reimburse them or their supplier for as many supply items per month. They point out that all Medicare beneficiaries pay the same premium, but since coverage and utilization are different around the country, those Medicare beneficiaries receive different benefits.

Response: While it is theoretically possible to issue a national coverage decision for each DMEPOS item, the process would be extremely long and labor intensive for HHS. We generally follow the process as forth in proposed rules published in the Federal Register on January 30, 1989. There are potentially thousands of items that could be subject to the process, many of which have a low volume of utilization and minimal, if any, variation in existing local coverage policy. It could take years to implement national coverage policy just for items represented by the top 100 most used or abused billing codes.

Carriers will continue to be able to formulate local medical review policy for any item in the absence of, or as an adjunct to, national coverage policy and apply that local medical review policy in their processing areas as described in section 7531 of the Medicare Carriers Manual, under the authority of section 1842 of the Social Security Act. Each of the four carriers must send any proposed changes in local medical review policy to HCFA (to assure there is no conflict with national policy) and to the professional associations representing suppliers, physicians, hospital discharge planners, etc., in its are a for comment. After the 45 day comment period, the carrier must evaluate each comment and then publish its final local medical review policy for the entire supplier population it serves. The local medical review policy change will be effective 30 days after publication.

Comment: One commenter stated that if we standardized coverage guidelines, we would not need to change from "point of sale" claims jurisdiction to "beneficiary residence."

Response: As discussed above, development of standardized national coverage policy for all items would be a lengthy and cumbersome undertaking. Changing to four regional carriers will mean a change to only four sets of medical review policy, except for those items to which a national coverage decision applies. We intend to require each regional carrier to formulate local medical review policy for at least the top 100 used/abused codes before it begins reviewing claims. The medical directors for the four carriers will be conferring on these policies and it is our belief that in most cases the resulting decisions will be similar, if not the same.

Utilization parameters will also be established at each of the four carriers. We also believe that the parameters will be very similar at all four carriers.

Comment: A number of commenters pointed out that coverage and utilization were standardized nationally for the parenteral and enteral nutrients (PEN) program, and that there was supplier satisfaction with that standardization.

Response: There are only a few items covered under the PEN program. It was relatively easy to establish national policy for those few items.

Comment: Some commenters were worried about the effect on beneficiaries of changes in coverage and utilization rules.

Response: For some beneficiaries, changes in medical review policy and utilization will mean fewer supply items per month or noncoverage of a rental item which another carrier had previously determined was covered. For these beneficiaries, the regional carriers will consider, on a case by case basis, whether some sort of temporary "grandfathering" ought to be employed, i.e., whether the rules under which the claim was originally processed should be continued with respect to that item and that beneficiary.

*Payment Policy*

Comment: Similar comments were received on our plan to determine payment rates for each State within each region. Most commenters believed that national payment rates should be established. One commenter believed that HCFA could, based on the lowest charge level authority in section 1842(b)(3) of the Act, for items paid both on the basis of reasonable charges and fee schedules, establish one national locality for reasonable charge and fee schedule purposes or regions for the orthotics and prosthetics fee schedule which coincide with the four regional carrier areas.

Response: We do not believe that HCFA has the authority to establish national pricing under either the durable medical equipment or prosthetic and orthotic fee schedules or for items for which reasonable charges are determined. The fee schedule for durable medical equipment consistently refers to "local" rates. We do not believe that national rates could be determined to be "local." The fee schedule for prosthetics and orthotics explicitly refers to local and regional rates. HCFA does have some latitude in determining those regional areas. The lowest charge level provision applies to the "reasonable charges" payment system, but not to the fee schedule system.

Comment: One commenter suggested that the regions of the carriers might be constrained to be those of the regional pricing areas. Other commenters believed that it would not be administratively difficult to maintain multiple fee schedules, since they have traditionally maintained multiple pricing locality information, but wanted to know how pricing would be determined in States where there is more than one carrier.

Response: Reasonable charge legislation, in section 1842 of the Act, also refers to "locality" as does the lowest charge level provision. Except for the pricing of parenteral and enteral nutrients, equipment and supplies, HCFA has historically defined "local area" or "locality" as being no larger than a State. Carriers processing claims for more than one State maintain separate pricing data for each State. For DME, prosthetics and orthotics, although most localities are currently Statewide, some States contain more than one locality, and in two areas, a locality includes areas in more than one State, since fee schedule localities are carrier-wide. In addition, for items paid on a reasonable charge basis, there may be multiple localities within a State.

We are proposing that each State area now be treated as a locality by the regional carriers for DMEPOS items. For States where there is currently more than one locality, fee schedule data will be combined by HCFA and projected for the 1993 billing year. For the first part of 1993, before the local carriers transfer their DMEPOS claims to the regional carriers, all of the local carriers in such States will pay DMEPOS claims under the new consolidated fee schedule amounts.

Similarly, for areas covering more than one State, i.e., the District of Columbia area which includes two counties in Maryland and two counties and one municipality in Virginia, and the Kansas City, Missouri, area which contains two counties in Kansas, pricing will be calculated for each by geographic area and that data will be combined with those for the rest of the State.

In addition, by January 1993, each State will have only one locality for all DMEPOS items paid under reasonable charge rules. Prevailing and customary charge data will be combined and/or divided for the January 1, 1993 update, where appropriate, so that the regional carriers will merely carry over the rates paid by the local carriers when they assume the workload.

Comment: Another commenter asked how we would handle payment for some rentals for which the payment rates will change during the 15 month rental period.

Response: Some beneficiaries will be phased into new pricing or local medical review policy. The regional carriers will make those decisions on a case-by-case basis.

*Part B Claims Processed By Part A Intermediaries*

Comment: One commenter asked HCFA to be more specific about what claims would be transferred from Part A intermediaries. The effect on billings for ambulatory surgical centers, etc., was also questioned.

Response: We are planning to transfer most Part B claims for DMEPOS items from the fiscal intermediaries to the regional carriers approximately one year after the phase-in of DMEPOS claims from local carriers has been accomplished.

These claims will not include claims for any items for which payment is bundled into a larger payment package, such as for a hospital inpatient stay or an encounter in a hospital outpatient department, or claims for items which are supplied "incident to" services in a physician's office (see 42 CFR 410.26) or "incident to" a physician's service in a rural health clinic (see 42 CFR 405.2413).

Comment: The same commenter questioned HCFA's authority to transfer such claims, particularly claims submitted by home health agencies. It was also suggested that there would need to be a specific change in the regulations to permit transfer of such claims.

Response: Carriers have the primary responsibility to determine reasonable charges and fee schedule amounts for part B items. There is no prohibition, except for claims submitted by home health agencies, to requiring that they be processed by the regional carriers. We believe that DMEPOS claims would be more efficiently processed by the regional carriers which will maintain the reasonable charge levels and fee schedules for the area in which a beneficiary resides. Each of those carriers will also have uniform coverage guidelines and utilization parameters for items furnished to beneficiaries residing within it region, which an intermediary would find difficult to apply. Since there will be no difference in payment rates, we do not believe that another regulation will be necessary to transfer these claims. Intermediaries will continue to process claims for which payment is made on a reasonable cost basis or under the prospective payment system and claims for items provided by home health agencies.

**Common Working File**

Comment: Several recommendations were made by commenters that suppliers be allowed to directly access the Common Working File (CWF) to verify permanent address, utilization history, eligibility and Medicare Secondary Payer status.

Response: We do not believe that supplier access to the CWF is necessary. As explained above, the primary source of information on a beneficiary's permanent residence is the beneficiary. The beneficiary should also be the primary source of information on eligibility, utilization history, Medicare secondary payer (MSP), etc. If a beneficiary is not competent to supply this information, the guardian, custodian or representative payee of the beneficiary will be the best source of information.

Comment: One commenter requested that each regional carrier be given extracts of all DMEPOS claims transactions contained in CWF and that the CWF file be enhanced to include information on other claims which will have an impact on the review and payment of DMEPOS claims.

Response: We do not believe it is necessary for each regional carrier to have access to all CWF host sites. The regional carriers will be linked to each CWF host site in their DMEPOS regions and the host for Railroad Retirement beneficiary claims. Claims for beneficiaries whose records are located at other CWF host sites outside the DMEPOS region will be sent electronically to the appropriate CWF host. This is considered out of service area processing. For most out of service area claims this should mean only a two or three day turn around process.

We do have plans to enhance the CWF so that the processing of DMEPOS claims can be facilitated, particularly during the transition period. A separate DMEPOS claim record, Certificate of Medical Necessity (CMN) transaction record, a CMN auxiliary file and some unique dispositions and trailers are being developed for DMEPOS processing.

These data will be stored so that a duplicate claim check can be run against other DMPEOS claims.

The CMN record will collect beneficiary and item specific information on medical necessity, e.g., that a Certificate of Medical Necessity for oxygen has been received and accepted and is valid through a certain date or that a physician's prescription has been received and accepted for a supply item.

*Electronic Media Claims*

Comment: While there was support for more intensive electronic media claim (EMC) processing, two commenters indicated that suppliers need assistance in implementing EMC; one that financial incentives would be necessary: $1 per claim for the first year of EMC submission. On the other hand, some commenters suggested that it would be helpful to provide free software to suppliers, that current non-national format claims ought to be allowed to be submitted for an interim period and that all current EMC "grandfathering" arrangements will need to be rescinded.

Response: We plan to encourage all suppliers to adopt EMC submissions of claims and medical documentation. Suppliers with special billing problems will be given special assistance. While we do not, believe that financial incentives, per se, would be appropriate, we would not discourage a carrier from proposing in its bid to become a regional carrier that it would provide free DMEPOS-specific software to all suppliers.

We do not believe that we can compromise on our requirement that the national standard format be used for submission of EMC claims. The new regional carriers will be adjusting to too many other changes. We will not further complicate transition by requiring the regional carriers to support multiple EMC formats. We expect that regional carriers will test claims submissions from suppliers several months before claims are actually received for processing. This should allow sufficient time to "debug" for all suppliers wishing to use EMC. In addition, suppliers may voluntarily choose to begin submitting EMC claims to their current carriers under the national standard format at an earlier date to mitigate conversion problems when the regional carriers assume the workload.

*Payment Adjustments*

Comment: One comment suggested that since small suppliers had been disadvantaged by "point of sale" jurisdiction rules, they should receive retroactive payment adjustments to make them whole.

Response: We disagree. We do not think it would be appropriate to change retroactively jurisdiction rules or the effects of those rules. We also believe that we do not have the legal authority to make such retroactive adjustments.

*Ambulance Claims*

Comment: One commenter was concerned that this regulation would change rules affecting when Unique Physician Identification Numbers (UPINs) would be required for referring physicians on ambulance claims.

Response: This regulation has no effect on when UPINs are required on ambulance claims. The only effect of this rule on ambulance suppliers is the requirement for them to submit ownership and control information at the request of their carriers.

*Independent Physiological Laboratory Claims*

Comment: One commenter objected to a change in claims jurisdiction policy for independent physiological laboratory claims.

Response: This regulation does not affect claims jurisdiction for independent physiological laboratory claims. Disclosure of ownership and control rules do apply to independent physiological laboratories.

*Technical Corrections*

In addition to the revisions discussed above, we are making technical corrections to §§ 405.505, 421.200 and 421.210. In § 405.505, Determination of locality, we revise the definition of "locality" to specify that a locality is the geographical area for which the carrier is to derive the reasonable charges or fee schedule amounts for services or items, to include a State or larger area as a locality. We are making this revision so that it will conform with § 421.210(e) which requires that the regional carriers pay on a State-wide locality basis.

We are making a technical correction to § 421.200 Carrier function, to clarify that a regional DMEPOS carrier is exempt from the requirements in that provision.

In § 421.210 Designations of regional carriers to process claims for durable medical equipment, prosthetics, orthotics and supplies, we are adding new paragraph (a)(7) which will allow HCFA to assign the processing of other Part B items to the regional carriers, when coverage for those items is established or items normally provided by physicians, such as pneumococcal and hepatitis B vaccines, are self-administered. Though suppliers and physicians will be notified when new coverage is established, it should be assumed that all items not bundled into a physician or facility payment should be billed to a regional DMEPOS carrier.

In new § 424.57, Special payment rules for items provided by DMEPOS suppliers and issuance of DMEPOS supplier billing numbers, we add a definition of the acronym "DMEPOS".

and a definition of "supplier" for the purpose of this provision to specify that a supplier is an entity or individual, including a physician or Part A provider, which sells or rents Part B covered items to Medicare beneficiaries under the standards of § 424.57(c), and an enrolled supplier is a supplier which has an active billing number. We had previously proposed to add this information to § 424.55, but, for purposes of clarify, have decided to create a new provision applicable only to DMEPOS suppliers.

*Effective Dates*

The regulation provisions are effective August 17, 1992. The disclosure of ownership and supplier standards provisions will be applied to new suppliers August 17, 1992 and for all other suppliers on January 1, 1993. The change to beneficiary residence claims jurisdiction will be implemented for claims submitted to regional carriers beginning July 1, 1993.

**IV. Criteria and Standards for Evaluating Regional Carriers**

Section 1842(b)(2) of the Act requires the Secretary to publish in the **Federal Register** criteria and standards for the efficient and effective performance of contract obligations, and provide an opportunity for public comment prior to implementation.

We proposed to designate four regional DMEPOS carriers. The proposed designation using current data on claims volumes and beneficiary distribution would result in four approximately equal workload areas. These carriers would process electronically submitted claims in one standard national electronic media format. We would expect that these carriers would have exclusive authority over all DMEPOS claims currently paid for by part B local and specialty carriers, and will be given jurisdiction over those part B DMEPOS claims processed by fiscal intermediaries, except for items furnished by home health agencies. The four regional DMEPOS carriers would take over the responsibilities of the two current regional carriers processing claims for enteral and parenteral nutrients, supplies, equipment and immunosuppressive drugs.

Under section 1842(b)(2) of the Act, we are required to develop criteria, standards, and procedures to evaluate a carrier's performance of its function under its contract with us. We publish the criteria and standards in the **Federal Register** in order to allow the public an opportunity to comment on them before they are implemented. This preamble announces the criteria and standards to be used to measure the effectiveness and efficiency of the regional DMEPOS carriers.

In the event that the DMEPOS regional carrier contract is awarded to an organization which also has a contract with HCFA to perform the services of a Medicare carrier, the effectiveness and efficiency of that Medicare carrier contract will be evaluated with the criteria and standards applicable to all Medicare carriers. However, the organization's performance under the DMEPOS regional carrier contract will be evaluated using the criteria and standards applicable to DMEPOS regional carriers.

*A. Criteria and Standards—General*

We are establishing six separate criteria for evaluating regional DMEPOS carriers. Within each criterion we have identified the performance standard which, when measured, will evidence how well each DMEPOS regional carrier is performing.

The initial evaluation period for DMEPOS regional carriers will be from October 1, 1993 through September 30, 1994. We intend for subsequent evaluation periods to also follow the Federal fiscal year, October 1 through September 30.

The criteria and standards can be used to measure carrier performance at any time during the evaluation period and measurements can occur more than one time during a evaluation period. If a carrier's performance in a standard is measured two or more times during the evaluation period, all evaluations will be done on a cumulative basis back to the beginning of the evaluation period. Should a carrier's performance be deficient as measured against the criteria and standards at any time during the evaluation period, contract action may be initiated.

The criteria and standards will be contained in the contract with the regional DMEPOS carrier and will be effective for the duration of the contract, subject to revision if the contract is renegotiated or new contracts are awarded. We will publish in the **Federal Register** any revisions to the criteria and standards. Existing criteria and standards will remain in effect until the first day of the first month after the revisions are published in the **Federal Register**.

It is not our intention to revise either the evaluation period or the standards and criteria which will be used during the evaluation period once this information has been published in the **Federal Register**. However, on occasion, either because of administrative mandate or Congressional action, there may be a need for changes which have direct impact upon the criteria and standards previously published, or which require the addition of new criteria and standards, or which cause the deletion of previously published criteria and standards. Should such changes be necessitated, we will issue a **Federal Register** notice prior to implementation of the changes. The criteria and standards may also be revised to reflect changes in performance expectations. Should this become necessary, we will negotiate these changes to the standards with the regional DMEPOS carriers and we will publish changes in the **Federal Register** prior to implementation. Changes in standards and criteria will not be effective any earlier than the first day of the first month following publication.

As necessary, instructional issuances for implementing the criteria and standards will be published to ensure that the criteria and standards are implemented uniformly and accurately.

The **Federal Register** notice will be republished and the effective date revised if changes are warranted as a result of the public comments received on the standards and criteria.

*B. Action Based on Performance Evaluations*

We may initiate action based on these performance criteria and standards. We plan to consider the results of the evaluation in our determinations on entering into, renewing/extending, or terminating contracts or contract amendments with regional DMEPOS carriers. Such decisions are made on a case-by-case basis and depend primarily on the nature and degree of performance. More specifically, they depend on:

1. Relative performance compared to other regional DMEPOS carriers;
2. Number of standards in which acceptable or deficient performance occurs;
3. Extent of each deficiency; and
4. Relative significance of the standards for which acceptable or deficient performance occurs within the overall regional DMEPOS carrier criteria and standards.

Decisions on contract actions are made after considering these factors in terms of their relative significance and impact on the effective and efficient administration of the Medicare Program.

*C. Scoring System*

For a regional DMEPOS carrier to satisfactorily meet the overall criteria

and standards, the carrier must meet the performance requirements for each and every standard.

In general, if a carrier meets the level of performance required by its contract, it will pass each standard. Any rating below basic contractual performance obligations constitutes a deficiency whereby appropriate contract action may be initiated (see section B above). The carrier may be required to develop and implement a corrective action plan when performance problems are identified. The carrier will be monitored to assure effective and efficient compliance with the corrective action plan and improved performance where standards are not met.

*D. Criteria and Standards for Regional DMEPOS Carriers*

We will use six criteria to evaluate the overall performance of regional DMEPOS carriers. They are: (1) Quality; (2) efficiency; (3) service; (4) fraud and abuse; (5) National Supplier Clearinghouse; and (6) Statistical Analysis Regional DMEPOS carrier.

The six criteria contain a total of 12 standards. There are two for quality, four for efficiency, three for service, one for fraud and abuse, one for National Supplier Clearinghouse, and one for Statistical Analysis Regional DMEPOS carrier.

1. Quality Criterion

A DMEPOS regional carrier must pay claims accurately and in accordance with program instructions. The regional DMEPOS carrier is required to:

*Standard 1.* Process claims at an accuracy rate of 98.5%.

Claims are processed accurately with respect to coverage determinations, secondary payer consideration, supplier enrollment and the correct amount is approved for payment.

*Standard 2.* Implement measures to improve program effectiveness.

The regional DMEPOS carriers are expected to undertake actions to promote effective program administration with respect to DMEPOS claims. Such activities may include: overpayment recovery and offsetting of claim payment; assuring the proper submission of certificates of medical need; review of the implementation of medical fee schedules and reasonable charge updates, medical review activities; and implementation of coverage policy.

2. Efficiency Criterion

The regional DMEPOS carrier is required to:

*Standard 1.* Process 95.0% of clean claims within mandated timeframes and process 97.0% of all claims within 60 days.

*Standard 2.* Ensure that the Electronic Media Claims (EMC) goal is achieved.

DMEPOS regional carriers are advised of their specific goal for EMC prior to the evaluation period. In determining a carrier's specific goal, HCFA considers such factors as the extent to which DMEPOS claims have historically been submitted in EMC format.

*Standard 3.* Ensure that total actual expenditures are at or below budget authority and administrative funds are drawn in line with monthly expenditures.

Evaluates performance in controlling expenditures in line with the Notice of Budget Approval.

*Standard 4.* Ensure that unit cost does not exceed maximum negotiated unit cost.

Evaluates performance in controlling unit cost so that it is within the maximum negotiated unit cost.

3. Service Criterion

Beneficiaries and suppliers are served by prompt and accurate administration of the program in accordance with all applicable laws, regulations and general instructions. The regional DMEPOS carrier is required to:

*Standard 1.* Ensure that 95.0% of reviews and hearings are accurate and timely.

Reviews and hearings are evaluated to determine that decisions are accurate and communicated to the appropriate party within 45 days for reviews and 120 days for hearings.

*Standard 2.* Ensure that 95.0% of inquiries are responded to timely and accurately.

Telephone calls are answered within 120 seconds, callers do not get a busy signal more than 20% of the time, and responses are accurate. Written responses are accurate and prepared within 30 calendar days of date of receipt.

*Standard 3.* Respond to beneficiary and supplier education and training needs.

Carriers are expected to undertake actions that serve the beneficiary and supplier communities by explaining program requirements through up-to-date information, periodic educational training and bulletins, publishing and updating a supplier manual, meeting with trade associations and coordinating with local contractors on DMEPOS issues.

4. Fraud and Abuse Criterion

The regional DMEPOS carrier is required to:

*Standard 1.* Conduct an effective Program Integrity Program.

The regional DMEPOS carriers will be evaluated on a number of activities including: effectiveness in identifying and developing cases of fraud and abuse, bringing the cases to conclusion and collecting inappropriate payments, promoting beneficiary education in referring questionable suppliers or practices, and searching out supplier practices which are inappropriate.

5. National Supplier Clearinghouse (NSC) Criterion

*Standard 1.* Properly Administer the NSC.

The NSC will be reviewed to ensure it meets its various requirements such as: processing new and renewal applications for billing numbers, maintaining supplier file, matching OIG sanctioned suppliers, and enforcing supplier standards. In addition, the NSC will be evaluated based upon its performance in conducting statistical analysis of data to identify potential areas of over utilization, overpayments, fraudulent or abusive claims practices and other areas of concern to be identified by HCFA.

6. Statistical Analysis Regional DMEPOS Carrier Criterion

(The Statistical Analysis DMEPOS carrier function will be assigned to one of the Regional DMEPOS carriers. It will perform the functions measured by the standard.)

*Standard 1.* Properly Administer the Statistical Analysis Regional DMEPOS carrier program.

The Statistical Analysis Regional DMEPOS Carrier will be reviewed to ensure it meets its various requirements such as: analyzing national reports to identify trends, aberrancies, and utilization patterns, generating reports according to HCFA specifications, serving as the HCPCS definition resource center, developing national PEN pricing and national floors and ceiling for DME prices.

**V. Regulatory Impact Statement**

Executive Order 12291 (E.O. 12291) requires us to prepare and publish an initial regulatory impact analysis for any final rule that meets one of the Executive Order criteria for a "major rule"; that is, would be likely to result in—

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

A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

Significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of the United States based enterprises to compete with Foreign-based enterprises in domestic or export markets.

In addition, we generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a final rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we do not consider carriers as small entities. Therefore, a RFA will not be required.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any regulation that may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds. Unless claims for DMEPOS submitted by hospitals are moved to regional carriers, there will be no impact on hospitals. At this time, there are no definite plans to move these claims.

In light of the fact that many suppliers are in favor of these rule changes and for the reasons we have determined below, we do not believe that the threshold criteria under E.O. 12291 and RFA will be met. However, in the spirit of E.O. 12291 and the RFA, we are voluntarily providing the following information.

The contracts for the 4 regional DMEPOS carriers will be obtained competitively. Rather than merely select among existing Medicare carriers, as the Act permits, all entities which qualify as a "carrier" under the Act may bid for the contracts. We believe that this competition will allow the procurement of regional carriers which are both the most effective and the most efficient in DMEPOS processing.

DMEPOS claims compose only 5 percent of local Medicare carrier workloads. Regional carriers will be able to focus their attention on just DMEPOS claims. The staff will become expert in the processing of these claims. Special computer processing has been designed for these claims. We believe that his increased focus and expertise will result in significant program savings:

- Medical necessity criteria are being developed for all high volume and high cost items. Based on these criteria, claims will be evaluated by DMEPOS specialists. The closer scrutiny based on well defined standards should result in the denial of claims for items which are not medically necessary or the reduction of payment for items that are more complex than are medically necessary. Many such items have not been subjected to such comprehensive review, because there was no emphasis on developing the necessary review criteria.
- There should also be some savings achieved by eliminating the ability of suppliers to bill carriers with higher reimbursement, lenient local medical review policy and/or more generous utilization parameters. While some suppliers are being paid less now than they will under "beneficiary residence" claims jurisdiction, more suppliers are maximizing their profits by billing carriers which would pay more than the carrier local to the beneficiary to whom they sold a DMEPOS item.
- There will be additional savings attributable to both the prevention of fraud and the more effective and timely identification of fraud. Increased vigilance over all aspects of the DMEPOS program should prevent many suppliers from submitting fraudulent claims. The emphasis on beneficiary education, especially detection of potentially fraudulent practices, should also deter fraud.
- The new carriers will expand use of prepayment computer editing and cross checking to detect many fraudulent claims. The regional carriers will be assisted in their postpayment review by the SADMERC which will perform sampling and analysis of a national database of DMEPOS claims histories. Suppliers will find it more difficult to obscure fraudulent billing because of the more focused national postpayment review. Finally, each regional carrier will have a dedicated fraud unit which will be devoted to developing fraud cases for further investigation and prosecution.

We anticipate transitional questions from physicians who prescribe, and hospital discharge planners who help patients to obtain, DMEPOS. Educational campaigns will be conducted for these groups. There will also be an aggressive education campaign directed to both small and large suppliers, both about the changes in the program, and the desirability of submitting bills via electronic media claims (EMC) or in formats compatible for optical character readers.

We also anticipate questions from beneficiaries. An educational campaign is being designed to describe for them the change to regional carriers and to emphasize their role in the successful control of fraud and abuse in the DMEPOS industry. Since suppliers will no longer be able to choose the carrier to which they submit their bills, and thus, the payment rate they will receive, some beneficiaries will pay higher or lower copayment amounts. Those whose bills had been submitted to carriers with relatively high payments for supplier items may be subject to smaller copayments and a few beneficiaries, whose claims will now be priced at higher rates, will experience larger copayments. However, in many cases, these copayments will be paid for by Medicaid or a Medigap insurer. For some items, non-participating suppliers may no longer accept assignment, which may increase balance billing. In addition, the new supplier standards, including recordkeeping and disclosure requirements, may discourage some small suppliers from serving Medicare beneficiaries, thereby, limiting some beneficiaries living in small towns or rural areas to suppliers which market by catalog.

Most small suppliers which now bill a local carrier with which they are familiar would have to bill an unfamiliar carrier. On the other hand, large suppliers which now have set up their businesses so that they may bill only one carrier, may have to bill up to four carriers. Large suppliers which bill many local carriers may have the number of carriers which they bill reduced from as many as 34 to four.

All suppliers will be paid the same amounts for similar products used by beneficiaries residing within the same State. Their claims would also be subject to similar local medical review policies. HCFA would no longer be giving an unfair competitive advantage to larger suppliers which, under the current "point of sale" system, structure their businesses so that the "point of sale" is located within the area of a carrier with favorable documentation rules, utilization screens, local medical review policy or pricing for their products.

Suppliers currently filing EMC that are not currently using the standard EMC format to bill their local carriers would have to adapt their billing formats to HCFA's national standard format. This may cause a temporary reduction in the total number of DMEPOS claims to be processed by EMC. Since some suppliers may be unwilling or unable to establish completely new billing systems before the regional carriers begin processing every effort will be made to assist these suppliers in converting to the national

standard format while still being served by their local carriers. For those suppliers unable to convert to the national standard format before the claims are transferred to the regional carriers for processing, it will be expected that they will submit EMC claims before the end of the first processing year under the regional carriers. We expect, however, that, with aggressive EMC marketing and the reduced number of carriers, more suppliers will choose to utilize EMC. Suppliers using the national standard format at their local carriers would be able to bill their regional carriers electronically, immediately upon transition to the regional carriers.

Since all suppliers will need to apply for a billing number at the new carriers, we have developed a standard form, the HCFA–192. Suppliers will be required to submit, as part of their request for a billing number, certification that they meet supplier standards and information on those individuals with ownership and control interests or who are managing employees, and further identify any that have had any penalties, assessments or exclusions against them or against other suppliers with which they have been, or are, associated. Billing numbers must be renewed every 3 years.

The improved control of supplier billing numbers and change to beneficiary residence carrier jurisdiction should have positive impact on other third party payors, especially Medigap State agencies. We expect that the benefits of enforcing supplier standards will spill over into services and supplies reimbursed by other payors. Also, the consolidation of all claims for services and supplies provided to beneficiaries in a geographic area will enable the DMEPOS regional carriers to develop more comprehensive utilization profiles, facilitating the identification of fraudulent or abusive supplier billing practices. The recent General Accounting Office report. "Health Insurance: Vulnerable Payors Lose Billions to Fraud and Abuse" (May 19, 1992), suggested that one means of addressing the fraud and abuse in the health care industry would be better coordination among third party payors. We believe that proposed changes in the Medicare claims processing would promote the suggested coordination among insurers.

We expect all carriers, except any local carrier designated to act as a regional carrier, to experience a decrease of about 5 percent of their current claims workload. We expect that regional DMEPOS carriers would each process approximately 6 million claims. Increased start up costs for the first few years are expected. However, these costs would be partly offset by the reduced cost per claim resulting from economies of scale. There may be some administrative savings, both for the carriers losing DMEPOS claims, which must be handled quite differently from other claims, and for the regional carriers which will be handling an optimum number of claims for efficient processing. There will, however, be initial one time transition costs, for the first 1 to 2 years after implementation, as well as initial temporary increases in professional and beneficiary relations costs. While there will be some savings from increased use of EMC, these savings will primarily be achieved as the result of separate EMC initiatives. EMC claims for DMEPOS are currently processed at half the cost of hard copy claims. Some additional savings may be possible with increased use of optical character readable claims. With use of these techniques and suppliers preparing and submitting unassigned claims for beneficiaries (as required by section 1848(g)(4) of the Act, as enacted by section 6102 of Pub. L. 101–239), we expect fewer claims should be billed and processed in a hard copy format at a higher price.

Preliminary analysis suggests that the DMEPOS carrier criteria and standards will not result in significant utilization of Federal resources to administer them. We expect minimal effects on carrier costs due to this notice since the criteria and standards measure functional responsibilities that the carrier must be performing as a Medicare DMEPOS carrier.

The preamble to this rule sets forth the criteria and standards to be used for evaluation of Medicare regional DMEPOS carriers. This rule does not require specific performance of the operations being evaluated. It may have an effect on carrier operations such as bill processing, beneficiary services and provider services which could indirectly affect a substantial number of providers and suppliers.

The most important indirect effect on providers and suppliers as a result of this notice will be to ensure that they are paid timely and accurately. Therefore, we have determined, and the Secretary certifies that this rule does not meet the requirements to be determined a major rule nor does it meet criteria as having a significant impact on a substantial number of entities.

## VI. Response to Public Comments

Because of the large number of items of correspondence we normally receive on a final rule with comment, we are unable to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "COMMENT PERIOD" section of this preamble, and we will respond to comments in the preamble to the final rule.

## VII. Collection of Information Requirements

Sections 420.206, 421.210 and 424.57(c)(7) and (f) of this final rule contain information collection requirements that are subject to the Office of Management and Budget review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The information collection requirements concern the information necessary to request a billing number and for disclosure of ownership and control and the identities of managing employees. The respondents who will provide the information will be the suppliers. Public reporting burden for this collection of information is estimated to be 160,000 hours. We estimate that 160,000 suppliers will complete the information which is estimated at one hour per supplier. A notice requesting comments on the HCFA–192 was published in the **Federal Register** on October 30, 1991. OMB approval was obtained December 31, 1991.

Section 424.57(f) of the final rule seeks to establish the maintenance of a beneficiary complaint log, an additional information collection requirement on suppliers about which a carrier has obtained one or more complaints which it has to help resolve. The information to be collected in that log would include the date and nature of a beneficiary's complaint about a supplier's perceived noncompliance with supplier standards, the identity of the complainant and the date and nature of the response to the complaint. If a complaint is not investigated by the supplier, then the reason for the lack of investigation should be noted along with the identity of the person making the decision not to investigate. Other suppliers will need only to have complaint resolution protocols and maintain a file of all written complaints and related correspondence and notes of actions taken in response to oral and written complaints. We estimate that 130,000 suppliers will each require one hour to develop and document complaint resolution protocols creating a one-time paperwork burden of 130,000 hours. We further estimate that 130,000 suppliers will each receive 15 complaints per year and that the documentation and recordkeeping of materials already

produced in the normal course of supplier operations will require no more than 5 minutes each for a recordkeeping burden of 162,500 hours. For those suppliers which are asked to develop and report to Medicare more extensive records, probably no more than 100 to 200 suppliers, we estimate a burden of 15 minutes for each of 15 complaints, for an additional burden of 375 to 750 hours. The total burden would be approximately 293,000 hours. These requirements have been submitted to OMB for review and will not be effective until OMB approval is received. Comments on these requirements should be forwarded to OMB.

Finally, we will require all suppliers to give a copy of the supplier standards to each Medicare beneficiary with whom they do business. The National Supplier Clearinghouse will supply a copy to each enrolled supplier which may be photocopied. We estimate the burden for each supplier to average about 20 minutes per year, including photocopying and handing out the standards, which is about 53,500 hours. A notice will be published in the **Federal Register** when approval is obtained.

**List of Subjects**

*42 CFR Part 405*

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

*42 CFR Part 420*

Administrative practice and procedure, Fraud, Health facilities, Health professions, Medicare.

*42 CFR Part 421*

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

*42 CFR Part 424*

Emergency medical services, Health facilities, Health professions, Medicare.

42 CFR chapter IV is amended as follows:

A. Part 405 is amended as follows:

## PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. The authority citation for part 405, subpart E continues to read as follows:

**Authority:** Secs. 1102, 1814(b), 1832, 1833(a), 1834(b), 1842(b) and (h), 1861(b) and (v), 1862(a)(14), 1866(a), 1871, 1881, 1886, 1887, and 1889 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395k, 1395l(a), 1395m(b), 1395u(b) and (h), 1395x(b) and (v), 1395y(a)(14), 1395cc(a), 1395hh, 1395rr, 1395ww, 1395xx, and 1395zz).

2. In subpart E, § 405.505 is revised to read as follows:

**§ 405.505 Determination of locality.**

"Locality" is the geographical area for which the carrier is to derive the reasonable charges or fee schedule amounts for services or items. Usually, a locality may be a State (including the District of Columbia, a territory, or a Commonwealth), a political or economic subdivision of a State, or a group of States. It should include a cross section of the population with respect to economic and other characteristics. Where people tend to gravitate toward certain population centers to obtain medical care or service, localities may be recognized on a basis constituting medical services areas (interstate or otherwise), comparable in concept to "trade areas." Localities may differ in population density, economic level, and other major factors affecting charges for services. Carriers therefore shall delineate localities on the basis of their knowledge of local conditions. However, distinctions between localities are not to be so finely made that a locality includes only a very limited geographic area whose population has distinctly similar income characteristics (e.g., a very rich or very poor neighborhood within a city).

3. The authority citation for part 405, subpart H is revised to read as follows:

**Authority:** Secs. 1102, 1831–1843, and 1871 of the Social Security Act, as amended. (42 U.S.C. 1302, 1395j–1395v, and 1395hh.)

4. A new § 405.874 is added to subpart H to read as follows:

## Subpart H—Review and Hearing Under the Supplementary Medical Insurance Program

* * * * *

**§ 405.874 Appeals of carrier decisions that supplier standards are not met.**

(a) An entity serving as a National Supplier Clearinghouse must act promptly to determine if any entity submitting a request for a billing number as a Medicare supplier of part B items meets the standards set forth in part 424. Effective July 1, 1993, the National Supplier Clearinghouse must accept, reject or request additional information within 15 days of the receipt of an enrollment application.

(b) If the National Supplier Clearinghouse disallows an entity's request for a billing number or revokes, with the concurrence of HCFA, an entity's billing number, the National Supplier Clearinghouse notifies the entity by certified mail. Revocation is effective 15 days after the National Supplier Clearinghouse mails notice of its determination. The carrier disallows payment for items furnished by the supplier beginning with that effective date. The notice must inform the entity of the reason for the rejection or revocation, its right to appeal, the date by which it must file that appeal (90 days after the postmark of the notice) and the address to which the appeal must be sent in writing.

(c) A fair hearing officer not involved in the original determination to disallow an entity's request for a billing number, or to revoke an entity's billing number, must schedule a hearing to be held within one week of receipt of an appeal, or later at the request of the entity. Both the entity and carrier may offer evidence. The hearing officer issues a notice of his/her decision within 2 weeks of the hearing. The notice is sent by certified letter to HCFA, the carrier, and the appealing entity. This notice must include information about the supplier's further right to appeal, the carrier's right to appeal, the date by which the appeal must be filed (90 days after the postmark of the notice) and the address to which the appeals must be sent in writing. Either the carrier or entity may appeal the hearings officer's decision to HCFA.

(d) A HCFA official, designated by the Administrator of HCFA, must make an appeal decision based on the evidence presented to the fair hearing officer and his or her decision. The HCFA official requests any additional information he or she deems necessary from either the carrier or the entity within two weeks of receipt by the HCFA of the appeal. Notice of the HCFA official's decision—

(1) Is issued within two weeks of when the last information is received is received by the HCFA official, or four weeks of when the information is requested, whichever is shorter, unless the party appealing the fair hearing decision requests a delay;

(2) Is sent by the HCFA official by certified mail to both the carrier and the entity; and

(3) Contains information on any further appeals the entity and carrier may have.

(e) A billing number is not issued, or remains revoked, and payment is not made, for items or services furnished by any entity which a carrier determines does not qualify for a billing number, until the carrier (upon reapplication of the entity), a fair hearing officer, or a HCFA official designated to hear such appeals, determines that the entity

qualifies for a billing number. Any claims for items or services furnished after revocation of the supplier's billing number and submitted by the entity during the appeals period are held and not processed, i.e., are neither approved, denied or developed, until all administrative appeals have been exhausted. If an entity is determined not to have qualified for a billing number in one period but to have qualified in another, the carrier pays for claims for items sold or rented to beneficiaries during the period the entity qualified as a supplier. If there is evidence of an overpayment, see subpart C of part 405 of this Chapter.

(f) A billing number may be reinstated after revocation when an entity completes a corrective action plan, to which HCFA has agreed, and provided sufficient assurance of its intent to comply fully with the supplier standards.

B. Part 420 is amended as follows:

## PART 420—PROGRAM INTEGRITY: MEDICARE

1. The authority citation for part 420 is revised to read as follows:

**Authority.** Secs. 1102, 1124, 1124A, 1126, 1833(e), 1866 and 1871 of the Social Security Act (42 U.S.C. 1302, 1320a–3, 1320a–5, 13951(e), 1395cc, and 1395hh).

2. The heading of subpart C is revised to read as follows:

### Subpart C—Disclosure of Ownership and Control Information

3. Section 420.200 is revised to read as follows:

**§ 420.200 Purpose.**

This subpart implements sections 1124, 1124A, 1126, 1833(e), 1861, and 1866 of the Social Security Act. It sets forth requirements for providers, Part B suppliers, intermediaries, and carriers to disclose ownership and control information and the identities of managing employees. It also sets forth requirements for disclosure of information about a provider's or Part B supplier's owners, those with a controlling interest, or managing employees convicted of criminal offenses against Medicare, Medicaid, or the title V (Maternal and Child Health Services) and title XX (Social Services) programs.

4. In § 420.201, the definition of "Disclosing entity" is revised and the definition of "Supplier" is removed to read as follows:

**§ 420.201 Definitions.**

* * * * *

*Disclosing entity* means:

(1) A provider of services, an independent clinical laboratory, a renal disease facility, or health maintenance organization (as defined in section 1301(a) of the Public Health Service Act);

(2) A carrier or other agency or organization that is acting for one or more providers of services for purposes of part A and part B of Medicare; and

(3) A part B supplier, as defined in § 400.202 of this chapter.

* * * * *

5. Section 420.204 is revised to read as follows:

**§ 420.204 Principals convicted of a program-related crime.**

(a) *Information required.* Prior to HCFA's acceptance of a provider agreement or issuance or reissuance of a supplier billing number, or at any time upon written request by HCFA, the provider or part B supplier must furnish HCFA with the identify of any person who:

(1) Has an ownership or control interest in the provider or part B supplier;

(2) Is an agent or managing employee of the provider or part B supplier; or

(3) Is a person identified in paragraph (a)(1) or (a)(2) of this section and has been convicted of, or was an owner of, had a controlling interest in, or was a managing employee of a corporation that has been convicted of a criminal offense, subjected to any civil monetary penalty, or excluded from the programs for any activities related to involvement in the Medicare, Medicaid, title V or title XX social services program, since the inception of those programs.

(b) *Refusal to enter into or renew agreement or to issue or reissue billing numbers.* HCFA may refuse to enter into or renew an agreement with a provider of services, or to issue or reissue a billing number to a part B supplier, if any person who has an ownership or control interest in the provider or supplier, or who is an agent or managing employee, has been convicted of a criminal offense or subjected to any civil penalty or sanction related to the involvement of that person in Medicare, Medicaid, title V or title XX social services programs. In making this decision, HCFA considers the facts and circumstances of the specific case, including the nature and severity of the crime, penalty or sanction and the extent to which it adversely affected beneficiaries and the programs involved. HCFA also considers whether it has been given reasonable assurance that the person will not commit any further criminal or civil offense against the programs.

(c) *Notification of Inspector General.* HCFA promptly notifies the Inspector General of the Department of the receipt of any application or request for participation, certification, re-certification, or for a billing number that identifies any person described in paragraph (a)(3) of this section and the action taken on that application or request.

6. Section 420.205 is revised to read as follows:

**§ 420.205 Disclosure by providers and part B suppliers of business transaction information.**

A provider or part B supplier must submit to HCFA, within 35 days after the date of a written request, full and complete information on—

(a) The ownership of a subcontractor with which the provider or part B supplier has had, during the previous 12 months, business transactions in an aggregate amount in excess of $25,000;

(b) Any significant business transactions between the provider or part B supplier and any wholly owned supplier or between the provider or part B supplier and any subcontractor, during the 5 year period ending on the date of the request;

(c) The names of managing employees of the subcontractors;

(d) The identity of any other entities to which payment may be made by Medicare, which a person with an ownership or control interest or a managing employee in the subcontractor has or has had an ownership or control interest in the 3-year period preceding disclosure; and

(e) Any penalties, assessments, or exclusions under sections 1128, 1128A and 1128B of the Act incurred by the subcontractor, its owners, managing employees or those with a controlling interest in the subcontract.

7. In § 420.206, paragraph (a) introductory text is republished, paragraphs (a)(1), (a)(3), (b)(2), (b)(3), and (c) are revised to read as follows:

**§ 420.206 Disclosure of persons having ownership, financial, or control interest.**

(a) *Information that must be disclosed.* A disclosing entity must submit the following information in the manner specified in paragraph (b) of this section:

(1) The name and address of each person with an ownership or control interest in the entity or in any subcontractor in which the entity has direct or indirect ownership interest totaling 5 percent or more. In the case of a part B supplier that is a joint venture, ownership of 5 percent or more of any

company participating in the joint venture should be reported. Any physician who has been issued a Unique Physician Identification Number by the Medicare program must provide this number.

* * * * *

(3) The name of any other disclosing entity in which any person with an ownership or control interest, or who is a managing employee in the reporting disclosing entity, has, or has had in the previous three-year period, an ownership or control interest or position as managing employee, and the nature of the relationship with the other disclosing entity. If any of these other disclosing entities has been convicted of a criminal offense or received a civil monetary or other administrative sanction related to participation in Medicare, Medicaid, title V (Maternal and Child Health) or title XX (Social Services) programs, such as penalties assessments and exclusions under sections 1128, 1128A or 1128B of the Act, the disclosing entity must also provide that information.

* * * * *

(b) * * *

(2) Any disclosing entity that is not subject to periodic survey and certification must supply the information specified in paragraph (a) of this section to HCFA before entering into a contract or agreement with Medicare or before being issued or reissued a billing number as a part B supplier.

(3) A disclosing entity must furnish updated information to HCFA at intervals between recertification, or re-enrollment, or contract renewals, within 35 days of a written request. In the case of a part B supplier, the supplier must report also within 35 days, on its own initiative, any changes in the information it previously supplied.

(c) *Consequences of failure to disclose.* (1) HCFA does not approve an agreement or contract with, or make a determination of eligibility for, or (in the case of a part B supplier) issue or reissue a billing number to, any disclosing entity that fails to comply with paragraph (b) of this section.

(2) HCFA terminates any existing agreement or contract with, or withdraws a determination of eligibility for or (in the case of a part B supplier) revokes the billing number of, any disclosing entity that fails to comply with paragraph (b) of this section.

* * * * *

C. Part 421 is amended as follows:

## PART 421—INTERMEDIARIES AND CARRIERS

1. The authority citation for part 421 is revised to read as follows:

**Authority:** Secs. 1102, 1815, 1816, 1833, 1834(a) and (h), 1842, 1861(u), 1871, 1874, and 1875 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395h, 1395l, 1395m (a) and (h), 1395u, 1395x(u), 1395hh, 1395kk, and 1395ll), and 42 U.S.C. 1395b–1.

### Subpart A—Scope, Definitions, and General Provisions

2. Section 421.1(a) is revised to read as follows:

**§ 421.1 Basis and scope.**

(a) This part is based on sections 1124A, 1815, 1816, 1834, 1842, and 1874 of the Social Security Act and 42 U.S.C. 13956–1 (experimental authority).

* * * * *

3. In subpart C, § 421.200, the introductory text is revised to read as follows:

### Subpart C—Carriers

**§ 421.200 Carrier functions.**

A contract between HCFA and a carrier, other than a regional DMEPOS carrier, specifies the functions to be performed by the carrier which must include, but are not necessarily limited to, the following:

* * * * *

4. In § 421.202, the introductory text and paragraph (c) are revised to read as follows:

**§ 421.202 Requirements and conditions.**

Before entering into or renewing a carrier contract, HCFA determines that the carrier—

* * * * *

(c) Will be able to meet any other requirements HCFA considers pertinent, and, if designated a regional DMEPOS carrier, any special requirements for regional carriers under § 421.210 of this subpart.

5. New § 421.210 is added to read as follows:

**§ 421.210 Designations of regional carriers to process claims for durable medical equipment, prosthetics, orthotics and supplies.**

(a) *Basis.* This section is based on sections 1834(a) and 1834(h) of the Act which authorize the Secretary to designate one or more carriers by specific regions to process claims for durable medical equipment, prosthetic devices, prosthetics, orthotics and other supplies (DMEPOS). This authority has been delegated to HCFA.

(b) *Types of claims.* Claims for the following, except for items incident to a physician's professional service as defined in § 410.26, incident to a physician's service in a rural health clinic as defined in § 405.2413, or bundled into payment to a provider, ambulatory surgical center, or other facility, are processed by the designated carrier for its designated region and not by other carriers—

(1) Durable medical equipment (and related supplies) as defined in section 1861(n) of the Act;

(2) Prosthetic devices (and related supplies) as described in section 1861(s)(8) of the Act, (including intraocular lenses and parenteral and enteral nutrients, supplies, and equipment, when furnished under the prosthetic device benefit);

(3) Orthotics and prosthetics (and related supplies) as described in section 1861(s)(9);

(4) Home dialysis supplies and equipment as described in section 1861(s)(2)(F);

(5) Surgical dressings and other devices as described in section 1861(s)(5);

(6) Immunosuppressive drugs as described in section 1861(s)(2)(J); and

(7) Other items or services which are designated by HCFA.

(c) *Region designation.* The boundaries of the four regions for processing claims described in paragraph (b) of this section coincide with the boundaries of 1 or more sectors or areas designated for the Common Working File. These four regions contain the following States and territories: Region A: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, and Delaware. Region B: Maryland, the District of Columbia, Virginia, West Virginia, Ohio, Michigan, Indiana, Illinois, Wiconsin and Minnesota. Region C: North Carolina, South Carolina, Kentucky, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, Oklahoma, New Mexico, Colorado, Puerto Rico and the Virgin Islands. Region D: Alaska, Hawaii, American Samoa, Guam, the Northern Mariana Islands, California, Nevada, Arizona, Washington, Oregon, Montana, Idaho, Utah, Wyoming, North Dakota, South Dakota, Nebraska, Kansas, Iowa and Missouri.

(d) *Criteria for designating regional carriers.* HCFA designates regional carriers to achieve a greater degree of effectiveness and efficiency in the administration of the Medicare program as measured by—

(1) Timeliness of claim processing;

(2) Cost per claim;
(3) Claim processing quality;
(4) Experience in claim processing, and in establishing local medical review policy; and
(5) Other criteria that HCFA believes to be pertinent.

(e) *Carrier designation.* (1) Each carrier designated a regional carrier is responsible, using the payment rates applicable for the State of residence of a beneficiary, including a qualified Railroad Retirement beneficiary, for processing claims for items listed in paragraph (b) of this section for beneficiaries whose permanent residence is within the area designated in paragraph (c) of this section. A beneficiary's permanent residence is the address at which he or she intends to spend 6 months or more of the calendar year.

(2) The identities of the regional carriers are specified in a notice published in the **Federal Register** when contracts are established.

(f) *Collecting information of ownership.* Carriers designated as regional claims processors must obtain from each supplier of items listed in paragraph (b) of this section information concerning ownership and control as required by section 1124A of the Act and part 420 of this chapter, and certifications that supplier standards are met as required by part 424 of this chapter.

D. Part 424 is amended as set forth below:

## PART 424—CONDITIONS FOR MEDICARE PAYMENT

1. The authority citation for part 424 continues to read as follows:

**Authority:** Secs. 216(j), 1102, 1814, 1815(c), 1835, 1842(b), 1861, 1866(d), 1870 (e) and (f), 1871 and 1872 of the Social Security Act (42 U.S.C. 416(j), 1302, 1395f, 1395g(c), 1395n, 1395u(b), 1395x, 1395cc(d), 1395gg (e) and (f), 1395hh and 1395ii).

2. Section 424.57 is added to subpart D to read as follows:

### § 424.57 Special payment rules for items furnished by DMEPOS suppliers and issuance of DMEPOS supplier billing numbers.

(a) *Definitions.* As used in this section—"DMEPOS" is the acronym for durable medical equipment, prosthetics, orthotics and supplies. A "supplier" is an entity or individual, including a physician or part A provider, which sells or rents part B covered items to Medicare beneficiaries and which meets the standards in paragraph (c) of this section.

(b) Medicare pays for items furnished by a supplier with a billing number to the—

(1) Supplier if the beneficiary (or the person authorized to request payment on the beneficiary's behalf) assigns the claim to the supplier and the supplier accepts assignment;

(2) Beneficiary, if the supplier does not accept assignment; or

(3) Partly to the beneficiary and partly to the supplier, if the supplier accepts assignment of the bill, as described in § 424.56.

(c) Medicare does not issue a billing number to a supplier that submits claims for items listed in § 421.210(b) of this subchapter until that supplier meets, and certifies that it meets, the following standards. The supplier—

(1) In response to orders which it receives, fills those orders from its own inventory or inventory in other companies with which it has contracted to fill such orders or fabricates or fits items for sale from supplies it buys under a contract;

(2) Is responsible for delivery of Medicare covered items to Medicare beneficiaries;

(3) Honors all warranties express and implied under applicable State law;

(4) Answers any questions or complaints a beneficiary has about the item or use of the item that was sold or rented to him or her, and refers beneficiaries with Medicare questions to the appropriate carrier;

(5) Maintains and repairs directly or through a service contract with another company, items it has rented to beneficiaries;

(6) Accepts returns of substandard (less than full quality for the particular item) or unsuitable items (inappropriate for the beneficiary at the time it was fitted and/or sold) from beneficiaries;

(7) Discloses consumer information to each beneficiary with whom it does business which consists of the supplier standards to which it must conform; and

(8) Complies with the disclosure provisions in § 420.206 of this subchapter.

(d) If a supplier is found not to meet the standards in paragraph (c) of this section, its billing number is revoked, effective 15 days after the entity is sent notice of the revocation. A billing number may be issued, with the concurrence of HCFA, when a supplier has successfully completed a corrective action plan rectifying past violations of the supplier standards and provided sufficient assurance that it will comply with the supplier standards in the future. Corrective action includes repayment of monies due to beneficiaries and Medicare, and honoring applicable warranties.

(e) Suppliers must renew their applications for a billing number 3 years after the billing numbers are first reissued, except for the first reissuance process, as follows: suppliers must renew applications for supplier numbers 2 years after initial issuance of billing numbers for one third of all suppliers. Another one third of suppliers must reapply 3 years after initial issuance. The last third of suppliers must reapply 4 years after initial issuance. Thereafter, each supplier must reapply 3 years after its last number is issued, unless no claim for an item furnished by a supplier has been submitted for four consecutive quarters, in which case the supplier must submit a new request for another billing number.

(f) Suppliers are required to have complaint resolution protocols to address beneficiary complaints which relate to the supplier standards in paragraph (c) of this section and to keep written complaints and related correspondence, and any notes of actions taken in response to written or oral complaints. Failure to maintain such information may be considered evidence that supplier standards have not been met. If a carrier determines that a supplier is not satisfactorily responding to one or more beneficiary complaints, the carrier may require that a supplier maintain the following information on all written and oral beneficiary complaints, including telephone complaints, it receives: The name, address, telephone number and health insurance claim number of the complaint, a summary of the complaint and the date it was made; the name of the person taking the complaint, a summary of any actions taken to resolve the complaint; and, if an investigation was not conducted, the name of the person making the decision and the reason for the decision.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance and No. 93.774 Supplementary Medical Insurance Program)

Dated: April 28, 1992.

**William Toby,**

*Acting Administrator, Health Care Financing Administration.*

Approved: May 6, 1992.

**Louis W. Sullivan,**

*Secretary.*

[FR Doc. 92–14044 Filed 6–12–92; 12:16 pm]

BILLING CODE 4120–01–M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Health Care Financing Administration**

**[BPO–102–GNC]**

**RIN 0938–AF59**

## Medicare Program; Criteria and Standards for Evaluating Regional Durable Medical Equipment, Prosthetics, Orthotics and Suppliers (DMEPOS) Carriers; Request for Comments

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice with comment period.

**SUMMARY:** We are establishing criteria and standards for evaluating the performance of designated carriers processing claims for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) in the administration of the Medicare program in a document published elsewhere in today's issue of the **Federal Register** ("Carrier Jurisdiction for Claims for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) and Other Issues Involving Suppliers, and Criteria and Standards for Evaluating Regional DMEPOS Carriers"). We will issue any response to public comments we receive on these criteria and standards in the notices section of the **Federal Register**. Future amendments to the criteria and standards for evaluating performance of Medicare carriers will also be issued as notice documents.

**DATES:** The effective date for the criteria and standards for the designated DMEPOS carriers is October 1, 1993.

Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on August 17, 1992.

**ADDRESSES:** Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO–102–GNC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your written comments to one of the following addresses: Room 308–G, Hubert H. Humphrey Building, 200 Independence Ave., SW, Washington, DC 20201, or Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Due to staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

In commenting, please refer to file code BPO–102–GNC. Written comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in room 309–G of the Department's office at 200 Independence Avenue SW., Washington, DC on Monday through Friday of each week from 8:30 to 5 p.m. (phone: 202–245–7890).

**FOR FURTHER INFORMATION CONTACT:** Larry Pratt (410) 966–7403.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and No. 93.774 Supplementary Medical Insurance Program)

Dated: June 12, 1992.

**Timothy C. Miller,**

*Acting Director, Office of Regulations Management, Health Care Financing Administration.*

[FR Doc. 92–14195 Filed 6–12–92; 12:17 pm]

**BILLING CODE 4120–01–M**

Federal Register

Thursday
June 18, 1992

Part III

# Department of the Interior

## Bureau of Indian Affairs

## Final Determination That the Miami Nation of Indians of the State of Indiana, Inc. Does Not Exist as an Indian Tribe; Notice

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Final Determination That the Miami Nation of Indians of the State of Indiana, Inc. Does not Exist as an Indian Tribe

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of final determination.

**SUMMARY:** Pursuant to 25 CFR 83.9 (h), notice is hereby given that the Assistant Secretary has determined that the Miami Nation of Indians of the State of Indiana, Inc., does not exist as an Indian tribe within the meaning of Federal law.

This notice is based on a determination that the Miami Nation of Indians of Indiana, Inc., does not meet two of the seven mandatory criteria for acknowledgment set forth in 25 CFR 83.7 and, therefore, does not meet the requirements necessary for a government-to-government relationship with the United States. This determination was made following a review of public comments on the proposed finding to decline to acknowledge the group.

**DATES:** This determination is final and will become effective August 17, 1992, unless the Secretary of the Interior requests a reconsideration by the Assistant Secretary—Indian Affairs pursuant to 25 CFR 83.10(a)-(c).

**FOR FURTHER INFORMATION CONTACT:** Holly Reckord, (202) 208–3592.

**SUPPLEMENTARY INFORMATION:** This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

A notice of the proposed finding to decline to acknowledge the Miami Nation was published in the **Federal Register** on July 19, 1990 (pp. 29423–5, Volume 55, No. 139). The 120–day period provided for in the regulations for comment on the proposed finding was extended several times at the request of the Miami Nation. The comment period closed on June 17, 1991.

Substantial comments and evidence were submitted by the Miami Nation (Indiana Miami) in response to the proposed finding. Limited comments, not containing substantive new evidence and/or arguments, were received from two other interested parties.

This final determination is based on a consideration of the new evidence and arguments submitted by the Miami Nation together with new evidence obtained by the Branch of Acknowledgment and Research (BAR) staff in order to evaluate the materials submitted by the petitioner. In addition, the extensive evidence and arguments submitted by the Miami Nation or generated by BAR in the conduct of its own research in preparing the proposed finding were also considered in making this final determination.

The July 19, 1990, proposed finding against acknowledgment of the Miami Nation determined that the Indiana Miami fully met five of the seven criteria for acknowledgment. The Indiana Miami have been identified as an Indian entity throughout their history until the present by the Federal Government, local non-Indians, scholars, and other sources. They, therefore, met criterion 83.7(a). The Indiana Miami submitted a copy of their current governing document and the criteria used to determine eligibility for membership and therefore met criterion 83.7(d). Virtually all of the members could trace ancestry to Federal payment rolls created in 1889 and 1895 and thus were descended from the historic Miami tribe. They, therefore, met criterion 83.7(e). Less than one percent of the membership could be identified as a member of an already recognized tribe. The Indiana Miami, therefore, met criterion 83.7(f). A review of legislation affecting the Indiana Miami indicated that neither the petitioner, nor its members, are subject to congressional legislation terminating or forbidding the Federal relationship. The Indiana Miami, therefore, met criterion 83.7(g).

No evidence or arguments were submitted to refute the proposed finding that the Indiana Miami met criteria a, d, e, f, and g. Therefore, we conclude that the Indiana Miami meet these criteria.

The criterion in 25 CFR 83.7(b) requires "Evidence that a substantial portion of the petitioning group inhabits a specific area or lives in a community viewed as American Indian and distinct from other populations in the area and that its members are descendants of an Indian tribe which historically inhabited a specific area." The proposed finding concluded that the Indiana Miami met criterion b continuously from early historic times until at least the 1940's. It concluded further, however, that the available evidence was not sufficient to demonstrate that the present-day Indiana Miami constituted a distinct community within which significant interaction was maintained and, therefore, that the Indiana Miami did not meet the requirements of criterion 83.7(b).

We find that social contact within the present-day Indiana Miami membership is extremely limited in degree and extent, and there is virtually no social distinction between Indiana Miami members and the non-Miamis with whom they interact. The Indiana Miami do not meet the intent of the regulations and the precedents underlying the regulations that, to be acknowledged as a tribe, a group must constitute a community which is distinct and whose members have significant social ties with each other. We conclude, therefore, that the Indiana Miami do not meet the requirements of criterion 83.7(b).

The criterion in 25 CFR 83.7(c) requires "A statement of facts which establishes that the petitioner has maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present." The proposed finding concluded that the Indiana Miami met the requirements of criterion c until the early 1940's. The proposed finding concluded further, however, that tribal political processes involving leaders or organizations with a broad following on issues of significance to the overall Indiana Miami membership did not exist after the early 1940's and that the Indiana Miami, therefore, did not meet criterion c.

Although the Indiana Miami maintained tribal political authority which meets the requirements of the regulations until the early 1940's, after the early 1940's the activities and influence of the leadership and/or organizations claiming to represent the Indiana Miami became so greatly diminished that significant political processes no longer existed after that point in time.

There are no clearcut, significant examples of the exercise of political influence or authority among the Indiana Miami between the early 1940's and the late 1970's. The available evidence did not demonstrate, by alternative means, the exercise of tribal political influence. It was not demonstrated that claims, the primary activity of the Miami organizations between the early 1940's and 1979, was of more than nominal significance to the membership of the Indiana Miamis as a whole. The extent of involvement of most Miamis with the Miami organizations was too limited to meet the requirements of the regulations for a bilateral political relationship. Bitter, faction-like conflicts between Miami organizations in the 1950's and 1960's provided some, largely indirect, evidence that political processes may have extended beyond the organizations to at least a portion of the membership in general. There was also some evidence that cemetery protection was a political issue of importance to a large portion of the membership. Overall, the

evidence was not sufficient to establish that between the early 1940's and 1979 the Miamis maintained political processes which meet the requirements of the regulations.

The present-day Indiana Miami organization and its leadership do not have a demonstrable political relationship with most of the membership they purportedly represent, and they do not act on matters which are of sufficient importance to the membership to meet the requirements of the regulations for the exercise of tribal political authority. Thus the present-day Indiana Miami do not meet the intent of the regulations and the precedents underlying the regulations in the following ways: The members do not maintain a bilateral political relationship with the tribe, and the leaders do not act on at least some matters which are of consequence to members or affect members' behavior in more than a minimal way.

We find that the available evidence does not demonstrate that the Indiana Miamis in the period between the early 1940's and the late 1970's maintained political processes which meet the requirements of criterion c. We find further that the available evidence establishes that the present-day Indiana Miami do not meet the requirements of criterion c. We conclude, therefore, that the Indiana Miami have not met the requirements of criterion c.

In accordance with 25 CFR 83.9(j) of the Acknowledgment regulations, an analysis was made to determine what, if any, option other than acknowledgment would be available under which the petitioning group could make application for services and other benefits as Indians. No alternatives were found. A few members are also enrolled with recognized tribes and additional individuals may be eligible, on the basis of other than Indiana Miami ancestry, to enroll in a recognized tribe.

Requests to the Secretary for reconsideration may be made by any party and must be received within 60 days of the publication of this notice. Requests should be accompanied by a detailed statement of the grounds for the request and should include any new evidence to be considered. If necessary, the 60-day time limit in 83.10(a) may be extended to allow the Secretary a period of 90 days from the receipt of a request in which to act.

Under the regulations, the Secretary may request reconsideration of any decision but shall request reconsideration of any decision which in his opinion meets the requirements of 25 CFR 83.10(c)(1–3). If the Secretary receives a request for reconsideration, the Assistant Secretary—Indian Affairs will recommend that such a request be referred to the Interior Board of Indian Appeals (IBIA) and that the IBIA be authorized (pursuant to 43 CFR part 4) to determine whether reconsideration is merited on the grounds stated in 83.10(c)(1–3) of the Acknowledgment regulations (25 CFR 83). The IBIA will be further authorized to either affirm this determination or, if the reconsideration request is merited, vacate the decision and return it to the Assistant Secretary for reconsideration. The IBIA will be authorized to request comments or technical assistance from the Assistant Secretary concerning the final determination and may, at its discretion, require a hearing conducted by an administrative law judge of the Office of Hearings and Appeals if the IBIA determines that further inquiry is necessary to resolve a genuine issue of material fact concerning the final determination.

This determination will become final and effective upon receipt by the Assistant Secretary of a decision by the IBIA to affirm the determination. If the determination is vacated and returned to the Assistant Secretary for reconsideration, the Assistant Secretary shall, in accord with § 83.10(a), issue a reconsidered determination within 60 days of receipt of the IBIA's decision. The reconsidered determination shall be final and effective upon publication in the **Federal Register**.

Dated: June 10, 1992.

**Eddie F. Brown,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 92–14319 Filed 6–17–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Thursday
June 18, 1992

Part IV

# National Institute for Literacy

Grants Program; Notice Inviting Applications for New Awards for Fiscal Year 1992

## NATIONAL INSTITUTE FOR LITERACY

[CFDA No. 84.257]

### National Institute for Literacy Grants Program; Inviting Applications for New Awards for Fiscal Year (FY) 1992

*Note to Applicants:* This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), this notice contains al of the information, application forms, and instructions needed to apply for a grant under this competition.

*Purpose of Program:* The National Institute for Literacy Grants Program supports inquiry designed to advance literacy theory and practice. These authorized activities support the National Literacy Act of 1991, Public Law 102–73, and the National goal to help make every adult literate by the year 2000.

*Eligible Applicants:* The following are eligible for awards under the National Institute for Literacy Grants Program: (a) Public or private non-profit institutions, agencies, organizations; (b) Consortia of such institutions, agencies, or organizations; and (c) Individuals.

*Deadline for Transmittal of Applications:* Applications may be submitted at anytime until August 14, 1992.

**Note:** Proposals will be considered on a continuous basis as received until the deadline date.

*Available Funds:* $2,500,000.

*Estimated Range of Awards:* $10,000–$100,000.

*Estimated Average Size of Awards:* $75,000.

*Estimated Number of Awards:* 45.

**Note:** The National Institute for Literacy is not bound by any estimates in this notice.

*Project Period:* Up to 12 months.

The Director of the Institute applies the following regulations to the extent that they are consistent with the National Literacy Act of 1991, Public Law 102–73:

The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(5) 34 CFR part 82 (New Regulations on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug-Free Schools and Campuses).

*Eligible Activity:* Applications under this competition are restricted to those proposing to carry out activities that will contribute to the improvement and expansion of the system of delivery of adult literacy services. Only applications proposing to conduct these activities will be considered under this competition.

#### Priority

*Invitational Priority:* Under 34 CFR 75.105(c)(1) the Director is particularly interested in applications that meet the following invitational priority (however, an application that meets this invitational priority does not receive competitive or absolute preference over other applications):

Projects to conduct basic and applied research and demonstrations on literacy that investigate: (1) How adults learn to read and write and acquire other skills; (2) How the literacy skills of parents affect the ability of children to learn literacy skills; (3) How to improve and expand the delivery of program assistance, training and technical assistance for literacy programs; coordinate with existing research laboratories and the Carl D. Perkins Curriculum Centers and other relevant literacy providers; (4) Assessing literacy skills and the development of instructional techniques; (5) Best methods including the use of technology for assisting adults and families to acquire literacy skills; (6) Special literacy needs of individuals with learning disabilities and individuals with limited English proficiency; (7) How to effectively reach and teach the most educationally—and/or economically—disadvantaged individuals; (8) The use of technology and other studies which will increase the literacy knowledge base, but not duplicate the work of other research services, and build on the efforts of such research services; (9) How to attract, train, and retrain professional and volunteer teachers of literacy; (10) How to effectively collect, maintain, and disseminate research and information concerning literacy; and (11) Assessment tools and evaluation criteria for successful literacy programs.

The Director is particularly interested in providing assistance for projects focusing on family literacy, workplace literacy and the use of technology.

The Director is also interested in joint proposals emphasizing achievement of self-sufficiency for individuals and families. Proposals are sought from organizations, institutions and entities planning collaborative projects between organizations experienced in providing social (e.g., family support, parent education services), training, and employment services and organizations experienced in providing and or arranging for adult literacy services.

#### *Selection Criteria*

(a)(1) In evaluating applications for new grants under this competition, the Director uses the selection criteria in 34 CFR 75.210.

(2) The maximum score for all of the criteria in this section is 100 points.

(3) Subject to paragraph (c) of this section, the maximum score for each criterion is indicated in parentheses with the criterion.

(b) The criteria—(1) Meeting the purposes of the authorizing statute. (30 points) The Director reviews each application to determine how well the project will meet the purpose of the statute that authorizes the program including consideration of:

(i) The objectives of the project; and

(ii) How the objectives of the project further the purposes of the authorizing statute.

(2) Extent of need for the project. (20 points) The Director reviews each application to determine the extent to which the project meets specific needs recognized in the statute that authorizes the program, including consideration of:

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) Plan of operation. (15 points) The Director reviews each application to determine the quality of the plan of operation for the project, including:

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition;

(4) Quality of key personnel. (7 points)

(i) The Director reviews each application to determine the quality of key personnel the applicant plans to use on the project, including:

(A) The qualifications of the project director (if one is used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i) (A) and (B) of this section will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i) (A) and (B) of this section, the Director considers:

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) Budget and cost effectiveness. (5 points) The Director reviews each application to determine the extent to which:

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) Evaluation plan. (5 points) The Director reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation:

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(7) Adequacy of resources. (3 points) The Director reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(c) Significance. (15 points) The Director reviews each application to determine the significance of the proposed project and the project's potential to make a significant contribution to literacy, as measured by factors such as:

(i) Importance of the proposed project from the standpoint of basic knowledge or of problems in literacy;

(ii) The likely magnitude of the addition that will be made to knowledge or practices if the project is successful, including the extent to which the proposed outcomes can be broadly applied;

(iii) The extent to which the project involves creative or innovative approaches that complement or are alternatives to existing approaches to the project's problem areas; and

(iv) The extent to which the project is designed to yield products and outcomes that can be disseminated and utilized in other settings, such as information, materials, processes, or techniques.

**Instructions for Transmittal of Applications**

(a) To apply for a grant——

(1) Mail the original and two copies of the application on or before the deadline date of August 14, 1992, to: National Institute for Literacy, Attention: (CFDA # 84.257), 800 Connecticut Avenue NW., suite 200, Washington, DC 20202–7560 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: National Institute for Literacy, Attention: (CFDA # 84.257), 800 Connecticut Avenue NW., suite 200, Washington, DC 20202–7560.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(c) If an application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

**Notes:** (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The National Institute for Literacy will mail a Grant Applicant Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the National Institute for Literacy at (202) 632–1500.

(3) The applicant must indicate on the envelope and in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number of the competition under which the application is being submitted.

**Application Instructions and Forms**

The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Additional Materials:

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

**Note:** ED 80–0014 is intended for the use of grantees and should not be transmitted to the National Institute for Literacy

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

**FOR FURTHER INFORMATION CONTACT:** Victor Westbrook, Special Advisor for Contracts and Grants, National Institute for Literacy, 800 Connecticut Avenue NW., suite 200, Washington, DC 20202–7560. Telephone: 202–632–1500. FAX: 202–632–1512. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in Washington, DC 202 area code, telephone 703–9300) between 8 a.m. and 7 p.m., Eastern time.

**Program Authority:** 20 U.S.C. 1213c.

Dated: June 11, 1992.

**Franmarie Kennedy-Keel,**

*Interim Director, National Institute for Literacy.*

**Part III—Application Narrative**

*A. Application Instructions for New Awards*

In order to be considered for funding you must submit an original and two copies (and in order to expedite the review and award process, it is strongly suggested that you voluntarily submit three additional copies).

*B. Instructions for Proposal Narrative*

1. Research Priorities.

Applicants are invited to address the priority published in the **Federal Register** Notice Inviting Applications contained in this application package.

2. Proposal Narrative.

a. Applicants must provide a proposal narrative not to exceed 20 single spaced-pages (normal-sized type, no smaller than 10 point pica). The narrative must address each of the following criteria contained in 34 CFR 700.22:

(1) Plan of operation.
(2) Quality of key personnel.
(3) Budget and cost-effectiveness.
(4) Evaluation plan.
(5) Adequacy of resources.
(6) Significance.
(7) Technical soundness.

Under the discussion of technical soundness, applicants should describe in detail and justify the procedures that will be used to carry out the proposed work. Applicants must also include a vitae, listing only academic essentials for all key personnel.

b. Appendices may be added to the narrative describing available facilities, major items of equipment to be used in the proposed work or other information that will assist in the review of the proposal.

c. Applicants are encouraged to provide a summary of the program project (not to exceed one page).

3. Budget Information.

Applicants must provide a detailed budget for each project and activity to support the request in the budget information form (SF 424A). The cost categories for the detailed budget for each project must be consistent with the cost categories in the summary budget information form. (Instructions are included.)

Provide (at line 21 and attached sheets) a breakdown detailing individual units or activities and amounts for each "object class category." For example, for "personnel," show salaries and wages for each staff member by position or name; for "contractual," show consultants, sub-contractual services, and materials.

Indirect cost rates negotiated by the organization with the cognizant Federal negotiating agency must be used in computing indirect cost rates for a proposal. If an organizational or individual has no established indirect cost rate, it should consult the contact person named in the notice inviting applications for additional information.

4. Technical Assistance.

Any questions regarding the competition should be addressed to the contact person named in the notice inviting applications contained in this package.

5. Reporting Requirements.

Each applicant should consider reporting requirements in developing the plan of operation. Performance or financial reports are required at the completion of each project period. Additional guidance will be given prior to the time that the grant is awarded.

**Instructions for Estimated Public Reporting Burden**

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing the Act, the National Institute for Literacy invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 27 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the National Institute for Literacy, and the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

(Information collection approved under OMB control number 3200–0014. Expiration date: June 1993).

**Victor A. Westbrook,**

*Special Advisor for Contracts and Grants.*

BILLING CODE 6055–01–M

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

**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:<br>—"New" means a new assistance award.<br>—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.<br>—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. |
| 9. | Name of Federal agency from which assistance is being requested with this application. |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. |
| 12. | List only the largest political entities affected (e.g., State, counties, cities). |
| 13. | Self-explanatory. |
| 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 16. | Applicants should contact the State Single Point of contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |

BILLING CODE 6055-01-M

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
Prescribed by OMB Circular A-102

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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 aplications 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).

*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.

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

Line 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.

**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 timeframe 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 alcholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290dd–3 and 290ee–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.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions of 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.

---

Siginature of Authorized Certifying Official

---

Title

---

Applicant Organization

7 ---

Date Submitted

**Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. Debarment, Suspension, and Other Responsibility Matters

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. Drug-Free Workplace (Grantees Other Than Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title,

to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202–4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

Drug-Free Workplace (Grantees Who Are Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202–4571. Notice shall include the identification number(s) of each affected grant.

_____

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

_____

Name of Applicant

_____

PR/Award Number and/or Project Name

_____

Printed Name and Title of Authorized Representative

_____

Signature

_____

Date

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions**

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred,

suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name of Applicant

PR/Award Number and/or Project Name

Printed Name and Title of Authorized Representative

Signature

Date

**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 of 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).

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 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, D.C. 20503.

BILLING CODE 6055–01–M

# DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0346-0046

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: | 2. Status of Federal Action: | 3. Report Type: |
|---|---|---|
| ☐ a. contract<br>b. grant<br>c. cooperative agreement<br>d. loan<br>e. loan guarantee<br>f. loan insurance | ☐ a. bid/offer/application<br>b. initial award<br>c. post-award | ☐ a. initial filing<br>b. material change<br>For Material Change Only:<br>year _____ quarter _____<br>date of last report _____ |

| 4. Name and Address of Reporting Entity: | 5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: |
|---|---|
| ☐ Prime ☐ Subawardee<br>Tier _____, *if known:*<br><br>Congressional District, *if known:* | Congressional District, *if known:* |
| **6. Federal Department/Agency:** | **7. Federal Program Name/Description:**<br><br>CFDA Number, *if applicable:* _____ |
| **8. Federal Action Number,** *if known:* | **9. Award Amount,** *if known:*<br>$ |
| **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):* | 13. Type of Payment *(check all that apply):* |
|---|---|
| $ _____ ☐ actual ☐ planned | ☐ a. retainer<br>☐ b. one-time fee<br>☐ c. commission<br>☐ d. contingent fee<br>☐ e. deferred<br>☐ f. other; specify: _____ |
| **12. Form of Payment** *(check all that apply):*<br>☐ a. cash<br>☐ b. in-kind; specify: nature _____<br>value _____ | |

**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: _____<br>Print Name: _____<br>Title: _____<br>Telephone No.: _____ Date: _____ |

| Federal Use Only: | Authorized for Local Reproduction<br>Standard Form - LLL |
|---|---|

[FR Doc. 92-14305 Filed 6-17-92; 8:45 am]

BILLING CODE 6055-01-C

federal register

Thursday
June 18, 1992

Part V

# Department of Housing and Urban Development

## Office of Assistant Secretary for Public and Indian Housing

## Notice of Funding Availability (NOFA) for FY 1992; Invitation for Applications: Public Housing Development/Major Reconstruction of Obsolete Public Housing/Family Self-Sufficiency; Notice

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Public and Indian Housing

[Docket No. N-92-3354; FR-3167-N-01]

### Funding Availability (NOFA) for FY 1992; Invitation for Applications: Public Housing Development/Major Reconstruction of Obsolete Public Housing/Family Self-Sufficiency

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1992 for Public Housing Development/Major Reconstruction of Obsolete Public Housing, and Family Self-Sufficiency; Invitation for Applications.

**SUMMARY:** This Notice announces the availability of FY 1992 funding, and invites eligible entities to submit applications for public housing development or for the Major Reconstruction of Obsolete Public Housing (MROP) program, or for both programs. Development applications are limited to replacements for demolition/disposition including any HOPE 3 transfers subject to section 18 of the United States Housing Act of 1937 (USHA), replacements for homeownership transfers under HOPE I, replacements for homeownership under section 5(h) of the USHA, litigation settlement, and Family Self-Sufficiency Incentive Award housing. This Notice also provides instructions regarding the preparation and processing of applications. This Notice is not applicable to the Indian housing program.

**DATES:** Applications are due at the HUD Field Office on or before the close of business on August 3, 1992. Applicants should consult with the appropriate local Field Office regarding the time that the office closes. Forms comprising the application package may be obtained from the local HUD Field Office. (See sections II and III of this NOFA for further information on application submission.)

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is not received on or before the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

**FOR FURTHER INFORMATION CONTACT:** Janice Rattley, Office of Construction, Rehabilitation and Maintenance, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4136, Washington, DC 20410. Telephone (202) 708-1800. Hearing or speech impaired individuals may call HUD's TDD number (202) 708-4594. (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:**

#### Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the OMB under the Paperwork Reduction Act of 1980 and have been assigned OMB control numbers 2577-0033, 2577-0036, 2577-0044 and 2502-0466.

#### I. Purpose and Substantive Description

*A. Authority*

Section 5 and 23 of the United States Housing Act of 1937 (42 U.S.C. 1437c and 1437u); section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Public housing development regulations are published at 24 CFR part 941; Comprehensive Improvement Assistance Program regulations are published at 24 CFR part 968. Demolition/disposition regulations are published at 24 CFR 970; section 5(h) regulations are published at 24 CFR 906. The Notice of Program Guidelines for the Family Self-Sufficiency Program was published in the **Federal Register** on September 30, 1991 (56 FR 49592). The Catalog of Federal Domestic Assistance Program number is 14.850.

*B. Fund Availability*

1. The VA-Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1992 (FY 1992 Appropriations Act) provided $573,983,000 of budget authority (grants) under section 5(a)(2) of the USHA, for public housing development costs for eligible public housing agencies (PHAs), including $15,719,158 to be set aside for a demolition/disposition housing demonstration in St. Louis, Missouri; and $200 million to be awarded for major reconstruction of obsolete public housing (MROP). Each grant contract shall remain in effect for a 40-year period. Budget authority recaptured in FY 1992 from previously reserved projects may not be reused and will be rescinded. An across-the-board reduction among HUD housing programs under the annual contributions appropriations due to a shortfall in the FY 92 appropriations resulted in a $26.3 million reduction in the funds available under this NOFA. Therefore, the amount available in FY 92 will be $547.7 million.

2. Section 23 of the USHA, requires that not less than 10 percent of the funds available in FY 1992 (excluding amounts for MROPs) be allocated in support of the Family Self-Sufficiency (FSS) program. Hence, FSS funding will be at least $35.7 million, as follows (in millions):

| | |
|---|---|
| $574.0 | appropriated. |
| −26.3 | appropriation shortfall adjustment. |
| 547.7 | |
| −190.8 | (MROP) |
| 356.9 | |
| −35.7 | (10 percent minimum for FSS) |
| 321.2 | ($14.9 for St. Louis, MO.; litigation; up to $82.5 for Sec. 18 replacements) |

In addition, the Department has determined that any remaining funds available for allocation, after subtracting amounts to be used for section 18 replacements, litigation, MROP and replacements for homeownership, will be allocated for FSS Incentive Award units. The purpose of the FSS program is to promote the development of local strategies that coordinate the use of public housing with both public and private resources to enable eligible families to achieve economic independence and self-sufficiency. The FSS program is described in detail in the Notice of FSS Program Guidelines, published on September 30, 1991 (56 FR 49592). To promote the concept of family self-sufficiency, HUD is providing public housing development grants as an incentive to PHAs (Incentive Awards). The Incentive Awards must be applied for under this NOFA.

*C. Funding assignments*

1. Exemptions from Fair Share Allocation

The Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) exempts from fair share allocation distribution requirements, amounts retained in a Headquarters Reserve for litigation settlements and appropriations determined incapable of geographic allocation, including funds to provide replacement housing in connection with demolition/disposition and any HOPE 3 transfers subject to section 18 of the USHA. Applications relating to replacements for homeownership transfers under the program referred to as HOPE I (HOPE for Public and Indian

Housing Homeownership) or homeownership under section 5(h) of the USHA, subject to the provisions of section 304(g) of the USHA; and applications for MROP, are also incapable of geographic allocation pursuant to 24 CFR 791.403(b)(1)(ii). The minimum FSS program is also exempted from the fair share allocation and the metropolitan/nonmetropolitan distribution requirements by section 554 of the Cranston-Gonzalez National Affordable Housing Act (NAHA).

2. Funding Categories

Within six weeks after the PHA application submission deadline, each Regional Administrator will submit to Headquarters (Public Housing Development Division) a list identifying the highest ranked projects recommended for funding in the categories described below. Based on the recommendations of HUD's Regional Administrators, litigation requirements, actual approvals for demolition/disposition, including any HOPE 3 transfers subject to section 18 of the USHA, HOPE I, and section 5(h) homeownership, HUD Headquarters will determine the funding required for the following categories:

*a. Replacements.* Threshold-approvable applications to replace existing public housing approved between February 6, 1988, and the time FY 92 development/MROP funding decisions are to be made, for demolition/disposition pursuant to section 18 of the USHA, including any HOPE 3 transfers subject to section 18 of the USHA, shall be selected before the allocations are determined (section 571 of the NAHA limits such funding, including any similar Indian rental housing funding, to $82,500,000 for Fiscal Year 1992). Funding of public housing commitments from demolition/disposition approvals in previous years will require $73 million, leaving $9.5 million available for FY 92 commitments under section 18. A portion of this $9.5 million remaining limit might be used with Indian program funds under its NOFA, if there is a need. If the total of $9.5 million is not required for section 18 replacements, the balance will be used to increase the amount available for other purposes.

In addition to section 18 replacements, threshold-approvable applications to replace public housing projects, approved by the time the FY 92 development-MROP funding decisions are to be made, for transfer under HOPE I or homeownership under section 5(h), subject to the provisions of section 304(g) of the USHA, shall be ascertained before the allocations are determined. (Section 571 of the NAHA, which limits replacement funding to $82,500,000, has been determined to be inapplicable to replacement housing for homeownership transfers.) It is anticipated that the remainder will be used for replacement housing for homeownership transfers; however, any amounts not so used will increase the amount available for FSS. Separate replacement housing applications must be submitted and approved for each year of replacement housing required by a multi-year replacement housing plan

*b. Litigation.* Threshold-approvable applications relating to litigation settlements involving lack of assisted or minority housing opportunities shall be assigned Headquarters Reserve funding before the allocations are determined.

*c. MROP.* Pursuant to the FY 1992 Appropriations Act, $200 million of the total appropriated ($190.8 million after deducting the aforementioned portion of the $26.3 million shortfall) shall be set aside for MROP: Regional Administrator recommendations for threshold-approvable MROP applications shall be considered in determining Regional fund allocations based on highest ratings and vacancy rates.

*d. FSS.* The remaining available funds (after deducting for replacements, litigation settlements, and MROPs) will be used to approve FSS Incentive Award development applications; however, the NAHA requires that at least ten percent of the available funds (after deducting for MROPs) be used for FSS—$35.7 million. Funds will be allocated to Regional Offices on the basis of the fair share factors listed below calculated pursuant to 24 CFR 791.402(b) and Regional Administrators will select the FSS Incentive Award applications for funding. Any unused Regional funding will be redistributed by Headquarters, proportional to need, among remaining Regions with approvable unfunded FSS Incentive Award applications.

| Region | Fair-Share Factors (Percentages) |
|---|---|
| I Boston | 7.5 |
| II New York | 18.2 |
| III Philadelphia | 9.3 |
| IV Atlanta | 13.6 |
| V Chicago | 15.0 |
| VI Ft Worth | 7.9 |
| VII Kansas City | 3.6 |
| VIII Denver | 2.5 |
| IX San Francisco | 18.8 |
| X Seattle | 3.6 |
| Total | 100 |

3. Reservation of Funds

Regional Administrators will select threshold approvable MROP and FSS Incentive Award public housing development applications on the basis of the criteria stated in this NOFA. For replacement, litigation settlement and FSS Incentive Award development projects, funds shall be reserved in an amount equal to the total development cost limit for the number of units being reserved (additional units may be provided to a project as a result of State or local donations, provided some section 5(c) funds are attached to each unit); for MROP projects, funds shall be reserved in the approved amount within the limits stated in section I.F.1.a(2) of this NOFA.

4. Partial Funding

Partial funding of highly ranked applications is authorized (so long as such projects are determined viable) to facilitate the funding in rank order of additional applications for highly ranked viable projects.

5. No Regional Imposed Selection Criteria

Regional Offices may not authorize any selection criteria in addition to the criteria set out in this NOFA.

*D. Public Housing Development Threshold Approvability—All Programs*

1. All applications must meet the development threshold requirements (as discussed in paragraph 4–29a of appendix 5 of the FY 1992 Processing Notice) for approvability to be eligible for funding under all funding categories

2. To ascertain threshold approvability, the Field Office will review each application for required resolutions and certifications, and for compliance with all requirements of this NOFA and the FY 1992 Processing Notice. The Field Office will ensure that the PHA meets the requirements of: Legal eligibility (organization and local cooperation); acceptable certification of PHA intent to comply with all applicable civil rights and equal opportunity laws (see section II.B.3 of this NOFA); housing need and market; administrative capability (management and development); environmental issues; where applicable, housing type (see section 6(h) of the USHA relative to new construction); the certifications required by section 5(j) of the USHA; and other required certifications. For FSS Incentive Award applications, a Resident Involvement Certification is also required (see sections II.C. and III of this NOFA).

3. Pursuant to Notice PIH 91–45 (HUD), HUD Field Offices are to notify the Farmers Home Administration (FmHA) of public housing development applications being considered for funding in areas served by FmHA.

*E. FSS Incentive Award Units*

1. Eligibility

*a. PHA eligibility.* All PHAs are eligible to apply for public housing development Incentive Award units; however, applicants must have the legal capability to develop, own, and operate public housing projects and the required local cooperation (see section I.D. of this NOFA).

*b. Eligibility for multiple FSS incentive programs.* Applications may be submitted for more than one FSS incentive program; e.g., a PHA may apply for Incentive section 8 rental certificates or rental vouchers and Incentive public or Indian housing units, as long as the PHA is eligible to participate in the programs for which it applies. Applications for FSS Incentive Awards do not preclude applications for funds under other NOFAs for section 8 rental certificates, rental vouchers, public housing or Indian housing.

*c. Ineligible programs.* Homeownership is not eligible for Incentive Award funding.

*d. FSS program eligibility.* The purpose of the FSS program is to promote the development of local strategies that coordinate the use of assisted housing (in this case public housing) with both public and private resources to enable eligible families to achieve economic independence and self-sufficiency. The FSS program requires the formation of a Program Coordinating Committee (PCC), through which the PHA will obtain commitments of public and private resources to provide supportive services to participating families. The PHA must prepare an Action Plan for HUD approval, enter into Contracts of Participation with participating families, and establish escrow savings accounts for the benefit of participants when they complete the program and achieve self-sufficiency. Thus, a PHA must demonstrate that it will be able to establish and coordinate a successful FSS program. A PHA must provide evidence, in a form satisfactory to HUD, including evidence addressing the FSS rating factors (see sections I.E.2.b and II.C.2 of this NOFA), that the PHA has:

(1) A broad base of community support for an FSS program;

(2) A broad range of services that can be integrated to address the needs of FSS participants;

(3) The support of its resident population;

(4) The active support of the Chief Executive Officer (CEO) of the unit of general local government; and

(5) The administrative capability to initiate and operate an FSS program, including a willingness to commit or obtain staff resources to support the program.

(6) Additional points will be provided if the locality for the project has a higher relative need for the housing. The HUD Field Office will make this determination and the PHA may provide information (e.g., PHA waiting list or vacancy data) to assist the Field Office in its determination.

(7) Additional points will be provided if the PHA was approved under the HUD/HHS Economic Empowerment Demonstration (EED) program (see section I.E.2.b(6) of this NOFA), funded from the Community Development Block Grant (CDBG) Technical Assistance Program (see Program Announcement No. 91–1, 56 FR 22586, dated May 15, 1991).

2. Selection Criteria/Rating Factors—FSS Incentive Award Units

*a. Inadequate housing supply and 3 or more bedroom preferences.* Although FSS is not subject to fair share requirements and, hence, to the requirements of section 6(p) of the USHA, preference will be given to FSS Incentive Award applications having a rating of at least 80 points for proposed projects comprising 51 percent or more 3 or more bedroom units to be located in local market areas reasonably demonstrated as having an inadequate supply of housing available. In the event a Regional Office selects all of the applications up to the 80-point minimum in first the inadequate supply market areas and then the adequate supply market areas as discussed in section I.E.2.a.(1) of this NOFA, and all assigned funds have not been used, and there remain approvable applications below the minimum, the Regional Administrator may consider funding applications with ratings of less than the 80 points in the same order stated below. Threshold approvable applications (see sections I.D, II.A, II.B and III of this NOFA) will be placed into two subcategories:

*(1) Inadequate Housing Supply.* Applications which the Field Office has determined, based on its evaluation of PHA submitted documentation (see section III, Item 15 of this NOFA) and information available to the Field Office, reasonably demonstrate an inadequate housing supply (typically four percent or less vacancy rate considering housing market conditions, such as the level of growth or changes in the numbers of households relative to housing supply and the effect of housing supply on rent increases, and section 8 certificate/voucher holders are experiencing difficulty in leasing units—typically less than 85 percent lease-up within 60 days) will be selected for funding in order of ranking (see Sections I.E.2.b and I.E.2.c of this NOFA) as follows:

(a) First those comprising 51 percent or more 3 or more bedroom units shall be selected down to a minimum rating score of 80 points; and

(b) Then those comprising less than 51 percent 3 or more bedroom units shall be selected down to a minimum score of 80 points; and

(2) Adequate Housing Supply. If any Regional funding remains after selecting applications for inadequate housing supply locations, applications in order of ranking for locations with an adequate housing supply may be considered for funding as stated in section I.2.a.(1) (a) and (b) above, including the preference for 3 or more bedroom units.

*b. FSS incentive award rating factors.* (1) Supportive Community Relationships. The FSS program must have broad based community support, including ties to both minority and nonminority communities, and utilize local public and private organizations that are willing to commit funds, staff, equipment, the use of their buildings and equipment, training assistance, employment opportunities, or other support. Such organizations include local governments, businesses, religious organizations, private non-profit service providers, educational and training institutions, civic organizations, foundations, corporations, and local benefit providers. A successful FSS program must have a broad range of commitments from public and private employers, trainers, counselors and service providers. Ideally, representatives of community groups, organizations and businesses also will serve on the PCC.

25–16 Points: The PHA has:

(i) A strong, coordinated, varied base of community support as evidenced by described existing working relationships with a variety of public/private resources in the community, including previous commitments of funds, staff, equipment, the use of buildings and equipment, training assistance or employment opportunities; and

(ii) Will further expand its existing, or if a PHA new to FSS establish a, base of support, as evidenced by written commitments from entities to offer support and to coordinate support as

participants in the proposed FSS program.

15–0 Points: The PHA meets only one of the two criteria set forth in paragraphs (i) and (ii) above.

(2) Supportive Services. A successful FSS program must offer a wide variety of services to address the needs of FSS participants that can be integrated into meaningful assistance for families. A key consideration relates to the fact that the services must be coordinated in their delivery and appropriate in scope to the needs of the residents. For example, quality child-care, capable of attending to a variety of age groups and operating a sufficient number of hours per week to accommodate work, training, and/or counseling schedules may be important. Another important service may be transportation, which links the other services together. The PHA shall describe past services provided by others to its residents, assess the range and depth of the services, and state how they might be transferred to an FSS program. The PHA shall include written commitments of support from organizations and entities willing to provide services under FSS.

25–16 Points: The PHA has:

(i) Actively worked with public and private service providers to offer quality supportive services which are comprehensive in scope and include combinations of child care, transportation, job training and placement, counseling, education, money management, parenting, and/or rehabilitation services to residents; and

(ii) Will further expand, or if a PHA new to FSS establish, the kinds of services and/or number of persons to be served as evidenced by written commitments from identified entities who are providers of such services.

15–0 Points: The PHA meets only one of the two criteria set forth in (i) and (ii) above.

(3) Resident Support. The PHA shall describe its efforts to establish and/or support Resident Councils (RCs), Resident Management Corporations (RMCs), homeownership programs and resident-based economic development activities. The PHA also shall describe how its residents are involved generally in PHA planning and operations and specifically resident involvement for support service programming and delivery. A "Resolution of Support" by resident groups for the FSS programs shall be included, along with any plans the PHA has developed for including resident participation in the development and operation of FSS programs. This may include resident membership on the PCC and participation in the preparation of the Action Plan.

25–16 Points: The PHA has a history of resident involvement that includes successful resident participation in PHA planning and operations, generally, and specifically incorporates resident involvement for support service programming and delivery. This is evidenced by described active involvement in Homeownership programs, economic development activities, etc., and there is written evidence of resident support for the application. Residents are, or will be, as described, represented on the PCC and participate in the preparation of the Action Plan.

15–0 Points: The PHA has established resident initiatives and resident involvement does occur; there is movement toward greater participation. Residents will, as described, be represented on the PCC and participate in preparation of the Action Plan. (The last sentence may apply for a PHA new to FSS).

(4) Chief Executive Officer Support. The CEO of the unit of general local government must evidence active support for the FSS program. CEO consultation is required in the development of the PCC and the preparation and implementation of the Action Plan. In evaluating this factor, HUD will look at past PHA undertakings that have involved the CEO and commitments provided by the CEO pledging local governmental funds, staff, equipment, use of buildings and property, etc., for proposed FSS activities and services.

25–16 Points: The CEO of the unit of general local government and the PHS have successfully cooperated in the past in the provision of service-related activities for PHA residents. The CEO has expressed strong, written support for the FSS application and has, by written commitment, pledged cooperation for expansion of such support through local governmental funds, staff, equipment, use of buildings and property, etc. for FSS activities and services.

15–0 Points: The CEO and the PHA have cooperated in the past, and the CEO has provided general support for the PHA, or has committed to provide support in the future for an FSS program through funding, use of facilities, staff, etc. (The latter may apply for a PHA new to FSS).

(5) FSS Administrative Capability. A PHA applying for Incentive Units must meet the threshold administrative capability test in section I.D.2. of this NOFA. In addition, the PHA shall:

(a) Be evaluated against the criteria outlined in the HUD Handbook titled Field Office Monitoring of Public Housing Agencies (PHAs), No. 7460.7 Rev.-1, Chapter 2, Paragraph 2–1C;

(b) Demonstrate that it has committed or obtained appropriate staff resources, including but not limited to a capable service coordinator to develop and implement an FSS Program. The Field Office shall evaluate the PHA's performance in accordance with the above and, based upon that evaluation, score the PHA on a scale of 0–25 points.

(6) Relative Need. Application is for a project which will be located in a locality which has previously been underfunded for the household type (family or elderly) requested relative to the need for housing for the same household type in other localities in the respective metropolitan or non-metropolitan portion of the Field Office jurisdiction, or otherwise has a demonstrated greater relative need, such as a very long waiting list in the PHA and/or very low vacancies (e.g., 2 or 3 percent) in the PHA. 0–25 points

(7) Coordination with HUD/HHS Economic Empowerment Demonstration Program: If the PHA was funded under the HUD–HHS Economic Empowerment Demonstration Program, it should so indicate in the FSS application (see section I.E.1.d(6) of this NOFA.) 10 points

FSS Total Possible Points: 160 points

*c. FSS incentive award application rating and ranking.* (1) Threshold approvable public housing development applications shall be rated by the Field Office under the FSS rating factors of section I.E.2.b of this NOFA, within the appropriate subcategory—(1) Inadequate Housing Supply or (2) Adequate Housing Supply. Within each subcategory, those with 51 percent or more 3 or more bedroom units shall be listed first, followed by those with less than 51 percent 3 or more bedroom units, and each grouping shall be clearly identified. Each Field Office shall then forward its list of applications to the Regional Office by the Region's required date. The list shall include ratings assigned, the number of units and units by bedroom size, structure type(s), cost areas, funding required and the metropolitan/nonmetropolitan designations.

(2) The Regional Office will put applications in rank order (highest ranked first) within the two subcategories, submit a Regional listing, as described for the Field Offices in section I.E.2.c(1) above, to Headquarters pursuant to section I.C.2. of this NOFA. The Regional Administrator will make

funding selections pursuant to sections I.C. and I.E.2.a of this NOFA.

*d. Processing of incentive award projects.* After funding, FSS Incentive Award development projects shall be processed in accordance with outstanding program procedures and shall be subject to all time frames set forth in program procedures.

*e. Submission of FSS action plan.* The Action Plan must be submitted to the Field Office within 90 days of notification of approval by HUD of the PHA's application.

*F. MROP*

1. MROP Eligibility Requirements

a. An "obsolete project" must have design or marketability problems that have resulted in:

(1) Current vacancies of 25 percent or more of the units available for occupancy (except that, if necessary to fully utilize the $191 million available, if any funding remains, projects having vacancies of between 20 to 24 percent may then be qualified, and again, if funding remains, projects having vacancies of between 15 to 19 percent may then be qualified, and, finally, if funding still remains, projects having vacancies of 10 to 14 percent may then be qualified); and

(2) Estimated reconstruction and all other costs of the MROP project of at least 70 percent, but not more than 100 percent, of the total development cost limits for the area; and

(3) The need to go to Step 3 of the viability review of the Comprehensive Improvement Assistant Program (CIAP). (See Paragraph 3–9c of CIAP Handbook 7485.1 REV–4.)

b. Eligibility for approving an MROP application will be determined by CIAP procedures outlined in Handbook 7485.1, chapter 3 and the detailed processing notice as modified by this NOFA, including the threshold approvability requirements of section I.D. of this NOFA and the modified Technical Review Factors of section I.F.2. of this NOFA.

(1) An MROP project must have long-term (40-year) viability after reconstruction.

(2) If partial demolition/disposition is required, a demolition/disposition application must be approved within the time frame specified in section I.C.2.a of this NOFA, before approval of the MROP. (MROP funds may not be used for total demolition/disposition.)

(3) Conversions are not subject to section 18 of the USHA; however, proposed conversions must be approved before an MROP involving conversion may be approved.

(4) An MROP must be a rental (not homeownership) project.

(5) An MROP project must meet the requirements of section II.B.8.c. of this NOFA.

(6) Both CIAP-eligible and Comprehensive Grant Program-eligible PHAs may apply for MROP. The CIAP and Comprehensive Grant Programs are hereinafter referred to as "modernization."

c. Existing projects which consist of more than one building may have funding under MROP in any single year limited to one or more (less than all) of a project's buildings. Where separate portions of an existing project receive MROP funding in different fiscal years, each portion must be given a separate MROP project number and the funds reserved must be sufficient to complete all of the reconstruction needed to make the portion viable; in such cases, the funds for each project must be kept separate and may not be commingled.

d. A combination of MROP and modernization may be used in project reconstruction; e.g., where an existing project consists of family housing needing major reconstruction and elderly housing needing less extensive work. In such a situation, MROP funds could be reserved for designated buildings as an MROP project and the remaining buildings could be included in a modernization project. Modernization and MROP may not be used on the same units. If some modernization funding was previously received and the project still needs MROP, the modernization costs cannot be added to the MROP costs to meet the 70 percent requirement of section I.F.1(a)(2) above.

e. Management improvements are an ineligible cost under MROP; therefore, any proposed management improvements must be funded from the PHA's own operating funds or reserves, Comprehensive Grant Program funds, or from CIAP funding for management improvements.

2. Selection Criteria/Rating and Ranking—MROP

In accordance with the Regional Office designation of projects for Joint Reviews, the Field Office will schedule Joint Reviews for eligible MROPs as early as possible, if necessary. Field Offices will rate and rank threshold-approvable MROP applications in accordance with the CIAP technical review factors in chapter 3, CIAP Handbook 7485.1, REV–4, modified as follows:

| a. MROP Technical Review Factors | Point Range |
|---|---|
| (1) Extent and urgency of need, including lead-based paint abatement and physical accessibility needs | 1–20 |
| (2) Extent of vacancies | 1–10 |
| (3) PHA's reconstruction capability | 1–10 |
| (4) PHA's management capability | 1–10 |
| (5) Adequacy of PHA's maintenance systems, including preventive and routine maintenance | 1–10 |
| (6) Degree of resident involvement in PHA operations | 1–5 |
| (7) Degree of PHA activity in resident initiatives, including resident management, economic development activities on behalf of residents, and drug elimination efforts | 1–5 |
| (8) Degree of PHA-wide resident employment | 1–5 |
| (9) Local government support (e.g., evidence of necessary support facilities) | 1–10 |
| (10) Resident support for proposed reconstruction | 1–10 |
| MROP Total Possible Points | 95 |

b. *MROP rating considerations.* A PHA should not be automatically penalized in the rating of the reconstruction and management capability factors because it has not previously received funding under MROP or CIAP; in rating these factors, a PHA's expected ability to carry out the proposed reconstruction must be considered in relation to the PHA's proposed reconstruction, staffing and inspection plan. Conversely, a PHA that has modernization experience but missed deadline dates in a Project Implementation Schedule without valid reasons shall receive low ratings for these factors.

c. *Ranking approval applications.* Each threshold-approvable MROP application that has been rated under section I.F.2.a above shall be assigned to one of the four subcategories listed under subparagraph d below, based on the PHA's vacancy rate. (Applications in subcategory (1) down to a minimum rating of 50 points must be exhausted before any in subcategory (2) may be selected for funding, and subcategory (2) application down to a minimum rating of 50 points must be exhausted before any in subcategory (3) may be selected, and applications in subcategory (3) down to a minimum of 50 rating points must be exhausted before any in subcategory (4) down to a minimum of 50 points may be selected for funding.) If it becomes necessary in order to utilize all the funds available for MROP, Headquarters will authorize Regional Administrators to select applications with less than 50 point ratings within the highest vacancy rate categories.

d. *MROP subcategories.* The field Office rankings to be provided to the

Region by the Region's required date and the Regional Administrator rankings to be provided to HUD Headquarters, pursuant to section I.C.2 of this NOFA, shall be in accordance with the following MROP subcategories:

(1) Projects with vacancy rate of 25 percent or more;

(2) Projects with vacancy rates of 20 to 24 percent;

(3) Projects with vacancy rates of 15 to 19 percent; and

(4) Projects with vacancy rates of 10 to 14 percent.

e. *Field and regional submissions.* For each subcategory a listing of the threshold approvable projects, highest ranked first, including the ratings assigned, the number of units and units by bedroom size, structure type(s), cost areas, funding required and the metro/nonmetro area designation must be submitted. For each MROP, the following must also be prepared and submitted by the Field Office to the Regional Office:

(1) Narrative description of the results of Steps 1, 2 and 3 of the viability review, including the Field Office conclusions regarding project viability;

(2) Final rating of the Technical Review Factors, including the score for each factor and the total project score; and

(3) Review sheet summarizing critical information about the project, including a brief description of proposed reconstruction and its proposed cost including how any management improvements will be funded, a discussion of the relationship and approval date of any demolition/disposition or conversion, and the feasibility of reconstruction compared to demolition/disposition.

3. MROP Funding and Further Processing

a. MROP applications selected for funding shall:

(1) Have estimated total costs of at least 70 percent, but not more than 100 percent, of development cost limits for the area, calculated in accordance with the latest HUD Notice issued with regard to total development cost limits;

(2) Be assigned a development project number and entered into the appropriate HUD data systems; and

(3) After MROP fund reservation, follow development procedures (24 CFR part 941 and Handbook 7417.1 REV–1), except:

(a) Reconstruction work must be competitively bid (i.e., turnkey may not be used); and

(b) CIAP modernization standards set forth in Handbook 7485.2 REV–1 must be used.

b. The PHA must incorporate its approved MROP application into a PHA Proposal (Form HUD–52483–A).

c. The special MROP Annual Contributions Contract (Form HUD–53010–I), included in Notice PIH 89–41 (HUD), must be used.

d. The Regional Administrator, after initial reservation of an MROP, may only authorize MROP costs an additional five percent above the initial reservation amount for unforeseen costs; however, in no case may the original scope of reconstruction be increased. Also equivalent to the development procedures, any proposed costs in excess of 105 percent of the initial reservation may only be approved by the Assistant Secretary.

## II. Application Invitation and Submission Process—All Programs

### *A. Application Invitation—All Programs*

HUD is accepting, and all eligible PHAs (see section II.B.1 of this NOFA) are invited to submit, applications pursuant to 24 CFR 941.301 for grant assistance for the development (construction, rehabilitation or acquisition of existing units) of public housing for replacement, litigation settlement or FSS Incentive Award housing, and applications (see CIAP, 24 CFR part 968, with modifications) for MROP projects. While conformity with 24 CFR part 941 (development), and 24 CFR part 968 (MROP) is required, this funding effort is also subject to the additional specific requirements set forth in this NOFA (see sections II.B., II.C. and II.D. of this NOFA). Applicants for development funds also should consult Handbook 7417.1 REV–1 and the FY 1992 detailed Processing Notice. Applicants for FSS Incentive Award public housing development units also should consult the FSS Program Guidelines published in the **Federal Register** on September 30, 1991 (56 FR 49592). MROP applicants should also consult CIAP Handbook 7485.1 REV–4, chapter 3, as modified by the detailed CIAP Processing Notice.

### *B. Application Submission and Deadline—All Programs*

1. General Application Requirements

To be eligible for funding in FY 1992, development applications (replacement, litigation settlement, or FSS Incentive Award housing) and MROP applications must be submitted by eligible PHAs which have the required local cooperation and legal authority to develop, own and operate public housing projects. The applications, in the number of copies specified by the HUD Field Office, must contain all exhibits and additional information required by 24 CFR 941.302 (for development) or 24 CFR part 968 (for MROP), with modifications as specified in this Notice and in the FY 92 detailed Processing Notice.

The applications must be received by the HUD Field Office by close of business (local time) on August 3, 1992. Applicants should consult with the appropriate local Field Office regarding the time that the office closes. Facsimile (Fax) applications will NOT be accepted.

The application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is not received on or before the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

2. Separate Applications for Program Type

Separate applications must be submitted by program type (litigation, section 18 demolition/disposition and HOPE 3 replacement, HOPE I or 5(h) replacement, FSS Incentive Award units or MROP), housing type, development method, and community, for which the project is proposed (having a unit count capable of feasible development and management). A PHA must state, in an accompanying letter:

a. Its priorities for receiving funding if it is submitting more than one application; and

b. Whether it will accept funding for fewer units than requested. Refusal to accept fewer units may result in application non-funding due to a disproportionate requirement for funds.

3. PHA Resolution of Support

Each application must be accompanied by a PHA Resolution in Support of Public Housing Project, Form HUD–52471. The assurances that the PHA provides under this Resolution, wherein the PHA agrees to comply with all requirements of 24 CFR part 941 (e.g., the requirements of nondiscrimination under the civil rights laws (24 CFR 941.208)), also constitutes assurance that the PHA shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (see section II.B.13 of this NOFA); and with accessibility requirements (see section II.B.10 of this NOFA), such as 24 CFR part 8, which implements section 504 of

the Rehabilitation Act of 1973. If front-end funds are requested (for development projects only) under an Annual Contributions Contract (ACC), the PHA resolution must refer to such funding and must be accompanied by a certified copy of the Transcript of Proceedings containing the Local Governing Body Resolution (Form HUD–52472) approving the application for such funding.

4. Certification of a Drug-Free Workplace

In accordance with 24 CFR 24.630, the PHA must submit its Certification for a Drug-Free Workplace (Form HUD–50070.)

5. Certification Regarding Lobbying

Section 319 of the Fiscal Year 1990 Department of the Interior and Related Agencies Appropriations Act (the "Byrd Amendment") (31 U.S.C. 1352) prohibits use of appropriated funds for "influencing or attempting to influence" Federal officials in connection with grant awards exceeding $100,000. In addition, in accordance with 24 CFR part 87 (also see 24 CFR part 86):

a. The PHA must submit with each application a certification that no Federal funds have been or will be used to influence Federal employees, Members of Congress, and/or Congressional staff regarding specific grants or proposals.

b. If a PHA uses non-Federal funds for lobbying on behalf of a specific application or proposal, it must submit its Disclosure of Lobbying Activities, contained in its completed Form SF–LLL.

6. Disclosure of Government Assistance and Identity of Interested Parties

In accordance with the requirements of 24 CFR part 12, subpart C, PHAs must submit Form HUD–2880, Applicant/Recipient Disclosure/Update Report.

7. Certification under 5(j) of the USHA.

A PHA certification as to one of the following is required under section 5(j) of the USHA for each application:

a. The units requested are specifically required in FY 1992 to meet the one-for-one replacement requirement set out:

(1) In section 18 of the USHA to replace public housing demolition/disposition and HOPE 3 transfers; or

(2) In section 304(g) of the USHA to replace existing public housing approved in FY 1992 for transfer under HOPE I or section 5(h) homeownership; or

b. The units requested are required to:

(1) Resolve ongoing litigation involving court orders to remedy lack of assisted or minority housing opportunities; or

(2) Implement directions of the Secretary pursuant to Family Self-Sufficiency Incentive Award units under section 23 of the USHA (as added by section 554 of the NAHA); or

(c) The units requested, limited to 100 or less, are needed for family housing to satisfy demands not being met by the section 8 Existing or Voucher rental assistance programs; or

d. That 85 percent of the PHA's dwelling units:

(1) Are maintained in substantial compliance with the section 8 housing quality standards (24 CFR 882.109); or

(2) Will be so maintained upon completion of modernization for which funding has been awarded; or

(3) Will be so maintained upon completion of modernization for which applications are pending that have been submitted in good faith under section 14 of the USHA (or a comparable State or local government program) and that there is a reasonable expectation, as determined by HUD in writing, that the application would be approved; or

e. The application is for MROP.

8. Replacement Housing Application

A PHA submitting a replacement housing application for demolition/disposition under, or for HOPE 3 transfer subject to, section 18 of the USHA, or for transfer under HOPE I or section 5(h) homeownership:

a. Must demonstrate that for demolition/disposition under section 18 of the USHA, the replacement units, alone or together with other identified replacement units,

(i) Will implement the PHA's Replacement Housing Plan submitted under 24 CFR 970.11; and

(ii) Are for no fewer than the same number of units to be demolished or disposed of; and

(iii) Will house at least the same number of individuals and families that could be served by the housing to be demolished or disposed of.

b. The proposed locations for the section 18 replacement housing (i.e., whether proposed to be located on the site of an existing public housing project where demolition is proposed (on-site) or off-site) must comply with the requirements of 24 CFR 970.11(h). Transfers under HOPE I or sections 5(h) homeownership must comply with the requirements of 24 CFR 941.202.

c. Only section 5 financed and former section 23 bond-financed (owned by a PHA instrumentality) leased housing projects that meet the following criteria may have MROP approved or may have demolition/disposition, including HOPE 3 transfers under section 18 of the USHA, or homeownership under HOPE I or section 5(h) with replacement housing approved:

(1) Clear title is vested in the PHA;

(2) The project had been converted to public housing by ACC amendment and no legal obstacles exist affecting the PHA's use of the project for public housing during the forty-year required ACC period; and

(3) The project is covered by a cooperation agreement assuring tax exemption and municipal services.

d. A replacement housing application, including HOPE 3 transfers under section 18 of the USHA, (or an MROP application proposing some demolition/disposition or conversion) must also have had a demolition/disposition, conversion, or homeownership application previously approved or approved at the time the allocation decisions are made.

9. New Construction Application.

In accordance with the requirements of section 6(h) of the USHA, every application for a new construction project must be accompanied by:

a. A PHA comparison of the costs of new construction (in the neighborhood where the PHA proposes to construct the housing) and the costs of acquisition of existing housing or rehabilitation in the same neighborhood (including estimated costs of lead-based paint testing and abatement); or

b. A PHA certification, accompanied by supporting documentation, that there is insufficient existing housing in the neighborhood to develop housing for large families through acquisition of existing housing or rehabilitation; and

c. A statement that:

(1) Although the application is for new construction, the PHA will accept acquisition of existing housing or rehabilitation, if HUD determines that PHA cost comparison or certification of insufficient housing does not support approval of new construction; or

(2) The application is for new construction only. (In any such case, if HUD cannot approve new construction under section 6(h) of the USHA, the application will be rejected.)

10. Applications for Proposed Projects/Accessibility Requirements

Applications for proposed projects must take into consideration required compliance with the following accessibility requirements (see section II.B.3 of this NOFA):

a. Architectural Barriers Act of 1968 and the implementing rule at 24 CFR

part 40, including appendix A (Uniform Federal Accessibility Standards);

b. Section 504 of the Rehabilitation Act of 1973 and the implementing rule at 24 CFR part 8 (see Notice PIH 89–49 (PHA));

c. The Fair Housing Act (42 U.S.C. 3600–3620) and the implementing rule at 24 CFR part 100 (see Notice PIH 89–50 (PHA)).

11. Lead-Based Paint Poisoning Prevention Act

Rehabilitation, acquisition and MROP projects must comply with the Lead-Based Paint Poisoning Prevention Act (Pub.L. 91–965), section 566 of the Housing and Community Development Act of 1987 (Pub. L. 100–242), and section 1088 of the McKinney Amendment Act (Pub.L. 100–628). (See PIH Notice 91–16 (PHA).)

12. Environmental Requirements

HUD will comply with the requirements of 24 CFR part 50, implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4332 et. seq.) and related requirements of 24 CFR 50.4.

13. Examples of Ineligible Projects under Public Housing Program

Group homes, intermediate care facilities, nursing homes, projects serving special populations, etc. may not be approved under the public housing program.

14. Uniform Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Federal government-wide regulations at 49 CFR part 24, and HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition, govern the acquisition of real property and the displacement of any person (family, individual, business, nonprofit organization or farm) that moves from real property or moves personal property from real property, permanently as a direct result of acquisition, rehabilitation or demolition for an assisted project, including public housing development and MROP (see section II.B.3 of this NOFA).

a. Displacement should be minimized, but where it is unavoidable, timely referrals to comparable replacement units are essential to avoid excessive replacement housing payments. Also, to preclude claims by persons eligible for continued occupancy under 24 CFR part 960 and not scheduled to be displaced, PHAs must carefully follow policies governing the issuance of information notices and applicable temporary relocation policies.

b. Where necessary, reasonable relocation payments and other assistance under the Uniform Act are eligible development and MROP project costs.

15. United States Materials and Products

In accordance with section 571 of the Housing and Community Development Act of 1987, PHAs are encouraged to use materials and products mined and produced in the United States.

16. Minority Business Enterprises

PHAs are encouraged to employ Minority Business Enterprises in their contracts for development/MROP projects (see 24 CFR 941.208(e)).

17. Resident Owned Businesses

PHAs are encouraged to employ as many Resident Owned Businesses as possible in their contracts for development/MROP Projects.

18. PHA Procurement

The requirements of 24 CFR part 85 are applicable to public housing development/MROP projects as stated in 24 CFR 941.208(g). Method of selection as well as proposed contracts must be submitted pursuant to 24 CFR 941.205.

*C. FSS Incentive Award Application Submission*

For public housing FSS Incentive Award units, PHAs must submit a public housing development application for the number of Incentive Award units for which the PHA is applying. The application for Incentive Award units must comply with sections I.E., II.A and II.B of this NOFA, include the documents listed in section III, and meet the threshold requirements of section I.D. of this NOFA, including the submission of a PHA certification as to resident involvement (see section II.C.1) and a Demonstration of Inadequate Housing Supply (see section II.C.3). In addition, the following must be submitted:

1. Resident Involvement Certification

The PHA application must include a PHA certification that the application was developed with involvement and consultation of affected public housing residents, and includes a meaningful ongoing role for resident management corporations, resident councils, or other forms of resident involvement where RMCs and RCs and RCs do not exist. This certification shall include a support letter from RMCs where they exist, or documentation of other resident involvement and consultation. For example, the PHA must have documentation that at least the number of residents for which an FSS Incentive Award Program is proposed have formally expressed a willingness to participate in the FSS program.

2. Required Exhibits

All applicants must submit a narrative demonstration that the PHA will be able to implement an FSS program within 12 months of application approval. All applicants must submit descriptions including evidence addressing the following rating factors:

a. A description of PHA relationships with the local community (see rating factor at section I.E.2.b(1)) of this NOFA, with any written commitments from additional entities.

b. A description of past and proposed supportive services (see rating factors at section I.E.2.b(2) of this NOFA), with any written commitments from organizations and entities willing to provide services under FSS.

c. A description of PHA efforts to establish and/or support RCs, RMCs, Homeownership programs and resident based economic development activities (see rating factor at section I.E.2.b(3)), with resolutions from residents supporting FSS activities, evidence that resident participation will occur in the PCC and preparation of the Action Plan, and evidence from residents of existing resident involvement in PHA operations.

d. A description of past PHA relationships with the chief executive officer (CEO) of the unit of general local government (see rating factor at section I.E.2.b(4)), including any commitments or pledges.

e. If the PHA had an application funded under the Family Support Administration, Department of Health and Human Services or the HUD–HHS Economic Empowerment Demonstration (EED) program it should so state in this application. If the HUD–HHS EED was funded, the FSS application will automatically receive 10 rating points. (See rating factor at section I.E.2.b(6) of this NOFA.)

3. Demonstration of Inadequate Housing Supply

For FSS Incentive Award, documentation concerning rental housing supply to demonstrate a tight rental market (see section I.E.2.a of this NOFA) must be submitted to support a conclusion that there is an inadequate supply of available rental housing in the market area with an explanation of the conclusion and a description of the data

sources and methods used to obtain survey data.

a. It is recommended that PHAs consult with applicable community development agencies relative to their housing needs prior to submitting applications under this NOFA. Most of these agencies will have participated in the development of a Comprehensive Housing Affordability Strategy (CHAS).

b. Factors such as the following will provide evidence of conditions which taken together will provide documentation demonstrating a pattern of inadequate supply (generally no one factor taken alone is conclusive);

(1) The current rental housing vacancy rate is at a low level (typically four percent or less) which results in housing not being available for families seeking rental units (unless the housing market area is not growing and, as a result, experiencing low levels of demand);

(2) The annual production of rental housing units is insufficient to meet the demand arising from the increase in households, or, where there is little or no growth, is insufficient to meet the demand arising from net losses to the available inventory;

(3) The shortage of housing is resulting in rent increases exceeding those increases commensurate with rental housing operating costs; and

(4) A significant number or proportion of section 8 certificate/voucher holders are unable to find adequate housing because of the shortage of rental housing, as evidenced by PHA data showing a lower than average percentage of units under lease and a longer than average time required to find units (typically less than 85 percent lease up within 60 days).

4. Demonstration of Need

For FSS Incentive Award, the PHA may submit any documentation, such as waiting list or vacancy rate data to demonstrate need for the housing, which will assist the Field Office in its determination of relative need.

*D. MROP Application Submission*

A PHA applying for MROP funding must comply with sections II.A and II.B of this NOFA, must follow CIAP procedures (see paragraph 3–6 of Handbook 7485.1 REV–4), and must submit: The Comprehensive Assessment/Program Budget (Form HUD 52825); a narrative statement addressing each of the technical review factors (see section I.F.2), and the PHA's viability review unless previously submitted under a comprehensive plan for modernization.

1. The application must identify the entire project and explain how the project, in whole or in part, meets the eligibility criteria in section I.F.1 of this NOFA. The application must identify the proposed physical and management improvement needs, estimated costs, and funding sources.

2. The PHA must also submit, with its MROP application, the PHA resolution referencing MROP and the certifications required by section II.B of this NOFA.

3. If demolition/disposition or conversion is needed for long-term viability after reconstruction, the PHA must so state in its MROP application and must have submitted a demolition/disposition or conversion application which has been approved in accordance with section I.C.2.a of this NOFA.

**III. Checklist of Application Submission Requirements—All Programs**

PHAs may use the following application checklist, which enumerates submission requirements of Sections II and ID, IE and IF of this NOFA. (Forms comprising the application package may be obtained from the HUD Field Office):

1. PHA is legally organized with a current (applicable) General Certificate (Form HUD 9009);

2. For development, requested units are covered by the Cooperation Agreement (Form HUD 52481) and any other State/local legal requirements are met;

3. Signed and dated complete PHA application:

a. For development (litigation, replacement, FSS Incentive Award), Form HUD 52470;

b. For MROP, Forms HUD 52824 & 52825, narrative statement addressing both the technical review factors and the PHA's viability review, unless it has been previously submitted under a comprehensive plan for modernization;

4. If more than one application is submitted, PHA priorities for receiving funding are identified;

5. Statement of whether PHA will accept fewer units;

6. PHA resolution in support of PHA application (HUD 52471);

7. For development, if Front End Funds Requested—(HUD 52472) LGB Resolution/Transcript of Proceedings and PHA Resolution (Form HUD 52471) must refer to the request for front end funds. If the PHA desires the project only if front end funds can be approved, the PHA must so state in its application;

8. PHA Certification for a Drug-Free Workplace (HUD 50070);

9. Byrd Amendment Disclosure (Form SF–LLL) and Certification Regarding Lobbying;

10. Disclosure of Government Assistance and Identity of Interested Parties (HUD Reform Act Applicant Disclosures) (Form HUD 2880);

11. Section 5(j) certification;

12. For development, if new construction application, PHA certification and supporting data under section 6(h) of the USHA;

13. For FSS Incentive Award, PHA Resident Involvement Certification, Demonstration of Ability to implement FSS within 12 months and Descriptions/evidence addressing FSS rating factors;

14. For FSS Incentive Award applications, the PHA must submit a demonstration of inadequate housing supply;

15. For FSS Incentive Award Applications, the PHA may submit documentation to demonstrate need.

**IV. Corrections to Deficient Applications**

Immediately after the deadline for receipt of applications, Field Offices will screen each application to determine whether all information and exhibits were submitted. If an application lacks any technical information or exhibits or contains a technical mistake, the PHA will be advised in writing and will have 14 calendar days from the date of the issuance of such notification to deliver the missing or corrected information or documentation to the Field Office. Curable technical deficiencies ralate only to items which do not improve the substantive quality of the application relative to the ranking factors. An application which does not meet the applicable threshold and NOFA requirements after the 14 day technical deficiency period will be rejected from processing and determined to be unapprovable. Inasmuch as the responsibility for submitting a complete application rests with the PHA, the failure of the HUD Field Office to identify and provide a notice of deficiency to the PHA shall not relieve the PHA of the consequences of failure to submit a complete application.

**V. Other Matters**

*A. Environmental Impact*

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing 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 and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410.

*B. Federalism*

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this NOFA will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal government, or on the distribution of power and responsibilities between them and other levels of government. The NOFA will provide funding for public housing development, including a portion as incentive awards for Family Self-Sufficiency Programs, and for major reconstruction of obsolete public housing.

*C. Family Impact*

The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this NOFA do not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order. To the extent that the funding provided through this NOFA results in additional or improved housing, the effects on the family are beneficial.

*D. Prohibition Against Lobbying Activities*

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87 (See section II.B.5 of this NOFA). These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

*E. Prohibition Against Lobbying of HUD Personnel*

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by HUD *and* those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 29912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule. Appendix A of this rule contains examples of activities covered by this rule.

Any questions concerning the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington DC 20410. Telephone: (202) 708–3815 or 708–1112 (TDD). These are not toll-free numbers. Forms necessary for compliance with the rule may be obtained from the local HUD office.

*F. Prohibition Against Advance Information on Funding Decisions*

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) was published on May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters Counsel for the program to which the question pertains.

*G. Accountability in the Provision of HUD Assistance*

HUD's regulations at 24 CFR part 12 implement section 102 of the HUD Reform Act. Section 102 contains a number of provisions designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. The following requirements concerning documentation and public access disclosures are applicable to assistance awarded under this NOFA.

Documentation and public access. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

*H. Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance Program number is 14.850.

**Authority.** 42 U.S.C. 1437c and 1437u; 42 U.S.C. 3535(d); 24 CFR parts 906, 941, 968, and 970; and the Notice of Program Guidelines for the Family Self-Sufficiency Program, published on September 30, 1991 at 56 FR 49592.

Dated: June 12, 1992.

**Joseph G. Schiff,**

*Assistant Secretary for Public and Indian Housing.*

[FR Doc. 92-14362 Filed 6-17-92; 8:45 am]

BILLING CODE 4210-33-M

federal register

Thursday
June 18, 1992

Part VI

# Department of Labor

Wage and Hour Division, Employment Standards Administration

29 CFR Part 502

Reporting and Employment Requirements for Employers of Certain Workers Employed in Seasonal Agricultural Services; Final Rule

**DEPARTMENT OF LABOR**

**Wage and Hour Division, Employment Standards Administration**

**29 CFR Part 502**

**RIN 1215-AA79**

## Reporting and Employment Requirements for Employers of Certain Workers Employed in Seasonal Agricultural Services

**AGENCY:** Wage and Hour Division, Employment Standards Administration, Labor

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulations to conform to changes adopted by the Immigration and Naturalization Service (INS) in October of 1989, in the Alien Registration Number series for the reporting of resident aliens who are employed in seasonal agricultural services. This rule also amends the address listed in § 502.34 of these regulations which is used for administrative hearing requests.

**EFFECTIVE DATE:** June 18, 1992.

**FOR FURTHER INFORMATION CONTACT:** Solomon Sugarman, Chief, Branch of Farm Labor Programs, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. Telephone 1-800-800-0235. This is a toll-free number.

**SUPPLEMENTARY INFORMATION:**

### I. Paperwork Reduction Act

This rule imposes no additional reporting or recordkeeping requirements on the public. Reporting and recordkeeping requirements of 29 CFR part 502 are approved under Office of Management and Budget control number 1215-0148. Further approval by the Office of Management and Budget is not required.

### II. Background

*a. Alien Registration Number*

Section 210A of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act (IRCA), requires an employer to report information about work performed by certain resident aliens who perform seasonal agricultural services as defined in the INA. Any resident alien who is identified with an Immigration and Naturalization Service (INS) Alien Registration Number ("A" number) in a particular series is subject to the reporting requirement. The employer of the "reportable worker" ascertains the worker's "A" number from the information provided by the worker on the INS form I-9, which is required for all persons hired after November 6, 1986; an employee or prespective employee who is not a U.S. citizen must provide an "A" number in completing the form.

The regulations, 29 CFR 502.1(b)(1), effective as of October 1, 1988, specified that aliens lawfully admitted under section 210 of the INA for temporary residence, called "special agricultural workers" (SAWs), would be identifiable by INS "A" numbers in the A90000000 series. Section 502.1(b)(2) of the regulations provided that a technical amendment to the regulations would be issued to specify the "A" number series announced by INS for replenishment agricultural workers. A subsequent revision, effective October 1, 1989, specified in § 502.2(m) that a "replenishment agricultural worker" is identified by an "A" number beginning with A94 and followed by any six digits. Conforming changes were also made to § § 502.1(b)(2), (d), and (f), 502.10(c)(1), and 502.13(a).

In October of 1989, INS made changes to the Alien Registration Number series for reportable workers under the Immigration and Nationality Act which were not formally announced. Under the revised system, a reportable worker is an alien employed in seasonal agricultural services who was admitted with lawful temporary resident status or whose status was adjusted to lawful temporary residency, and who is identified by an INS Alien Registration Number in either the A90000000 or new A090000000 series (i.e., the number starts with either "A9" or "A09" followed by any seven digits) in the case of special agricultural workers (SAWs), and in the range of from A94399501 or new A094399501, to A94500000 or new A094500000 series (i.e., the number starts with either "A94" or "A094" followed by any six digits within the specific range of from 399501 to 500000) in the case of replenishment workers (RAWs). These series include:

(1) Resident aliens admitted under section 245A of the INA,

(2) Resident alien-special agricultural worker admitted under section 210 of the INA, and

(3) Resident alien-replenishment agricultural workers admitted between FY 1990 and FY 1993 under section 210A or the INA.

The purpose of this document is to conform the regulations to INS changes in designations of alien registration under the 'A" number series.

*b. Hearing Requests*

Section 502.34 of the regulations requires that any person desiring to request an administrative hearing on a notice of civil money penalty assessment must do so in writing within thirty (30) days after the date of issuance of the notice. Additionally, § 500.34 specifies that the written hearing request shall be made to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washigton, DC 20210.

This revision is being made in order to streamline the process by which hearing requests are acknowledged by consolidating all aspects of processing hearing requests into the operations of the office which issued the administrative determination upon which the request for a hearing is based. Accordingly, all such hearing requests are now to be made to the Wage and Hour official that issued the notice in care of the address of the office that originated the notice.

### III. Summary of Rule

Regarding SAWs, the regulation at § 502.2(n) is amended to specify that a "special agricultural worker" is identified by an "A" number beginning with either A9 or A09, followed by any seven digits. Conforming changes are made to §§ 502.1(b)(1), (d), and (f), 502.10(a), and 502.12(b).

Regarding RAWS, § 502.2(m) is amended to specify that a "replenishment agricultural worker" is identified by an "A" number beginning with either A94 or A094 and followed by any six digits within the specific range of 399501 to 500000. Conforming changes are also made to §§ 502.1(b)(2), (d), and (f), 502.10(c)(1), and 502.13(a).

Section 502.34 is also amended to provide for a new address for purposes of requesting administrative hearings. Under the amended regulation, such requests are to be directed to the Wage and Hour Division official who issued the notice of civil money penalty assessment, at the address appearing on the assessment notice.

### Executive Order 12291

This rule is not classified as a "major rule" under Executive Order 12291, because it will be 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 geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-

based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

**Regulatory Flexibility Act**

Because, as discussed below, no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1165, 5 U.S.C. 601 et seq. pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2).

**Administrative Procedure Act**

The Secretary has determined, pursuant to 5 U.S.C. 553(b)(3)(A), that this rule, making technical amendments to the regulations, does not require prior notice and comment. The changes to the existing regulations are minor clarifying revisions. They reflect the changed "A" number series now in use by INS, making the Department's regulations fully consistent with INS practice regarding "A" number series, and a changed address for use in requesting administrative hearings.

Accordingly, the Secretary, for good cause, finds pursuant to 5 U.S.C. 553(b)(3)(B), that prior notice and public comment are impractical and contrary to the public interest.

The Secretary also finds that good cause exists for waiver of the requirement to delay the effective date of these technical amendments. It is unnecessary to provide a 30-day delay, because the "A" number series incorporated in this rule have already been in use by the INS for more than two years. The new address for requesting administrative hearings under § 502.34, moreover, is merely a technical procedural change which does not effect any substantive rights.

**Document Preparation**

This document was prepared under the direction and control of Karen R. Keesling, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

**List of Subjects in 29 CFR Part 502**

Administrative practice and procedure, Agricultural associations, Agricultural worker, Aliens, Farmers, Farm labor contractor, Immigration, Investigation, Labor, Penalties, Replenishment Agricultural Workers, Reporting requirements, Special Agricultural Workers.

For the reasons set forth above, 29 CFR part 500 is amended as set forth below.

Signed at Washington, DC, on this 11th day of June 1992.

**Karen R. Keesling,**

*Acting Administrator, Wage and Hour Division.*

## PART 502—REPORTING AND EMPLOYMENT REQUIREMENTS FOR EMPLOYERS OF CERTAIN WORKERS EMPLOYED IN SEASONAL AGRICULTURAL SERVICES

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

**Authority:** 8 U.S.C. 1160, 1161; 29 U.S.C. 1801 et seq.; section 502.6 also issued under 29 U.S.C. 49k.

2. In § 502.1, paragraphs (b)(1), (b)(2), (d), and (f) are revised to read as follows:

**§ 502.1 Purpose and scope.**

* * * * *

(b) (1) Section 210 of the INA provides that the Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the Attorney General determines that the alien resided in the United States and performed work in seasonal agricultural services in the United States for at least 90 "man-days" during the 12-month period ending on May 1, 1986. An individual so legalized is called a special agricultural worker (SAW). A special agricultural worker is given an Immigration and Naturalization Service (INS) Alien Registration Number in either the A90000000 or A090000000 series.

(2) Section 210A of the INA provides that before the beginning of each fiscal year (beginning 1990 and ending 1993), the Secretaries of Labor and Agriculture shall jointly determine the number (if any) of replenishment agricultural workers (RAWS) to be admitted to the United States, or otherwise acquire the status of aliens lawfully admitted for temporary residence, to meet a shortage of agricultural workers. A replenishment agricultural worker is identified by an INS Alien Registration Number beginning with either A94 or A094, and followed by any six digits within the specific range of 399501 to 500000.

* * * * *

(d) Any person who hires any worker must complete the Employment Eligibility Verification Form (INS Form I–9). Any resident alien who is identified with an Alien Registration Number ("A" number) in either the A90000000 or A090000000 series on the I–9 Form (including any replenishment agricultural worker, who is identified by an INS Alien Registration Number beginning with either A94 or A094 and followed by any six digits within the specific range of 399501 to 500000) and who is employed in seasonal agricultural services, is an employee subject to this part (termed "reportable worker"). Employers cannot reliably determine whether such an employee is a special agricultural worker since employees cannot be required to document such status to anyone other than INS (see 8 CFR 274a.2 (b)(v)).

* * * * *

(f) Any employment of a reportable worker for at least one work-day in seasonal agricultural services is subject to reporting to the Federal Government. Additionally, any employment of a replenishment agricultural worker (who is identified by an INS Alien Registration Number beginning with either A94 or A094 and followed by any six digits within the specific range of 399501 to 500000) in seasonal agricultural services is subject to both the reporting requirements to the Federal Government and to the individual worker.

* * * * *

2. In § 502.2, paragraphs (m) and (n) are revised to read as follows:

**§ 502.2 Definitions pertaining solely to a reportable worker employed in seasonal agricultural services.**

* * * * *

(m) *Replenishment Agricultural Worker* (RAW) is an individual with an INS Alien Registration Number beginning with either A94 or A094 and followed by any six digits within the specific range of 399501 to 500000 who was admitted to the United States during FY 1990 through FY 1993 for lawful temporary resident status or whose status was adjusted to lawful temporary residency to meet a shortage of workers employed in seasonal agricultural services.

(n) *Reportable Worker* is an alien employed in seasonal agricultural services who was admitted with lawful temporary resident status or whose status was adjusted to lawful temporary residency, and who is identified by an INS Alien Registration Number in either the A90000000 or A090000000 series (i.e. the number starts with either "A9" or "A09," followed by any seven digits). This series includes:

(1) Resident aliens admitted under section 245A of the INA,

(2) Resident alien-special agricultural worker admitted under section 210 of the INA, and

(3) Resident alien-replenishment agricultural workers admitted between FY 1990 and FY 1993 under section 210A of the INA.

* * * * *

3. In § 502.10, paragraphs (a)(1) and (c)(1) are revised to read as follows:

**§ 502.10 Requirements for reporting and employing a reportable worker in seasonal agricultural services.**

* * * * *

(a) *Identify reportable worker(s).* (1) When completing the I–9 at the time of hiring (or reviewing a State Employment Service certificate), identify any reportable worker subject to these regulations. A reportable worker is identified as a worker with an INS Alien Registration Number in either the A90000000 or A090000000 series employed in seasonal agricultural services;

* * * * *

(c) *Report to the worker.* (1) For the period October 1, 1989, through September 30, 1992, furnish to any reportable worker who is a replenishment agricultural worker (identified by an INS Alien Registration Number beginning with either A94 or A094 and followed by any six digits within the specific range of 399501 to 500000) and who is employed for at least one work-day in seasonal agricultural services during the pay period, a report on each pay day containing the information specified in this part (see § 502.13), formulated from employment records maintained (see § 502.11); and

* * * * *

4. In § 502.12, paragraph (b) is revised to read as follows:

**§ 502.12 Reporting to the Federal Government.**

* * * * *

(b) A report must be filed with respect to any reportable worker (worker having an INS Alien Registration Number ("A Number") in either the A90000000 or A090000000 series) who has employed in seasonal agrcultural services for one or more work-days at any time during the quarter reported. The Alien Registration Number is furnished by the resident alien when the Form I–9 is completed at the time of hiring (or by a State Employment Service Agency on the certification of employment eligibility verification furnished the employer when referring an employee for agricultural employment).

* * * * *

5. In § 502.13, paragraph (a) is revised to read as follows:

**§ 502.13 Reporting to the replenishment agricultural worker.**

(a) For the period beginning October 1, 1989, through September 30, 1992, any person employing any reportable worker who is a replenishment agricultural worker (identified by an INS Alien Registration Number beginning with either A94 or A094 and ending with any six digits within the specific range of 399501 to 500000) in seasonal agricultural services for one or more work-day(s) during any pay period shall provide such worker, with each wage payment, no less than twice per month, a complete, accurate, and legible report certifying such reportable worker's employment.

* * * * *

6. In § 502.34, paragraphs (a) and (c) are revised to read as follows:

**§ 502.34 Request for hearing.**

(a) Any person desiring to request an administrative hearing on a civil money penalty assessment pursuant to this part shall make such request in writing to the official who issued the notice of assessment, at the Wage and Hour Division address appearing on the assessment notice. Such request must be made no later than thirty (30) days after the date of issuance of the notice referred to in § 502.32.

* * * * *

(c) The request for hearing must be received by the official at the address set forth in paragraph (a) of this section, within the time set forth in that paragraph. For the affected person's protection, if the request is by mail, it should be by certified mail, return receipt requested.

[FR Doc. 92–14351 Filed 6–17–92; 8:45 am]
BILLING CODE 4510–27–M

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Federal Register

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Thursday, June 18, 1992

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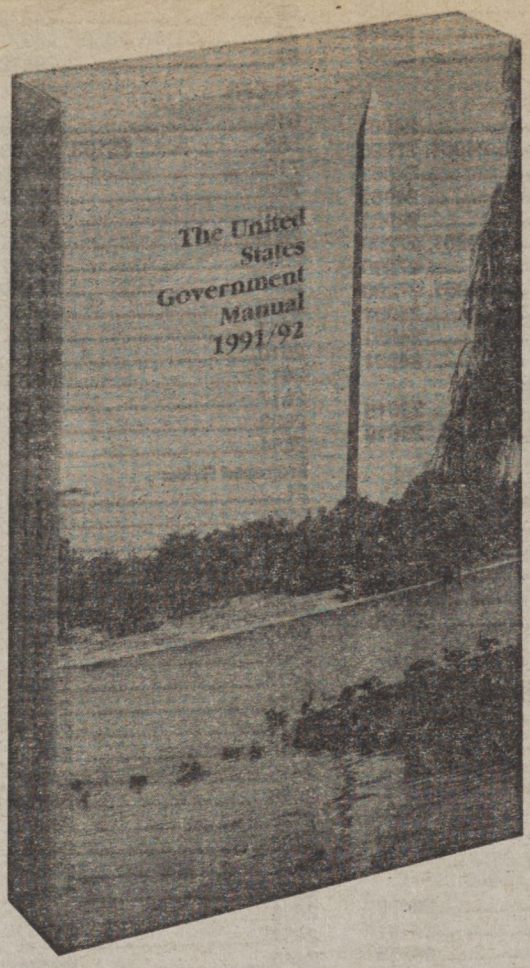
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