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Briefing on How To Use the Federal Register
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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

SAN FRANCISCO, CA

WHEN: July 22, at 9:00 am
WHERE: Federal Building and U.S. Courthouse, Conference Room 7209–A, 450 Golden Gate Avenue, San Francisco, CA
RESERVATIONS: Federal Information Center, 1–800–726–4995

SEATTLE, WA

WHEN: July 23, at 1:00 pm
WHERE: Henry M. Jackson Federal Building, North Auditorium, 915 Second Avenue, Seattle, WA
RESERVATIONS: Federal Information Center, 1–800–726–4995

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1430

Milk Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations for the price support program to limit, retroactive to January 1, 1991, the scope of that program to milk produced within the area of the forty-eight contiguous states of the continental United States. This action is a result of amendments to section 204 of the Agricultural Act of 1949 (1949 Act) enacted in the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (1991 Act).

EFFECTIVE DATE: July 13, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph Chervenic, Financial Management Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013; phone (202) 720–3679.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and provisions of Departmental Regulations 1512–1 and has been classified "nonmajor". It has been determined that the provisions of this rule will not result in an annual effect on the national economy of $100 million or more.

It has been determined by an environmental evaluation that this rule will have no significant adverse impact on the quality of the human environment. Therefore, neither an environmental assessment nor environmental impact statement is needed.

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

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

This final rule has been reviewed in accordance with Executive Order 12778. There are no pre-emption of State law issues; the provisions of this final rule are retroactive to January 1, 1991 as required by the 1991 Act; and the administrative appeal provisions of 7 CFR part 780 must be exhausted before a suit may be brought in a court of competent Federal jurisdiction.

Section 204 of the 1949 Act contains the authority for the conduct of the Commodity Credit Corporation (CCC) price support program and other provisions applicable to producers of milk. That section was added by the Food, Agriculture, Conservation, and Trade Act of 1990. Subsection (h) of section 204 was subsequently added by the Omnibus Budget Reconciliation Act of 1990 (1990 Budget Act). Subsection (h) provided for the collection of reductions in the price received by producers for milk produced in the United States and marketed by producers for commercial use in calendar years 1991–95. The price reductions can be refunded if the producer has in the year in which the reduction was made not marketed more milk than in the preceding year. Regulations to implement the provision were published in the **Federal Register** on February 5, 1991 (56 FR 4525). Unlike previous price reduction programs, producers in all States were subject to this price reduction provision. Previous programs had limited the provision to milk produced within the area comprised by the forty-eight contiguous states of the continental United States.

Section 127 of the 1991 Act provided, effective as of January 1, 1991, that the provisions of section 204(h) of the 1949 Act would be limited to marketings of milk produced within the area of the 48 contiguous states and the District of Columbia.

This rule amends 7 CFR part 1430 to implement the 1991 Act amendment. To comply with the retroactivity provision, this rule provides for a return of sums collected by the CCC for 1991 marketings of milk produced in areas that are now excluded from the program retroactive to January 1, 1991.

Section 101(b) of the 1990 Act provided that the notice and comment provisions of 5 U.S.C. 553 shall not apply to the implementation of milk price reductions under section 204 of the 1949 Act. Further, immediate implementation of the rule is in the public interest as it immediately affects current operations and current milk price reductions. For these reasons, this rule is issued without prior public comment.

List of Subjects in 7 CFR Part 1430

Dairy products, Fraud, Penalties, Price support programs, Reporting and recordkeeping requirements.

Final Rule

Accordingly, the subpart of 7 CFR part 1430 entitled "Subpart—Regulations Governing Reductions in the Price of Milk Marketed by Producers, January 1, 1991 to December 31, 1995," is amended as follows:

PART 1430—DAIRY PRODUCTS

1. The authority citation for this subpart continues to read as follows:

Authority: 7 U.S.C. 1446e.

§ 1430.340 General statement.

* * * * *

2. Section 1430.340(a) is amended by removing the words "United States" and inserting in their place the words "United States, as defined in this subpart".

3. Section 1430.340(b) is amended by adding paragraph (b)(5) to read as follows:

* * * * *

(b) * * *

(5) In addition, the CCC may make provision for the refund of monies collected in those cases in which monies were collected for milk marketings later excluded by statutory amendment from coverage of this subpart for any of the calendar years 1991–95.

4. Section 1430.340(d) is amended by removing the second sentence therein.

5. Section 1430.341(u) is revised to read as follows:

§ 1430.341 Definitions.

* * * * *

(u) *United States* means, except with respect to paragraphs (i), (s), and (v) of this section, the following:

(1) The District of Columbia, and

(2) All States except for Alaska and Hawaii.

* * * * *

Signed at Washington, DC, on July 2, 1992.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92-16339 Filed 7-10-92; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

8 CFR Part 242

[AG Order No. 1579-92]

Executive Office for Immigration Review; Rules of Procedure; Correction

AGENCY: Department of Justice.

ACTION: Correction to interim rules due to typographical errors.

SUMMARY: This document contains corrections to the interim rules of procedure for practice before immigration judges, which were published Monday, April 6, 1992 [57 FR 11568]. These corrections are necessary due to typographical errors in the text, the supplementary information and the amendatory language of § 242.2, which in each instance incorrectly referenced paragraph (i) as paragraph (h).

EFFECTIVE DATE: April 6, 1992.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 305-0470.

Correction

In rule document 92-7537 beginning on page 11568, in the issue of Monday, April 6, 1992, make the following corrections:

1. On page 11570, in the first column in the supplementary information concerning 8 CFR 242.2, in the second paragraph, the first sentence should read, "A new paragraph (i) has been added."

2. On page 11573, in the second column, the amendatory language of instruction 24b should read, "Adding a new paragraph (i) to read as follows:"

§ 242.2 [Corrected]

3. On page 11574, in the first column in § 242.2, paragraph (h) is correctly designated as paragraph (i).

Dated: July 1, 1992.

Gerald S. Hurwitz,

Counsel to the Director.

[FR Doc. 92-16299 Filed 7-10-92; 8:45 am]

BILLING CODE 1531-26-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 122 and 156

[Docket No. 92-084-1]

Organisms and Vectors; Inspection and Certification of Animal Byproducts

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning organisms and vectors and the regulations concerning inspection and certification of animal byproducts by removing all references to "Deputy Administrator" and replacing them with references to "Administrator." We are also removing reference to "Veterinary Services." These changes are warranted so that the regulations will accurately reflect that the Administrator of the agency holds the primary authority and responsibility for various decisions under the regulations.

EFFECTIVE DATE: July 13, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Senior Staff Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MMD 20782, (301) 436-7885.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 122 concern organisms and vectors. The regulations in 9 CFR part 156 concern inspection and certification of animal byproducts. Prior to the effective date of this document, these regulations indicated that the Deputy Administrator, Veterinary Services, of the Animal and Plant Health Inspection Service (APHIS) was the official responsible for various decisions under these regulations. We are amending 9 CFR parts 122 and 156 to indicate that the primary authority and responsibility for various decisions under these regulations belongs to the Administrator of the agency. We are making similar revisions in all other APHIS regulations. Those revisions will be published in separate **Federal Register** documents. Delegations of authority within the agency are contained in 7 CFR part 371.

We are removing all references to "Deputy Administrator" and replacing them with references to "Administrator." In part 122, we are also removing the definition of "Deputy Administrator" and replacing it with a definition of "Administrator," and we are deleting the definition of "Veterinary Services." In part 156, we are also deleting the definition of "Deputy Administrator." In addition, in part 156, we are revising the definition of Administrator to make it consistent with other parts of 9 CFR and to increase clarity.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity to comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Public Law 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

Executive Order 12372

These programs/activities under 9 CFR parts 122 and 156 are listed in the Catalog of Federal Domestic Assistance under No. 10.025 and are subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects

9 CFR Part 122

Animal diseases, Imports, Reporting and recordkeeping requirements, Transportation.

9 CFR Part 156

Exports, Livestock, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR parts 122 and 156 as follows:

PART 122—ORGANISMS AND VECTORS

1. The authority citation for part 122 is revised to read as follows:

Authority: 21 U.S.C. 111, 151–158.

§ 122.1 [Amended]

2. In § 122.1, paragraph (c) is revised; paragraph (d) is removed; and paragraphs (e) through (h) are redesignated as paragraphs (d) through (g) to read as follows:

§ 122.1 Definitions.

* * * * *

(c) *Administrator.* The Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any person authorized to act for the Administrator.

* * * * *

§§ 122.2 and 122.3 [Amended]

3. In addition to the amendments set forth above, in 9 CFR part 122, remove the word "Deputy" in the following places:

a. Section 122.2, second sentence; and

b. Section 122.4, paragraph (a).

PART 156—INSPECTION AND CERTIFICATION OF ANIMAL BYPRODUCTS

4. The authority citation for part 156 is revised to read as follows:

Authority: 7 U.S.C. 1622, 1624.

§ 156.2 [Amended]

5. In § 156.2 paragraph (b) is revised to read as follows:

§ 156.2 Definitions.

* * * * *

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

6. In § 156.2, paragraph (c) is removed, and paragraphs (d) through (i) are redesignated as paragraphs (c) through (h).

§§ 156.2, 156.4, 156.5, 156.6, and 156.8 [Amended]

7. In 9 CFR part 156, remove the word "Deputy" from the following places:

a. Section 156.2, newly redesignated paragraph (d);

b. Section 156.4, both times the word appears;

c. Section 156.5;

d. Section 156.6, first sentence; and

e. Section 156.8, paragraph (b), each of the five times the word appears.

Done in Washington, DC, this 8th day of July 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–16347 Filed 7–10–92; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771 and 774

[Docket No. 920654–2154]

Revision of General License GATS

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: General License GATS allows foreign registered civil aircraft in the United States on temporary sojourn to depart, and U.S. registered aircraft to depart on temporary sojourn abroad. GATS is not applicable to departures for purpose of sale or other transfer of operational control, although General License G–DEST frequently applies to such situations.

This rule clarifies existing policy on the availability of General License GATS and on what actions constitute the transfer of operational control of aircraft for export control purposes, by providing specific criteria the exporter must meet. These criteria emphasize the need to avoid situations that give control of the aircraft to Country Groups S and Z, nations designated as supporting international terrorism, or nationals of any of these countries. Aircraft operators should be mindful that under Department of Transportation Order T–2, no person may fly an aircraft registered under the laws of the United States to North Korea or Vietnam.

EFFECTIVE DATE: This rule is effective July 13, 1992.

FOR FURTHER INFORMATION CONTACT: Bruce Webb, Capital Goods Technology Center, Bureau of Export Administration, Telephone: (202) 377–3806.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this General License GATS (15 CFR 771.19) is to authorize international flights for aircraft on "temporary sojourn" if the operator meets the criteria clarified in this regulation. The Bureau of Export Administration (BXA) has been asked whether certain international flights are on "temporary sojourn" if the flight plan includes an overnight stay in-country. An international flight with an overnight stay in-country is on "temporary sojourn" if there is no more than one such overnight stay while in-country. BXA has also been asked whether an international flight is on "temporary sojourn" if the flight plan includes an in-country continuation. A flight within the country would qualify as a "temporary sojourn" in the following two circumstances. First, an international flight is on "temporary sojourn" if it has no more than one domestic continuation in-country between two different airports—the airport of arrival in-country and the airport of departure from that country. Second, an international flight is a "temporary sojourn" if it includes no more than one round trip continuation in-country between the airport of arrival, another airport, and return to the airport of arrival for departure from that country. For all such flights, operators should be mindful that General License GATS is available only if the operator continues to maintain all indicia of "operational control" throughout the "temporary sojourn". Operators should not use General License GATS for a flight that has more than one overnight stay or domestic service, beyond that described above, without first seeking an advisory opinion from the Bureau of Export Administration.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule does not involve a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

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

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function. This rule does not impose a new control. No other law

requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Daniel E. Cook, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 771 and 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 771 and 774 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for 15 CFR parts 771 and 774 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

PART 771—[AMENDED]

2. Section 771.19 is amended by revising paragraphs (a), (b)(1)(i), and (b)(2)(i), by redesignating paragraph (c) as paragraph (d) and by adding a new paragraph (c) to read as follows:

§ 771.19 General license GATS; aircraft on temporary sojourn.

* * * * *

(a) *Foreign registered aircraft.* An operating civil aircraft of foreign registry that has been in the United States on a temporary sojourn may depart from the United States under its own power for any destination, provided that:

(1) No sale or transfer of operational control of the aircraft has occurred while in the United States;

(2) If of U.S. origin or subject to the provisions of § 776.12 of this subchapter, the aircraft is not departing for the purpose of sale or transfer of operational control; and

(3) It does not carry from the United States any item for which export authorization has not been granted by the appropriate U.S. Government agency.

(b) * * *

(1) * * *

(i) The aircraft does not depart for the purpose of sale or transfer of operational control of the aircraft, or disposition of its equipment, parts, accessories, or components to a foreign country or any national thereof;

* * * * *

(2) * * *

(i) The aircraft does not depart for the purpose of sale or transfer of operational control of the aircraft, or disposition of its equipment, parts, accessories, or components to a foreign country or any national thereof;

* * * * *

(c) When aircraft are departing for sale or other transfer of operational control, General License G–DEST (§ 771.3) is available for most destinations. Where G–DEST is not applicable, the following nine criteria should be considered in determining whether the flight is a temporary sojourn. To be considered a temporary sojourn, the flight must not be for the purpose of sale or transfer of operational control. Operational control is deemed transferred unless the exporter retains each of the following indicia of control:

(1) *Hiring of cockpit crew.* Right to hire and fire the cockpit crew.

(2) *Dispatch of aircraft.* Right to dispatch the aircraft.

(3) *Selection of routes.* Right to determine the aircraft's routes (except for contractual commitments entered into by the exporter for specifically designated routes).

(4) *Place of maintenance.* Right to perform or obtain the principal maintenance on the aircraft, which principal maintenance is conducted outside Country Groups S and Z and "countries supporting international terrorism" as defined in § 770.2 of this subchapter, under the control of a party who is not a national of any of these countries. (The minimum necessary in-transit maintenance may be performed in any country.)

(5) *Location of spares.* Spares are not located in Country Groups S or Z or "countries supporting international terrorism."

(6) *Place of registration.* The place of registration is not changed to Country Groups S or Z or a "country supporting international terrorism."

(7) *No transfer of technical data.* No technical data are transferred to a national of Country Groups S or Z or "countries supporting international terrorism," except the minimum necessary in transit maintenance to perform flight line servicing required to depart safely.

(8) *Colors and logos.* The aircraft does not bear the livery, colors, or logos of a national of Country Group S or Z or "countries supporting international terrorism."

(9) *Flight number.* The aircraft does not fly under a flight number issued to a national of Country Group S or Z or "countries supporting international terrorism" as it appears in the Official Airline Guide.

* * * * *

PART 774—[AMENDED]

3. Section 774.2(a)(1) is amended by adding the reference "GATS," immediately following the reference "G–NNR,".

Dated: July 7, 1992.

James M. LeMunyon,

Acting Assistant Secretary for Export Administration.

[FR Doc. 92–16193 Filed 7–10–92; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

19 CFR Parts 353 and 355

[Docket No. 920652–2152]

Antidumping and Countervailing Duties; Protection of Proprietary Information

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Interim-final rule; request for comments.

SUMMARY: The International Trade Administration (ITA) is issuing interim-final regulations to permit parties to an antidumping or countervailing duty proceeding to file and serve the public version of a document containing business proprietary information one business day after the submitter files and serves the document containing business proprietary information. The regulations are intended to avoid inadvertent disclosures of business proprietary information and violations of administrative protective orders

issued by the ITA. Avoiding such inadvertent disclosures and violations will help to preserve the integrity and administrability of the antidumping and countervailing duty provisions of the Tariff Act of 1930, as amended. It will also improve the administration of the antidumping and countervailing duty laws by reducing the number of investigations of alleged violations, which could involve lengthy proceedings and may result in the imposition of sanctions.

DATES: Effective Date: July 13, 1992. Written comments will be considered in issuing final regulations if received not later than October 13, 1992.

ADDRESSES: Address written comments (10 copies) to Alan M. Dunn, Assistant Secretary for Import Administration, room B–099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. Comments should be addressed: Attention: Notice of Proposed Rulemaking/One-Day Lag. Each person submitting a comment should include his or her name and address, and give reasons for any recommendation.

FOR FURTHER INFORMATION CONTACT: Lisa B. Koteen, Senior Attorney, Office of the Chief Counsel for Import Administration, (202) 377–0836.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

The ITA has determined that the interim-final regulations concerning the filing and service of public versions of documents containing business proprietary information under 19 CFR parts 353 and 355 are not a major rule as defined in section (1)(b) of Executive Order 12291 (46 FR 13191 (1981)) because they will not: (1) Have a major monetary effect on the economy; (2) result in a major increase in costs or prices; or (3) have a significant adverse effect on competition (domestic or foreign), employment, investment, productivity, or innovation.

Executive Order 12612

These interim-final regulations do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612 (52 FR 41685 (1987)).

Paperwork Reduction Act

These interim-final regulations do not impose a collection of information requirement for purposes of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Administrative Procedure Act

Because this rule is a rule of agency procedure or practice, under section 553(b)(A) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(A)) it may be issued and published in final form without giving notice of proposed rulemaking and opportunity for comment. Further, because it is a procedural rather than a substantive rule, under section 553(d) of the APA (5 U.S.C. 553(d)) it may and is being made immediately effective. However, the ITA is issuing the rule in interim-final form in order to invite and consider comments.

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because the rule was not required to be promulgated as a proposed rule before issuance as a final rule by section 553 of the APA (5 U.S.C. 553) or by any other law. Accordingly, neither an initial nor final Regulatory Flexibility Analysis has been or will be prepared.

Background

Section 777(b)(1)(A) of the Tariff Act of 1930, as amended, requires that, when parties submit business proprietary information in the course of antidumping or countervailing duty proceedings, they must accompany those submissions with either a non-proprietary (public) summary or an explanation of why the information cannot be summarized. 19 U.S.C. 1677f(b)(1)(A).

The ITA regulations currently require that, when factual information is submitted in connection with a proceeding, the submitter may request that the information, or any part of that information, be treated as proprietary. 19 CFR 353.32(a)(1); 19 CFR 355.32(a)(1). The submitter must place brackets around the information for which proprietary treatment is requested. 19 CFR 353.32(A)(2); 19 CFR 355.32(a)(2). An adequate public summary of all proprietary information must be incorporated into a public version of the document containing proprietary information, and the public version must be filed and served simultaneously with the non-public version. 19 CFR 353.32(b); 19 CFR 35.32(b). If the information is not capable of summary (which the submitter must explain) it may be deleted from the public version and the public version must include brackets to indicate that the information deleted is proprietary. See 19 CFR 353.32(b)(2); 19 CFR 355.32(b)(2).

Experience has proven that information is almost always susceptible of summarization, particularly numerical information, such as prices, costs, and the amounts of grants or loans. Under the current regulations, a public version of numeric data is adequate if it is indexed or presented within a range of ten percent of the actual figures or, if an individual portion of the information is voluminous, the summary is adequate if at least one percent of the portion is summarized as stated. 19 CFR 353.32(b)(1); 19 CFR 355.32(b)(1). The summarized data are placed within brackets to indicate that they represent proprietary information.

Properly summarizing proprietary information and ensuring that public versions are thoroughly sanitized takes time and requires close attention to detail. The pressure of deadlines for filing information in antidumping and countervailing duty proceedings increases the likelihood (1) that proprietary material in a non-public version will not be properly bracketed; (2) that a public version will contain proprietary material; or (3) that a person submitting proprietary information will serve a document containing that information on a party that has not been granted access to it under an administrative protective order (APO). Disclosure may thus be a simple matter of erroneous release of proprietary information or it may entail a violation of the terms of an APO.

The first type of disclosure can happen in several ways. For example, a person submitting proprietary information on behalf of a party to a proceeding files and serves a public version in which actual proprietary data appears, rather than an adequate public summary. As another example of this type of disclosure, brackets have been omitted from the non-public version, thus identifying proprietary information as public. As a third example, the submitter serves a non-public version of the document containing proprietary material on someone who does not have access to the proprietary data under an APO. Essentially, the material becomes public when it is erroneously filed or served in any of these ways. Normally the submitters have been able to retrieve the document promptly after the disclosure has been discovered. Nevertheless, such disclosures have the potential to harm the party whose proprietary information has been disclosed.

The second type of disclosure is described by the situation in which an individual (normally, counsel to a party to a proceeding), who has obtained access to business proprietary information pursuant to an APO, discloses the information. Such

disclosure constitutes a violation of the terms of the APO. See 19 CFR 353.34; 19 CFR 355.34. 19 CFR part 354 governs the procedures for investigating alleged violations and for imposing sanctions if a violation has indeed occurred.

The ITA has found that a significant proportion of APO violations occur because an individual who has obtained access to business proprietary information under APO either has failed to sanitize properly a public version of a proprietary document or has served the non-public version on a person who has not been granted access to the proprietary information. Although these violations are normally inadvertent, they are violations nonetheless and the ITA must investigate and impose appropriate sanctions.

Explanation of the Interim-Final Rules

The kinds of disclosures described in the Background section of this notice tend to occur under the press of filing deadlines. To lessen the possibility of public disclosure of business proprietary information, the ITA is allowing parties an extra business day after submitting proprietary information in which to submit public versions of the documents containing such information, with certain specified exceptions. Furthermore, parties will have the added protection that bracketing in non-public versions does not become final until one business day after the document is submitted.

The United States International Trade Commission (ITC), which determines injury to the domestic industry in antidumping and countervailing duty investigations, allows parties to submit public versions one business day after submitting documents containing proprietary information. 19 CFR 207.3(c). Since 1991 the ITC regulations have also provided that bracketing will not be final for one business day. *Id.* The ITC regulations have apparently been implemented successfully and have created no difficulties for either the ITC or the parties. The Department is proposing to promulgate a rule comparable to the ITC's regulation.

A section-by-section explanation of the revisions follows. Because the antidumping and countervailing duty regulations with respect to submission and disclosure of information are parallel, the explanations of the respective provisions are combined.

Under the new procedure, parties must continue to file the business proprietary versions of their documents on the deadline for filing such documents. The amendments to paragraphs (a) and (b)(4) of §§ 353.31 and 355.31 provide exclusions from the general time limits and the time limits for questionnaire responses for public versions of most documents submitted in the course of antidumping or countervailing duty proceedings. This exclusion covers all public versions, except for those specified in paragraph (b)(3) of §§ 353.32 and 355.32.

The amendment to paragraph (g) of §§ 353.31 and 355.31 eliminates the requirement that parties must serve public summaries simultaneously when they submit proprietary information to the Department. APO versions, however, must still be served at the same time that documents containing proprietary information are submitted.

The non-public version of a document must be filed with business proprietary information enclosed in brackets and the following warning must appear on every page containing proprietary information: "Bracketing of proprietary information not final for one business day after date of filing." In accordance with the warning, parties are not permitted to discuss information contained in the document with anyone who does not have access to the information (either as its submitter or by virtue of an APO) until the bracketing becomes final. In the event that the submitter finds an error in the bracketing, the party is permitted to file and serve a corrected version of the proprietary document (or corrected replacement pages) one business day after the document had been filed. If the party that discovers the error is not the submitter, the party must notify the submitter immediately because the submitter only has one business day in which to file the corrected version or replacement pages. The amendment to this paragraph concludes with notice that the extra business day may not be used to make other changes in proprietary submissions. Any violation of this restriction could result in striking all or part of the document from the record.

The amendment to paragraph (b) of § 353.32 and 355.32 permits parties to file and serve public versions of documents containing proprietary information one business day after the non-public version is filed. Thus, the public versions would be available at the same time as the bracketing in the proprietary version becomes final.

The modification to the filing procedure has been successfully adopted by the ITC in response to concerns expressed by the bar. It should ease the task of counsel and other representatives of parties to proceedings by providing an extra day, after the proprietary information has been submitted, in which to concentrate on properly sanitizing the submission, both in terms of the bracketing in the document filed and in terms of preparing proper summaries of proprietary information.

Drafting Information

The principal author of this document is Lisa B. Koteen, Senior Attorney, Office of the Chief Counsel for Import Administration, U.S. Department of Commerce.

List of Subjects in 19 CFR Parts 353 and 355

Business and industry, Foreign trade, Imports, Trade practices.

Dated: June 3, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

For the reasons stated, 19 CFR part 353 and 355 are amended as follows:

PART 353—[AMENDED]

1. The authority citation for part 353 continues to read as follows:

Authority: 5 U.S.C. 301 and subtitle IV, parts II, III, and IV of the Tariff Act of 1930, as amended by Title I of the Trade Agreements Act of 1979, Pub. L. No. 96–39, 93 Stat. 150, and section 221 and Title VI of the Trade and Tariff Act of 1984, Pub. L. No. 98–573, 98 Stat. 294, and Title I, subtitle C, part II of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100–418, 102 Stat. 1197 (1988).

2. Section 353.31 is amended by revising paragraphs (a)(1) introductory text, (b)(4), and (g) introductory text to read as follows:

§ 353.31 Submission of factual information.

(a) *Time limits in general.* (1) Except as provided in § 353.32(b) and paragraphs (a)(2) and (b) of this section, submissions of factual information for the Secretary's consideration shall be submitted not later than:

* * * * *

(b)*Questionnaire responses and other submissions on request.*

* * * * *

(4) Except as provided in § 353.32(b) and subject to the other provisions of paragraph (b) of this section, questionnaire responses in administrative reviews must be submitted not later than 60 days after the date of receipt of the questionnaire.

* * * * *

(g) *Service of copies on other parties.* With the exception of petitions, proposed suspension agreements submitted under § 353.18(g)(1)(i), and factual information submitted under

§ 353.32(a) that is not required to be served on an interested party, the submitter of a document shall, at the same time, serve a copy of the document on all interested parties on the Department's service list by first class mail or personal service. In addition, where proprietary information is involved, the submitter shall serve the following administrative protective order versions.

* * * * *

3. Section 353.32 is amended by revising paragraphs (a)(2) and (b) introductory text and adding paragraphs (a)(3) and (b)(3) to read as follows:

§ 353.32 Request for proprietary treatment of information.

(a) *Submission and content of request.*

* * * * *

(2) The submitter shall identify proprietary information on each page by placing brackets around the proprietary information and clearly stating at the top of each page containing such information "Proprietary Treatment Requested" and the warning "Bracketing of proprietary information not final for one business day after date of filing." The bracketing becomes final one business day after the date of filing of the document, i.e., at the same time as the nonbusiness proprietary version of the document is due to be filed. Until the bracketing becomes final, recipients of the document may not divulge any part of the contents of the document to anyone not subject to the administrative protective order issued in the investigation. After the bracketing becomes final, recipients may divulge the pubic version of the document to anyone not subject to the administrative protective order. If the submitter discovers it has failed to bracket correctly, the submitter may file a corrected version or portion of the business proprietary document at the same time as the nonbusiness proprietary version is filed. No changes to the document other than bracketing and deletion of business proprietary information are permitted after the deadline. Failure to comply with this paragraph may result in the striking from the record of all or a portion of a submitter's document.

(3) The submitter shall provide a full explanation why each piece of factual information subject to the request is entitled to proprietary treatment under § 353.4. The request and explanation shall be a part of or securely bound with the document containing the information.

(b) *Public summary.* Except as provided in paragraph (b)(3) of this section, not later than one business day after submitting information for which proprietary treatment is requested, any person who requests proprietary treatment shall provide to the Secretary.

* * * * *

(3) All requests for proprietary treatment of information contained in petitions submitted under § 353.12 and proposed suspension agreements submitted under § 353.18(g)(1)(i) shall be accompanied by a public summary and statement described in paragraphs (b)(1) and (b)(2) of this section.

PART 355—[AMENDED]

4. The authority citation for part 355 continues to read as follows:

Authority: 5 U.S.C. 301, and subtitle IV, parts II, III, and IV of the Tariff Act of 1930, as amended by Title I of the Trade Agreements Act of 1979, Pub. L. No. 96–39, 93 Stat. 150, and section 221 and Title VI of the Trade and Tariff Act of 1984, Pub. L. No. 98–573, 98 Stat. 294, and Title I, subtitle C, part II of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100–418, 102 Stat. 1107 (1988).

5. Section 355.31 is amended by revising paragraphs (a)(1), (b)(4), and (g) introductory test to read as follows:

§ 355.31 Submission of factual information.

(a) *Time limits in general.* (1) Except as provided in paragraphs (a)(2) and (b) of this section, submissions of factual information for the Secretary's consideration shall be submitted not later than:

* * * * *

(b) *Questionaire responses and other submissions on requests.*

* * * * *

(4) Except as provided in § 355.32(b) and subject to the other provisions of paragraph (b) of this section, questionnaire responses in administrative reviews must be submitted not later than 60 days after the date of receipt of the questionnaire.

* * * * *

(g) *Service of copies on other parties.* With the exception of petitions, proposed suspension agreements submitted under § 355.18(g)(1)(i), and factual information submitted under § 355.32(a) that is not required to be served on an interested party, the submitter of a document shall, at the same time, serve a copy of the document, on all interested parties on the Department's service list by first class mail or personal service. In addition, where proprietary information is involved, the submitter shall serve the following administrative protective order versions:

* * * * *

6. Section 355.32 is amended by revising paragraphs (a)(2) and (b) introductory text and adding paragraphs (a)(3) and (b)(3) to read as follows:

§ 355.32 Request for proprietary treatment of information.

(a) *Submission and content of request.*

* * * * *

(2) The submitter shall identify proprietary information on each page by placing brackets around the proprietary information and clearly stating at the top of each page containing such information "Proprietary Treatment Requested" and the warning "Bracketing of proprietary information not final for one business day after date of filing." The bracketing becomes final one business day after the date of filing of the document, i.e., at the same time as the nonbusiness proprietary version of the document is due to be filed. Until the bracketing becomes final, recipients of the document may not divulge any part of the contents of the document to anyone not subject to the administrative protective order issued in the investigation. After the bracketing becomes final, recipients may divulge the public version of the document to anyone not subject to the administrative protective order. If the submitter discovers it has failed to bracket correctly, the submitter may file a corrected version or portion of the business proprietary document at the same time as the nonbusiness proprietary version is filed. No changes to the document other than bracketing and deletion of business proprietary information are permitted after the deadline. Failure to comply with this paragraph may result in the striking from the record of all or a portion of a submitter's document.

(3) The submitter shall provide a full explanation why each piece of factual information subject to the request is entitled to proprietary treatment under § 355.4. The request and explanation shall be a part of or securely bound with the document containing the information.

(b) *Public Summary.* Except as provided in paragraph (b)(3) of this section, not later than one business day after submitting information for which proprietary treatment is requested, any person who requests proprietary treatment shall provide to the Secretary:

* * * * *

(3) All requests for proprietary treatment of information contained in petitions submitted under § 355.12 and proposed suspension agreements submitted under § 355.18(g)(1)(i) shall be accompanied by a pubic summary and statement described in paragraphs (b)(1) and (b)(2) of this section.

[FR Doc. 92–16267 Filed 7–10–92 8:45 am]
BILLING CODE 3510–DS–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 290

[DCAA 5410.8]

Defense Contract Audit Agency (DCAA) Freedom of Information Act Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Defense Contract Audit Agency is amending its implementation of the Freedom of Information Act of 1974. This administrative change updates an address and telephone number in appendix B to part 290.

EFFECTIVE DATE: This change will be effective September 11, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Henshall, (703) 274–4400.

SUPPLEMENTARY INFORMATION: The Agency's final rule was published in the **Federal Register** on Tuesday, October 1, 1991 (56 FR 49685). It was amended on Thursday, November 7, 1991 (56 FR 56932) and on Monday, April 27, 1992 (57 FR 15254).

List of Subjects in 32 CFR Part 290

Freedom of information.

Accordingly 32 CFR part 290 is amended as follows:

PART 290—DEFENSE CONTRACT AUDIT AGENCY (DCAA) FREEDOM OF INFORMATION ACT PROGRAM

1. The authority citation for 32 CFR part 290 continues to read as follows:

Authority: 5 U.S.C. 552.

2. Appendix B to part 290 is amended as follows:

a. DCAA Western Regional Office is amended by revising the telephone number to read "(714) 228–7036".

b. DCAA Mid-Atlantic Regional Office is amended by revising the address to read "615 Chestnut Street, suite 1000, Philadelphia, PA 19106–4498".

Dated: July 8, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–16334 Filed 7–10–92; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

Tariff of Tolls

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada have jointly established and presently administer the St. Lawrence Seaway Tariff of Tolls. This Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the Corporation and the Authority. The Authority proposed to the Corporation and the Corporation agreed that the toll for materials for recycling will be changed to the lower bulk rate from the current, higher general cargo rate. These materials are relatively low valued. The Corporation and the Authority believe that making the rate for these materials more competitive will encourage use of the Seaway system for their transit. The Authority also proposed to the Corporation and the Corporation agreed that a new business incentive toll will be added for passenger vessels to encourage increased use of the Seaway system by that class of vessels.

EFFECTIVE DATE: July 13, 1992.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–0091.

SUPPLEMENTARY INFORMATION: Section 402.3 is amended by adding a new paragraph (b)(10) that includes within the definition of "bulk cargo", "material for recycling, scrap material, refuse and waste". This changes the toll for materials for recycling, materials that are relatively low valued, to the lower bulk rate from the current, higher general cargo rate. The Corporation and the Authority believe that making the rate for these materials more competitive will encourage use of the Seaway system for their transit, creating new business opportunities. Section 402.9 also is amended to add new paragraphs (f) through (i) to add a new business incentive toll for passenger vessels. This is similar to the new business incentive tolls for cargoes already contained within that section. The amendment provides a new business incentive toll for any passenger vessel that did not move through a Seaway lock during the 1988 and 1989 navigation seasons or the three navigation seasons immediately preceding the season in which a new business refund is submitted. Under this program, a qualifying passenger vessel receives a 25% discount of the passenger per lock charge each transit it carries 20 passengers or more beginning within the Seaway after the opening of navigation and before July 1 or beginning on or after October 1 in 1992 and 1993 and ending at the closing of navigation in those years and a 50% discount for each transit it carries 20 or more passengers beginning on or after July 1 and before October 1 in 1992 and 1993. It applies to both the Montreal-Lake Ontario and Welland Canal sections of the Seaway.

No comments were received in response to the March 6, 1992, (57 FR 8103) Notice of Proposed Rulemaking. An exchange of diplomatic notes between Canada and the United States approving this amendment occurred on June 30, 1992.

Regulatory Evaluation

This final rule involves a foreign affairs function of the United States, and therefore, Executive Order 12291 does not apply. This final rule has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the final rule is not considered significant under those procedures and its economic impact is expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This final rule does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly

affecting the quality of human environment.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation amends part 402—Tariff of Tolls (33 CFR part 402) as follows:

PART 402—[AMENDED]

1. The authority citation for 33 CFR part 402 continues to read as follows:

Authority: 68 Stat. 93, 33 U.S.C. 981–990.

2. A new paragraph (b)(10) is added to § 402.3 read as follows:

§ 402.3 Interpretation.

* * * * *

(b) * * *

(10) Material for recycling, scrap material, refuse and waste;

* * * * *

3. New paragraphs (f) through (i) are added to § 402.9 to read as follows:

§ 402.9 Incentive tolls.

* * * * *

(f) Notwithstanding anything contained in this Tariff, the charge per passenger per lock charged on new business shall be reduced by:

(1) Twenty-five percent for a transit beginning within the Seaway after the opening of navigation and prior to July 1 or the beginning on or after October 1 in the years 1992 and 1993 and ending at the closing of navigation in the years 1992 and 1993; or

(2) Fifty percent for a transit beginning on or after July 1 and prior to October 1 in the years 1992 and 1993.

(g) The reduction mentioned in paragraph (f) of this section shall be granted at the end of the applicable navigation season after payment of the full toll specified in the schedule under the tariff in § 402.8 of this part if:

(1) A vessel carries 20 passengers or more during a transit qualifying as new business; and

(2) An application for a new business refund is submitted to the Authority or the Corporation for audit by the Authority or the Corporation.

(h) For the purposes of this section, "new business" means: A passenger vessel that has not moved through a Seaway lock during the navigation seasons of 1988 through 1989 or the three navigation seasons immediately preceding the season in which a new business refund is submitted.

(i) When a passenger vessel's transit qualifies as new business, at any time during 1992 or 1993, it shall continue to qualify until the end of the 1993 navigation season as long as it carries a minimum of 20 passengers.

Issued at Washington, DC on July 6, 1992.

Saint Lawrence Seaway Development Corporation.

Stanford E. Parris,

Administrator.

[FR Doc. 92–16314 Filed 7–10–92; 8:45 am]

BILLING CODE 4910–61–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–4151–4]

Arizona; Final and Interim Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Arizona has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The Environmental Protection Agency (EPA) has reviewed Arizona's application and has made a decision, subject to public review and comment, that Arizona's hazardous waste program revisions, except corrective action, satisfy all of the requirements necessary to qualify for final authorization. However, EPA has determined that Arizona's corrective action provisions qualify the State for interim authorization only. Thus, EPA intends to approve Arizona's hazardous waste program revisions as follows: interim authorization for corrective action and final authorization for all other provisions. Arizona's application for program revision is available for public review and comment.

DATES: Final authorization for Arizona shall be effective September 11, 1992 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Arizona's program revision application must be received by the close of business August 12, 1992.

ADDRESSES: Copies of Arizona's program revision application are available during the business hours of 9 a.m. to 5 p.m. at the following addresses for inspection and copying:

Arizona Department of Environmental Quality, Central Office, Office of Waste Programs, Waste Assessment Section, 3033 N. Central Avenue, Phoenix, Arizona 85012 Phone: 602/207–4213.

Arizona Department of Environmental Quality, Northern Regional Office, 2501 North 4th Street, suite #14, Flagstaff, Arizona 86004 Phone: 602/779–0313 or 1–800/234–5677.

Arizona Department of Environmental Quality, Southern Regional Office, 4040 East 29th Street, Tucson, Arizona 85711 Phone: 602/628–5651 or 1–800/234–5677.

U.S. EPA Region IX Library-Information Center, 75 Hawthorne Street, San Francisco, California 94105 Phone: 415/744–1510.

Written comments should be sent to April Katsura, U.S. EPA Region IX (H–2–2), 75 Hawthorne Street, San Francisco, California 94105 Phone: 415/744–2026.

FOR FURTHER INFORMATION CONTACT: April Katsura at the above address and phone number.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal hazardous waste program. Revisions to state hazardous waste programs are necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, state program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–266, 268, 124 and 270.

In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows states to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the substantially equivalent option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements. All interim authorizations pursuant to section 3006(g)(2) expire on January 1, 1993. EPA assumes responsibility for that portion of the program on that date if a state has not received final authorization for those provisions.

B. Arizona

Arizona initially received final authorization for the base program on November 20, 1985. Arizona received authorization for revisions to its

program on August 6, 1991. On June 21, 1991, Arizona submitted a program revision application for additional program approvals. Today, Arizona is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

On July 1, 1987, the Arizona Department of Environmental Quality (ADEQ) was established pursuant to Arizona law (Laws 1986, chapter 386, section 34). ADEQ was designated as the State agency for administering Arizona's hazardous waste management program. Prior to that time, the Arizona hazardous waste management program was the responsibility of the Department of Environmental Services of the Arizona Department of Health Services. The State's regulatory and statutory equivalency to the Federal RCRA program was in no way altered by this reorganization of the RCRA program to the new department.

On January 1, 1987, pursuant to Arizona law, the State's environmental quality rules which previously appeared in title 9 of the *Arizona Official Compilation of Administrative Rules and Regulations* were renumbered, amended and/or reprinted in title 18 of the *Arizona Administrative Code* (Laws 1986, chapter 232, section 4). Similarly on July 1, 1987, pursuant to Arizona law, The Arizona Hazardous Waste Management Act was transferred from title 36, *Arizona Revised Statute,* to title 49 and renumbered accordingly (Laws 1986, chapter 368, section 42). Neither the recodification and renumbering of Arizona's hazardous waste management rules nor the recodification and renumbering of the Hazardous Waste Management Act affects ADEQ's authority to implement RCRA.

Arizona's application did not include a provision addressing RCRA sections 3004(t) (2) and (3). Those provisions create a federal cause of action for any person with a claim arising from conduct for which financial assurances are required under RCRA. This action may be asserted directly against the guarantor of the assurances if (1) the owner or operator of the facility is in bankruptcy or other similar proceedings under federal law, or (2) the person with the claim is not likely to obtain jurisdiction over the facility owner/operator in either federal or state court. The cause of action created by section 3004(t) is always available in federal court and, therefore, is not delegable to states. States are welcome to create parallel causes of action viable in state courts, but to the extent that states do so, the state cause of action cannot limit the availability of the federal action.

EPA has reviewed Arizona's application, and has made an immediate final decision that Arizona's hazardous waste program revisions, except corrective action, satisfy all of the requirements necessary to qualify for final authorization. However, EPA has determined that Arizona's corrective action provisions qualify the State for interim authorization.

In order to receive final authorization for corrective action, a state's definitions of solid and hazardous wastes must be equivalent to EPA's definitions. The definition of hazardous waste must not exclude the hazardous components of mixed waste. (See clarification of Interim Status Qualification Requirements for the Hazardous Components of Radioactive Mixed Waste 51 FR 24504, dated July 3, 1986.) Therefore, mixed waste authorization must precede or be received concurrently with corrective action final authorization. A state cannot receive final authorization for corrective action without mixed waste authorization being approved and in effect.

The State of Arizona believes that its current regulations for mixed waste are not equivalent to and no less stringent than the federal requirements. The State is in the process of amending its hazardous waste rules and intends to apply for mixed waste authorization by fall 1992.

In the meantime, EPA intends to grant Arizona interim authorization for corrective action until the State adopts the necessary regulations and applies for mixed waste authorization. Under interim authorization, the State implements corrective action and its provisions operate in lieu of the federal requirements. The difference between interim authorization and final authorization is that interim authorization expires on January 1, 1993, and responsibility for that portion of the authorized program automatically reverts to EPA if the State has not received final authorization by that date.

EPA believes that Arizona's authorization for mixed waste can be in effect by January 1, 1993. If Arizona does receive mixed waste authorization prior to January 1, 1993, the State will then automatically receive final authorization for corrective action at the time mixed waste authorization is granted. The **Federal Register** notice for the mixed waste approval will include an announcement of the corrective action final authorization. If authorization for mixed waste is not effective in Arizona by January 1, 1993, the interim authorization for corrective action automatically expires and corrective action reverts to EPA. If that occurred, EPA would publish a **Federal Register** notice announcing the reversion.

EPA intends to approve final authorization for Arizona's hazardous waste program revisions and interim authorization for corrective action. The public may submit written comments on EPA's immediate final decision up until August 12, 1992. Copies of Arizona's application for program revision are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice.

Approval of Arizona's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

Arizona is applying for authorization for the following federal hazardous waste regulations:

Federal requirement	State authority
Liability Coverage (51 FR 25350, July 11, 1986)	Arizona Revised Statute ARS) 49-922 (A)+(B); Arizona Administrative Code (AAC) R18-8-264(A) and 265(A).
Standards for Hazardous Waste Storage and Treatment Tank Systems (51 FR 25470, July 14, 1986, as amended on August 15, 1986 at 51 FR 29430) including both HSWA and non-HSWA portions.	ARS 49-922(A)+(B); AAC R18-8-260(C), 262 (A)+(D), 264(A), 265 (A)+(H), 270(A).
Corrections to listing of Commercial Chemical Products and Appendix VIII Constituents (51 FR 28296, August 6, 1986).	ARS 49-922(A)+(B); AAC R18-8-261(A).
Revised Manual SW-846; Amended Incorporation by Reference (52 FR 8072, March 16, 1987)	ARS 49-922(A)+(B); AAC R18-8-260(C)+270(A).
Closure-Post Closure Care for Interim Status Surface Impoundments (52 FR 8704, March 19, 1987)	ARS 49-922(A)+(B); AAC R18-8-265(A).

Federal requirement	State authority
Definition of Solid Waste Technical Corrections (52 FR 21306, June 5, 1987)	ARS 49-921 and 922(A)+(B); AAC R18-8-261(A) and 266.
Amendments to Part B Information Requirements for Disposal Facilities (52 FR 23447, June 22, 1987, as amended on September 9, 1987 at 52 FR 33936).	ARS 49-922(A)+(B); AAC R18-8-270(A).
List (Phase I) of Hazardous Constituents for Ground-Water Monitoring (52 FR 25942, July 9, 1987)	ARS 49-922(A)+(B); AAC R18-8-264(A) and 270(A).
Identification and Listing of Hazardous Waste (52 FR 26012, July 10, 1987)	ARS 49-922(A)+(B); AAC R18-8-261(A).
Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee (52 FR 44314, November 18, 1987)	ARS 49-922(A)+(B); AAC R18-8-2-264(A) and 265(A).
Hazardous Waste Miscellaneous Units (52 FR 46946, December 10, 1987)	ARS 49-922(A)+(B); AAC R18-8-260(C), 264(A) and 270(A).
Technical Correction; Identification and Listing of Hazardous Waste (53 FR 13382, April 22, 1988)	ARS 49-922(A)+(B); AAC R18-8-261(A).
Dioxin Waste Listing and Management Standards (50 FR 1978, January 14, 1985)	ARS 49-922(A)+(B); AAC R18-8-261(A), 264(A), 265(A), and 270(A).
Paint Filter Test (50 FR 18370, April 30, 1985)	ARS 49-922(A)+(B); AAC R18-8-264(A) and 265(A).
Small Quantity Generators (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-261(A), (D),(E)+(F).
Waste Minimization (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-262(A)+(F), 264(A) and 270(A).
Location Standards for Salt Domes, Salt Beds, Underground Mines and Caves (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-264(A) and 265(A).
Liquids in Landfills (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-264(A), 265(A), and 270(A).
Dust Suppression (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-266.
Double Liners (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-264(A) and 265(A).
Ground-Water Monitoring (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-264(A).
Cement Kilns (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-261(A) and 266.
Fuel Labeling (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-266.
Corrective Action (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); ACC R18-8-264(A) and 270(A).
Pre-Construction Ban (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-270(A).
Permit Life (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-270(A).
Omnibus Provision (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-270(A)+(0).
Interim Status (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-270(A).
Hazardous Waste Exports (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); ACC R18-8-262(A).
Exposure Information (50 FR 28702, July 15, 1985)	ARS 49-922(A)+(B); AAC R18-8-270(A).
Listing of TDI, DNT, and TDA Wastes (50 FR 42936, October 23, 1985)	ARS 49-922(A)+(B); AAC R18-8-261(A).
Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces (50 FR 49164, November 29, 1985, as amended on November 19, 1986 at 51 FR 41900 and April 13, 1987 at 52 FR 11819).	ARS 49-922(A)+(B); AAC R18-8-261(A)+(D), 264(A), 265(A), and 266.
Listing of Spent Solvents (50 FR 53315, December 31, 1985, as amended on January 21, 1986 at 51 FR 2702)	ARS 49-922(A)+(B); AAC R18-8-261(A).
Listing of EDB Wastes (51 FR 5330, February 13, 1986)	ARS 49-922(A)+(B); AAC R18-8-261(A).
Listing of Four Spent Solvents (51 FR 6541, February 25, 1986)	ARS 49-922(A)+(B); AAC R18-8-261(A).
Generators of 100 to 1000 kg Hazardous Waste (51 FR 10174, March 24, 1986)	ARS 49-922(A)+(B); AAC R18-260(C), 261(A), (D), (E) & (F), 262(A), (D), (E) & (H), 263(A), and 270(A).
Codification Rule, Technical Correction (51 FR 19176, May 28, 1986)	ARS 49-922(A)+(B); AAC R18-265(A).
Biennial Report Correction (51 FR 28556, August 8, 1986)	ARS 49-922(A)+(B); AAC R18-8-264(A)+(E) and 265(A)+(E).
Exports of Hazardous Waste (51 FR 28664, August 8, 1986)	ARS 49-922(A)+(B); AAC R18-8-261(A), (E) & (F), 262(A), (F) & (I) and 263(A).
Standards for Generators—Waste Minimization Certifications (51 FR 55190, October 1, 1986)	ARS 49-922(A)+(B); AAC R18-8-262(A).
Listing of EBDC (51 FR 37725, October 24, 1986)	ARS 49-922(A)+(B); AAC R18-8-261(A).
Exception Reporting for Small Quantity Generators of Hazardous Waste (52 FR 35894, September 23, 1987)	ARS 49-922(A)+(B); AAC R18-8-262(A)+(H).
Permit Application Requirements Regarding Corrective Action (52 FR 45788, December 1, 1987)	ARS 49-922(A)+(B); AAC R18-8-270(A).
Corrective Action Beyond the Facility Boundary (52 FR 45788, December 1, 1987)	ARS 49-922(A)+(B); ACC R18-8-264(A).
Permit Modification (52 FR 45788, December 1, 1987)	ARS 49-922(A)+(B); ACC R18-8-270(A)+(Q).
Permit as a Shield Provision (52 FR 45788, December 1, 1987)	ARS 49-922(A)+(B); ACC R18-8-270(A).
Permit Conditions to Protect Human Health and the Environment (52 FR 45788, December 1, 1987)	ARS 49-922(A)+(B); AAC R18-8-270(A).
Post-Closure Permits (52 FR 45788, December 1, 1987)	ARS 49-922(A)+(B); AAC R18-8-270(A) & (C).
Sharing of Information with the Agency for Toxic Substances and Disease Registry (HSWA 3019(b))	ARS 49-104(A)(4) and 49-928(A).
Hazardous and Used Oil Fuel Criminal Penalties (HSWA 3006(h), 3008(d), and 3014)	ARS 49-925; AAC R18-8-266.
Surface Impoundment Requirements: Compliance with new unit requirements by November 8, 1988 or stop hazardous waste activity for units existing prior to November 8, 1984 or becoming subject to RCRA pursuant to 3005(j)(6)(A) or (B) (HSWA 3005(j)(6)(A)).	ARS 49-922(A)+(B); ARS 49-142, 143+923; AAC R18-8-264(A), 265(A) and 270(A).
Surface Impoundment Requirements: Disposal of waste prohibited from land disposal under RCRA 3004(d), (e) or (g) (HSWA 3004(j)(11)).	ARS 49-922(A)+(B); AAC R18-8-268.

In its application, Arizona has not requested authorization for land disposal restrictions. Therefore, at this time the State is not being authorized for that provision.

Arizona is applying for the HSWA regulations governing exports of hazardous waste (51 FR 28664, August 8, 1986). These rules contain provisions which are not delegable to states. Therefore, EPA will not be authorizing Arizona for the non-delegable provisions; EPA will continue to administer these provisions in accordance with federal requirements.

The non-delegable provisions are as follows:

—Per 40 CFR 262.53, an exporter of hazardous waste must notify EPA of its intended export.

—Per 40 CFR 262.53(b), the notification to export must be sent to EPA's Office of International Activities.

—Per 40 CFR 262.54(g)(1), the notification of a change in the original notification allowing shipment to a new consignee must be sent to EPA.
—Per 40 CFR 262.54(i), the additional copy of the manifest must be delivered to the U.S. Customs official at the point the hazardous material leaves the U.S.
—Per 40 CFR 262.55, exception reports must be filed with the EPA Administrator.
—Per 40 CFR 262.56(a), the annual reports addressed by 40 CFR 262.56(a) should be filed with the EPA Administrator.
—Per 40 CFR 262.57(b), the retention periods for recordkeeping are extended as requested by the EPA Administrator.
—Per 40 CFR 263.20(g)(4), transporters must give a copy of the manifest to a U.S. Customs official at the point of departure from the U.S.
—Per 264.12(a), the notification required by 40 CFR 264.12(a) must be sent to the Regional Administrator.
—Per 265.12(a), the notification required by 40 CFR 265.12(a) must be sent to the Regional Administrator.

Arizona agrees to review all State hazardous waste permits which have been issued under State law prior to the effective date of this authorization. Arizona agrees to then modify or revoke and reissue such permits as necessary to require compliance with the amended State program. The modifications or revocation and reissuance will be scheduled in the annual State Grant Work Plan.

Arizona is not being authorized to operate any portion of the hazardous waste program on Indian lands.

C. Decision

I conclude that Arizona's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Arizona is granted final and interim authorization to operate its hazardous waste program as revised.

Arizona is now responsible for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Arizona also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013 and 7003 of RCRA.

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

Certification Under the Regulatory Flexibility Act: Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain federal regulations in favor of Arizona's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

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

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

Dated: June 18, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92–15825 Filed 7–10–92; 8:45 am]

BILLING CODE 6560–50–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1804 and 1852

Change to NASA FAR Supplement Concerning Security Plan for Unclassified Automated Information Resources

AGENCY: Office of Procurement, Procurement Policy Division, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This rule amends the NASA Federal Acquisition Regulation Supplement (NFS), chapter 18 of the Federal Acquisition Regulation System in title 48 of the Code of Federal Regulations. It provides for a solicitation provision and a contract clause to obtain contractor compliance with requirements for protecting unclassified automated information resources under Pubic Law 100–235, the Computer Security Act of 1987. This rule will require the apparently successful offeror, under NASA solicitations involving unclassified automated information resources, to provide a plan describing its automated information security program.

EFFECTIVE DATE: July 13, 1992.

FOR FURTHER INFORMATION CONTACT: Carol E. Bennett, Procurement Analyst, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington DC 20546. Telephone: (202) 453–8254.

SUPPLEMENTARY INFORMATION:

Background

Sensitive information and automated information resources are important to the functioning of the Federal government. The protection of such information is integral to the government serving the public interest. Concern that Federal agencies were not adequately protecting sensitive information contained in computers caused Congress to enact the Computer Security Act. The Act provides for establishing minimum acceptable security practices for Federal computer systems that contain sensitive information and declares that improving the security and privacy of sensitive information in Federal computer systems is in the public interest. This requirement for an automated information security plan is being adopted under Section 6 of the Computer Security Act, Additional Responsibilities for Computer Systems Security and Privacy, consistent with the policy in OMB Circular A–130, OMB Bulletin 90–08, and 41 CFR 201–39.1001–1(i), Federal Information Resources Management Regulations.

Availability of NASA FAR Supplement

The NASA FAR Supplement, of which this final rule will become a part, is codified in 48 CFR, chapter 18, and is available in its entirety on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Cite GPO Subscription Stock Number 933–003–00000–1. It is not distributed to the public, either in whole or in part, directly by NASA.

Regulatory Flexibility Act

This rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the security plan will be required from only the apparently successful offeror and only when the solicitation involves a computer system covered by the Computer Security Act.

Paperwork Reduction Act

No public comments were received in response to the notice of proposed rulemaking published in 56 FR 19627, April 29, 1991.

However, as a result of the notice, OMB required NASA to submit an information collection request before promulgating the final rule. NASA submitted an OMB Inventory Correction Worksheet that increases the annual burden hours under the existing procurement report, "Information Collection from the Public in the Support of the NASA Acquisition Process, 2700–004," OMB Control Number 2700–0042 expires May 31, 1993.

List of Subjects in 48 CFR Parts 1804 and 1852

Government procurement.

Don G. Bush,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR parts 1804 and 1852 continues to read as follows:

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

PART 1804—ADMINISTRATIVE MATTERS

2. Subpart 1804.4 is amended as set forth below:

1804.470–3 [Amended]

a. Section 1804.470–3 is amended by designating the existing paragraph as paragraph "(a)", and by adding paragraph "(b)" to read as follows:

(a) * * *

(b) The requiring activity is also responsible for determining to what extent a contractor security plan for unclassified automated information resources will be required and evaluating and recommending approval of prospective contractors' automated information security plans.

1804.470–4 [Amended]

b. Section 1804.470–4 is amended by removing the word "the" at the beginning of the paragraph and inserting in its place "(a) Except as provided in paragraph (b) of this section, the", and by adding paragraph (b) to read as follows:

(a) * * *

(b) The clause prescribed in paragraph (a) of this section may be excluded from any contract when the requiring activity, in concert with its computer security manager, recommends that a security plan for unclassified automated information resources be submitted by the apparently successful offeror after notification of selection but before contract award. Under these circumstances, the contracting officer shall insert the provision at 1852.204–77, Submission of Security Plan For Unclassified Automated Information Resources, in solicitations and the clause at 1852.204–78, Security Plan For Unclassified Automated Information Resources, in contracts. The provision may be modified to identify specific information that is to be included in the plan. The clause may be modified to omit reference to the provision when the solicitation did not include the provision. The contracting officer shall incorporate the approved plan into the contract by reference as provided for in clause 1852.204–78.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Part 1852 is amended as set forth below:

1852.204–76 [Amended]

a. In the prescription for the clause at 1852.204–76, revise "1804.470–4" to read "1804.470–4(a)".

1852.204–77, 1852.204–78 [Added]

b. Sections 1852.204–77 and 1852.204–78 are added to read as follows:

1852.204–77 Security plan for unclassified automated information resources.

As prescribed in 1804.470–4(b), insert the following provision:

Submission of Security Plan For Unclassified Automated Information Resources (Jan 1992)

(a) The apparently successful offeror shall provide a plan, for Contracting Officer approval prior to award, that describes its automated information security program. The plan shall be submitted no later than thirty days after receipt of the Contracting Officer's written request. The plan shall address the security measures and program safeguards which will be provided to ensure that all information systems and resources acquired and utilized in the performance of the contract by contractor and subcontractor personnel:

(1) Operate effectively and accurately;

(2) Are protected from unauthorized alteration, disclosure, or misuse of information processed, stored, or transmitted;

(3) Can maintain the continuity of automated information support for NASA missions, programs, and functions;

(4) Incorporate management, general, and application controls sufficient to provide cost-effective assurance of the system's integrity and accuracy; and

(5) Have appropriate technical, personnel, administrative, environmental, and access safeguards.

(b) This plan, as approved by the Contracting Officer, will be included in any resulting contract for contractor compliance.

(End of provision)

1852.204–78 Security plan for unclassified automated information resources.

As prescribed in 1804.470–4(b), insert the following clause:

Security Plan for Unclassified Automated Information Resources (Jan 1992)

In addition to complying with any functional and technical security requirements set forth in the Schedule and the clauses of this contract, the Contractor shall comply with the Unclassified Automated Information Resources Security Plan submitted pursuant to provision 1852.204–77, Submission of Security Plan For Unclassified Automated Information Resources, as approved by the Contracting Officer.

(End of clause)

[FR Doc. 92–16136 Filed 7–10–92; 8:45 am]

BILLING CODE 7510–01–M

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48 CFR Part 1834

Interim Changes to NASA FAR Supplement Streamlining the Major System Acquisition Process by Eliminating the Requirement for a Formal Solicitation Between Each Phase of the Procurement

AGENCY: Office of Procurement, Procurement Policy Division, National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: NASA has revised the NASA FAR Supplement, part 1834, to provide for selection/down-selection between phases of a Major System Acquisition utilizing a streamlined approach which eliminates the current NASA requirement to provide a new, formal solicitation for each phase of the acquisition.

DATES: The interim rule is effective July 13, 1992. Comments are due not later than August 12, 1992.

ADDRESSES: Comments should be addressed to Ms. Barbara Connelly-Fratzke, NASA Headquarters, Office of Advanced Procurement Planning Division (Code HX), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Connelly-Fratzke, Telephone: (202) 453–2054.

SUPPLEMENTARY INFORMATION:

Background

In an attempt to streamline the Major System Acquisition process, and in particular to avoid major time lapses between phases, NASA has revised

NASA FAR Supplement part 1834 to eliminate the requirement for a new, formal solicitation between each phase of the Major System procurement. Implementation of full and open competition requirements of the Competition In Contracting Act (CICA) has previously been interpreted within NASA to require a new, formal solicitation for each phase of the acquisition. This interpretation has not been universal among Government agencies. The Department of Defense has conducted phased procurement (referred to as a progressive competition) for a number of its major systems. These progressive competitions contemplated full and open competition for the initial phase with sequential down-selection, from among the successful preceding phase contractors, for the remaining phases. This procedure constituted a continuation of the initial full and open competition, as each subsequent phase was synopsized in the Commerce Business Daily (CBD) inviting all capable firms to participate in each phase of the procurement. The original Sources Sought synopsis stated the Government's intent to conduct a progressive competition for the major system, with down-selection from among the successful contractors of the preceding phase. All other prospective offeror(s) would be required to demonstrate their design and/or concept, to the same level of maturity, and be given all of the solicitation information necessary to compete for the next phase, e.g., the initial phase(s) solicitation(s), the selection criteria for the next phase, all preceding phase(s) system performance requirements necessary to demonstrate the same level of maturity, and any proposal preparation instructions, etc. In a phased competition Contractors are effectively qualified for consideration of awards in subsequent phases by successfully demonstrating the system performance requirements of the preceding phase(s).

Availability of NASA FAR Supplement

The NASA FAR Supplement, of which this proposed coverage will become a part, is codified in 48 CFR, chapter 18, and is available in its entirety on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Cite GPO Subscription Stock Number 933–003–00000–1. It is not distributed to the public, either in whole or in part, directly by NASA.

Regulatory Flexibility Act

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. This proposed revision to the regulation falls in this category. NASA certifies that this interim rule will not have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601, et seq.).

Paperwork Reduction Act

This interim rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Part 1834

Government procurement.

Don G. Bush,

Assistant Administrator for Procurement.

2. Part 1834 is revised to read as follows:

PART 1834—MAJOR SYSTEM ACQUISITION

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

1834.002 Policy.

NASA's implementation of OMB Circular No. A–109, Major System Acquisitions, and FAR Part 34, Major System Acquisition, is contained in NASA Management Instruction (NMI) 7100.14, Major System Acquisitions. This part addresses selection/down-selection procedures for phased-type procurement of major systems.

1834.005–1 Competition.

(a) In procurements subject to the provisions of OMB Circular No. A–109, and NMI 7100.14, or other similar phased-type procurements, it is NASA policy to insure competition in the selection of contractors for award. Phase A—Preliminary Analysis, is for analysis of alternate overall project concepts for accomplishing a proposed agency technical objective or mission; Phase B—Definition, includes detailed study, comparative analysis, and preliminary system design directed towards refining the concept(s); Phase C—Design, includes the detailed definition of final objectives and project concept(s), system design, with mock-ups and test articles of critical systems and subsystems; Phase D—Development/Operations, covers final hardware design and development, fabrication, test, and project operations. Each phase of the acquisition can be contracted for separately or combined based on the acquisition strategy, e.g., A, B, A/B, C, B/C, D, or C/D. In such procurements, where the initial phase is subject to full and open competition and all offerors are made aware that a progressive competition is being conducted, involving a continuous process of down-selection between phases, then the subsequent phase(s) awards are considered to be a continuum of the original competition and the entire process is considered full and open competition. To assure the full exploration of alternate solutions to agency mission needs, each phase of the acquisition, must be synopsized in the Commerce Business Daily (CBD) in accordance with FAR 5.201 and must solicit all known potential sources. In addition to the other information required by FAR 5.201, each synopsis must state that the Government plans to conduct a phased-type procurement involving a progressive competition and the Government's expectations are that only offeror(s), participating in the preceding phase, will be capable of successfully competing for the subsequent and future phase(s); however, all responsible sources may submit a proposal which shall be considered by the agency. The synopsis must identify the preceding phase contractor(s) and advise that any other potential offeror(s), desiring to enter the competition, must otherwise demonstrate they meet the same level of design maturity as the successful contractor(s) from the preceding phase(s). The synopsis must also state that NASA reserves the right to make a down-selection for the next phase(s), when and if appropriate, without the issuance of a new, formal solicitation(s).

(b) To allow for down-selection for the follow-on phase(s), without the issuance of a new, formal solicitation, the contracts for each phase must contain a requirement or an option to deliver proposals for the next phase and must include the selection criteria which NASA will apply to the next phase proposals. Proposals should be required in sufficient time to avoid time lapses between phases. If a prospective offeror, other than the preceding phase contractor(s), requests a solicitation, the contracting officer shall provide all the material furnished to the preceding phase contractor(s), necessary to submit a proposal, including any solicitation(s) issued in previous phase(s) for the system, the contract for the preceding phase(s) and any selection criteria included therein, and any other proposal preparation instructions provided to the preceding phase contractor(s).

(c) If the conditions in paragraphs (a) and (b) of this section are met, then each

phase of a phased-type procurement is considered full and open competition.

[FR Doc. 92–16137 Filed 7–10–92; 8:45 am]
BILLING CODE 7510–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88–18; Notice 3]

RIN 2127–AC80

Federal Motor Vehicle Safety Standards; Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends Federal Motor Vehicle Safety Standard No. 121, Air Brake Systems, with respect to electrical power sources for trailer antilock brake systems (ABS), including trailer converter dollies. In response to a petition by WABCO, the agency has conducted a rulemaking proceeding and decided that trailer antilock brake systems may be powered by either the stop lamp circuit or a separate circuit. Before this rulemaking, the standard required trailer antilock brake systems to be powered by the stop lamp circuit. The agency has also decided that a trailer antilock system must automatically receive power from the stop lamp circuit in the event that the separate circuit or circuits are not in use. The agency believes that the amendments will provide truck and trailer manufacturers and operators greater flexibility to develop and use new trailer ABS systems while ensuring safety and compatibility among ABS and non-ABS equipped trailers and tractors.

DATES: *Effective Date:* The amendments become effective August 12, 1992.

Petitions for reconsideration: Any petition for reconsideration of this rule must be received by NHTSA no later than August 12, 1992.

ADDRESSES: Any petition for reconsideration should refer to the docket and notice number set forth in the heading of this notice and be submitted to: Administrator, NHTSA, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. George Soodoo, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–5892).

SUPPLEMENTARY INFORMATION:

I. Background

A. General Information

Until the amendments in this rulemaking take effect, Standard No. 121, Air Brake Systems, requires trailer antilock brake systems (ABS) to be powered from the trailer stop lamp circuit. Specifically, section S5.5.2, Antilock System Power-Trailers, reads as follows:

> On a trailer equipped with an antilock system that requires electrical power for operation, the power shall be obtained from the stop lamp circuit. Additional circuits may also be used to obtain redundant sources of electrical power.

The agency emphasizes that nothing in Standard No. 121 requires antilock brake systems on trailers. Instead, the provisions in S5.5.2 specify requirements which apply if a trailer is equipped with ABS.

The stop lamp circuit is powered through one of the pins on a seven-pin electrical connector. These connectors have been used between tractors and trailers under the system standardized within the United States trucking industry since the 1950s. The other six pins in the seven-pin electrical connector are for a ground return to the towing vehicle and for other circuits such as those for turn signals. Standard No. 121 permits additional circuits to be used to obtain "redundant" sources of electrical power.

The reason for requiring trailer ABS to be powered from the stop lamp circuit has been to ensure the compatibility of tractors and trailers, old and new. By compatibility, the agency means that tractors and trailers with and without antilock can be used together in the same combination. This includes compatibility between tractors and trailers and compatibility among trailers in multiple trailer combinations (i.e., tractors with two or more trailers). The stop lamp circuit was selected as the source of power since it is the only circuit that is always energized when the brakes are applied.

Until recently, equipping heavy vehicles with ABS has generated very little interest in the United States. However, new generation systems have become available and users in this country are becoming more interested in adopting them into their fleets. In some applications, ABS suppliers are recommending that trailer ABS systems can be more effectively powered through a separate electrical circuit instead of through the stop lamp circuit. This could be accomplished by using the unused seventh pin in the seven-pin connector, a separate ABS connector, or a new connector with additional pins or circuits. Multiplexing of the truck tractor to trailer electrical distribution system, which involves the use of an electronic technique for passing a number of different signals through a single wire lead with different frequencies used for the signals, is another method being considered.

Greater electrical power than the amount typically available from the stop lamp circuit may be needed to meet the increased powering demands of multiple-unit combinations, especially triples. In contrast, the stop lamp circuit provides sufficient power for antilock operation in most single trailer unit applications. Single trailer units comprise between 95 and 98 percent of the combination vehicle fleet.

B. Petition

On August 21, 1987, WABCO Automotive Products Group North American Operations (WABCO) petitioned the agency to amend section S5.5.2 to read as follows: "the power shall be obtained from *either* the stop lamp circuit or a separate electrical circuit specifically provided to power the trailer anti-lock system." (emphasis added) The petitioner stated that allowing the use of a separate circuit to power trailer ABS would provided better ABS performance, improve system reliability and durability, and provide more accurate and timely driver warning than requiring the stop lamp circuit to be the primary electrical power source for ABS. In supporting its request to permit a separate electrical circuit for powering trailer ABS, WABCO stated that the current provision in Standard No. 121, requiring the trailer ABS to be powered only through the stop lamp circuit, results in there being no power to the ABS until the brake pedal is depressed and the stop lamp circuit is energized. The petitioner also stated that the driver has no warning, other than during a brake application, as to whether or not the ABS is operational. WABCO stated that a separate electrical circuit would provide for continuous power to the ABS, which is believes is more desirable for safe and reliable ABS performance. Also, with the installation of ABS status lights in the vehicle cab, the driver could be provided continuous warning in the event of ABS failure.

WABCO acknowledged that it is common in the United States for individual trucks and tractors to pull a variety of trailers, and therefore tractors or trucks without a separate electrical circuit could be scheduled to operate

with trailers equipped with WABCO antilock devices. To reduce problems associated with incompatibility, WABCO stated that it would provide a relay in the circuitry, thus enabling use of the separate electrical circuit if the towing vehicle is equipped to provide power separately. This device would allow the vehicle to accept power through the stop lamp circuit if the towing vehicle is not equipped with a separate electrical circuit. According to the petitioner, this feature would allow compatibility among all non-antilock equipped towing units and trailers equipped with antilock.

C. Grant of Petition and Request for Comments

NHTSA granted WABCO's petition in a letter dated March 17, 1988, stating that a further review of the issues raised in the petition appeared to be warranted. On October 12, 1988, NHTSA published in the **Federal Register** (53 FR 39751) a request for comments about possible amendments to Standard No.121's requirement that trailer ABS be powered from the stop lamp circuit.

In response to the October 1988 notice, NHTSA received comments from truck manufacturers, trailer manufacturers, brake manufacturers, motor carriers, and others about trailer antilock power requirements. Among the subjects addressed by commenters there were included comments about the possible advantages offered by separate electrical circuits; the types of circuits and connectors that could be used to obtain those advantages; the need for compatibility among different tractors and trailers; the effects on users that could occur from using different circuits and connectors; and the appropriate role for NHTSA in this area, including whether rulemaking is needed at this time.

A number of commenters, including Freightliner and Rockwell, supported optional use of separate electrical circuits to power trailer antilock systems. Freightliner stated that a separate circuit is the best means to ensure proper operation of trailer antilock systems, citing greater power capacity and improved reliability.

Other commenters opposed permitting optional use of separate electrical circuits to power trailer antilock systems. The American Trucking Associations (ATA) argued that permitting separate electrical circuits would result in significant compatibility problems, given that large numbers of existing tractors that are not equipped with the separate circuits would not be able to fully use antilock on certain future trailers.

A number of commenters argued that any regulation should continue to permit use of the stop lamp circuit for trailer antilock power, citing the need for compatibility.

D. Notice of Proposed Rulemaking

On May 3, 1991, NHTSA issued a notice of proposed rulemaking (NPRM) in which the agency proposed two alternative amendments concerning electrical power sources for trailer antilock brake systems. (56 FR 20401) Under the first alternative, the agency proposed requiring that all ABS-equipped trailers have a separate electrical circuit capable of providing full-time power to the antilock braking system. The agency also proposed that any towing trailer would be equipped with a connector at its rear, enabling it to make the separate ABS circuit available to the "towed trailer."Additionally, under this alternative, a backup power system through the stop lamp circuit would be required, as well as the capability of signalling an ABS failure to a towing vehicle. Under the second alternative, NHTSA proposed rescinding the existing requirement that trailer antilock systems be powered from the stop lamp circuit. Under this alternative, the agency would leave the selection of trailer ABS power sources to market forces.

These two alternative proposals were based on NHTSA's tentative conclusion that Standard No. 121's electrical power source requirements for trailer ABS should be amended to reflect the possible use in this country of a new generation of trailer ABS systems that use separate electrical circuits and the increasing use in the United States of multiple trailer combinations. The agency was concerned that the existing requirement might inhibit the use of some state-of-the-art trailer antilock systems that have more performance features, but also have higher power requirements.

Notwithstanding NHTSA's tentative conclusion that Standard No. 121's existing electrical power source requirements for trailer ABS systems should be revised, the NPRM explained that selecting new requirements posed a difficult decision. The agency was concerned that the existing requirements could inhibit use of the best safety technology currently available for trailer ABS systems. Nevertheless, the agency recognized that any amendment that permits use of that technology could result in compatibility problems.

The NPRM further explained that while the two alternatives differ significantly, neither would prohibit trailer antilock systems that are powered by separate electrical circuits. The agency accordingly believed that both alternatives were responsive to WABCO's petition. Since NHTSA tentatively concluded that trailer ABS systems powered by separate electrical circuits could offer more safety benefits than those powered by the stop lamp circuit, it tentatively concluded further that Standard No. 121 should not prohibit such systems. The NPRM explained that the agency's safety standards should not prevent innovations in safety technology.

The NPRM also posed questions related to the possible advantages, disadvantages, and implications resulting from adopting either alternative.

E. Comments to the NPRM

In response to the May 1991 NPRM, the agency received comments from truck manufacturers, brake manufacturers, the Truck Trailer Manufacturers Association (TTMA), trucking user groups, and a safety advocacy group, the Advocates for Highway and Auto Safety (Advocates). The commenters provided no clear consensus about which alternative proposal would provide a better system for trailer ABS powering. Several commenters, including ATA, Ford#, Midland-Grau, Paccar, the Motor Vehicle Manufacturers Association (MVMA), and Bendix viewed both proposed alternatives as being unacceptable.

Ford suggested a modification that it believed would maximize the benefits from ABS without discouraging the use of trailer ABS and without eliminating the benefits obtained from continued use of such systems. Specifically, Ford recommended that new approaches or powering trailer ABS through a separate circuit should be allowed but not mandated, provided that the systems incorporate the stop lamp circuit as a backup power source. ATA similarly requested that S5.5.2 be amended to permit, but not require, powering of the trailer ABS primarily by a separate electrical circuit, provided that the ABS could also be sufficiently powered by the stop light circuit.

Commenters provided mixed reactions to the first alternative which proposed requiring separate powering of ABS. Advocates and Midland supported this alternative, with Advocates claiming that this approach would improve performance by ensuring that adequate voltage would be delivered to all trailing units. Accordingly, Advocates favored requiring separate

circuits and connectors for voltage delivery to all trailers, a system which it believed was necessary to ensure fully redundant ABS operation. While Midland favored separate power for all units to ensure continuous power to the trailer ABS, it recommended that the regulation be simplified to avoid being needlessly design restrictive.

In contrast, Ford, Paccar, MVMA, Grote, Madison Associates, the Owner-Operator Independent Drivers Association (Owner-Operators), and Volvo opposed the first alternative, claiming that it was design restrictive. Paccar and Grote believed that this alternative would preclude manufacturers from designing new and improved ABS systems because any new system would have to be powered from the separate circuit. This course would act as a disincentive for developing alternate technologies such as multiplexing. Bendix, which did not support either proposal, stated that Alternative One would result in added costs and complexity, in incompatibility among old and new vehicles, and in increased maintenance problems associated with the additional electrical connections and circuits necessary to provide separate full time trailer antilock power. Bendix was also concerned that this proposed alternative would significantly increase ABS-related costs, thus inhibiting the voluntary use of ABS on trailers. Rockwell stated that while separate power for multiple units is currently feasible, it did not believe that this should be required at this time.

Commenters also had mixed reactions to Alternative Two which proposed rescinding the current stop lamp power requirements and letting market forces determine trailer ABS powering. Rockwell, Mack, Paccar, MVMA, Madison, International, Volvo, Grote, and Ford (but only if its intermediate plan was not accepted) favored this approach over Alternative One. However, these commenters indicated varying levels of support for a rescission, and some offered alternative requirements. Mack stated that rescinding the current requirements would allow the trucking industry freedom to develop the most appropriate power source for trailer ABS. In contrast, Advocates, Midland, Owner-Operators, and Bendix opposed rescinding the current requirements.

Commenters also addressed other issues relevant to this rulemaking, including compatibility, ABS on multiple trailers, maintenance, reliability, and cost. These comments will be discussed more fully in the section explaining the agency's decision.

II. Agency Decision

A. General Considerations

NHTSA notes that this rulemaking raises the following primary issues: (1) How to specify requirements to best achieve the primary powering of ABS trailers for both single trailer and multiple trailer combinations, (2) the need to provide backup powering of ABS trailers that use a separate ABS power circuit for primary power in case that primary power is not available, and (3) the need to provide that some level of compatibility between new ABS and old or new non-ABS equipped units, and (4) the need to require a failure warning device. The agency notes that the requirements adopted in this notice apply to ABS-equipped trailer converter dollies as well as other ABS-equipped trailers. The agency's decisions, as explained below, are based on its analysis of the comments and other available information.

As for primary powering of trailer antilock brake systems, NHTSA has decided to amend Standard No. 121 to allow such systems to obtain their primary power from either the stop lamp circuit or a separate circuit. The agency believes that this approach will provide truck and trailer manufacturers and operators flexibility to develop and use new trailer ABS systems while ensuring safety and compatibility among ABS and non-ABS equipped trailers and tractors. By providing greater flexibility, the agency anticipates that more vehicle operators will decide to purchase trailers equipped with ABS. The agency believes that this decision will foster voluntary adoption of trailer ABS because it avoids specifying costly regulations that would act as disincentives for voluntarily equipping trailers and converter dollies with ABS.

For the near future, the agency anticipates that single trailers, which comprise over 95 percent of the combination fleet, will be adequately powered by the stop lamp circuit, while some multiple trailer combinations, especially triples, will need to be powered by a separate circuit. In time, the agency believes that a new connector system or other innovations will be developed to allow the same powering approach for both single and multiple trailer applications.

As for back-up powering, the agency has decided that the trailer ABS must automatically receive power from the stop lamp circuit, if the separate power circuit or circuits are not in use. The agency believes that by ensuring compatibility, this provision will facilitate the introduction of new trailer antilock systems while still ensuring that they function when the trailers are towed by tractors with or without ABS separate power provisions. In addition, by requiring an automatic back-up system, the agency will better ensure compatibility among new and existing vehicles, including trailers operated in mixed multiple trailer combinations (i.e., in which one trailer is ABS equipped and one or more trailers are not ABS equipped.)

As for providing a warning device to indicate an ABS malfunction, the agency has decided to address this issue in a more general rulemaking on braking stability and control that may be issued in the future instead of in this rulemaking responding to the WABCO petition. The agency believes that addressing the issue of warning indicators is also premature because trailer ABS is not being required at this time. It is more appropriate to address this and many other detailed aspects of equipping trailers with ABS in the more general rulemaking about whether to require ABS.

B. Primary Power

As explained above, Standard No. 121 currently requires a trailer equipped with ABS to receive its primary power through the stop lamp circuit. The NPRM proposed two alternative approaches related to the primary power source for trailer ABS. Alternative One proposed requiring all ABS-equipped trailers to have a separate electrical circuit, capable of providing full-time power to the antilock system. Alternative Two proposed rescinding the existing provisions requiring that trailer ABS be powered from the stop lamp circuit. The NPRM emphasized that neither alternative would prohibit trailer antilock systems from being powered by separate electric circuits.

Among the reasons specified in the NPRM for justifying the separate electrical circuit were that such circuits can provide greater power than the stop lamp circuit and can provide continuous power. As a result, the agency stated its tentative conclusion that such circuits would result in faster reaction time for ABS and also enable to continuous and automatic in-cab warning of trailer ABS failure. The agency was concerned that the stop lamp circuit would not be capable of powering multiple ABS systems in multiple trailer combinations.

The NPRM also discussed other issues related to powering trailer ABS, including the compatibility of new ABS trailers with existing tractors and

trailers, the adverse safety consequences in terms of braking performance and performance of other vehicle systems that are dependent on towing vehicle electrical power such as lighting, the need to standardize connectors, the appropriate peak current capacity, and the effect of requirements on multiple trailer combinations.

Commenters addressed various issues related to how best to specify the primary powering for trailer ABS. Several commenters opposed requiring a separate circuit, citing problems with compatibility, cost, and design restrictiveness. Ford stated that manufacturers should be afforded flexibility to develop trailer ABS systems instead of being faced with design restrictive criteria. Ford believed that its suggested approach would place competitive pressures on other manufacturers to develop trailer ABS systems by getting dual circuit systems in operation. In contrast, Ford stated that the first alternative, which proposed mandating a separate circuit, could result in lowering the installation rate for trailer ABS because costs would increase. In addition, Ford was concerned that this approach could discourage development of alternative trailer ABS designs because any new design would have to incorporate a separate circuit. Ford further believed that is recommended approach would allow for a separate circuit capable of providing enough power to activate the antilock system when used in double and triple trailer configurations.

ATA stated that antilock systems on single trailers could be effectively powered by the stop lamp circuit. Accordingly, it viewed the high power performance of a separate circuit as being unnecessary or the vast majority of trailers. In addition, ATA commented that the power needs for multiple trailers might be adequately resolved by improving the wiring or installing light emitting diodes (LEDs). Accordingly, ATA concluded that there were less costly alternatives to ensure the powering of multiple trailers. MVMA favored a more general requirement, stating that an overly specific design solution would discourage inventiveness and creativity in the design of new and better trailer ABS systems in the future. Similarly, PACCAR stated that requiring the primary power to be provided through a separate circuit would preclude new and improved systems that could continue to use the stop lamp circuit of the existing seven-pin connector. Bendix was also concerned that the proposal to require a separate circuit was too design restrictive because it does not provide alternative ways for achieving trailer antilock power. Bendix believed that the agency did not demonstrate a convincing safety need or rationale to justify revising the existing requirement which requires primary power through the stop lamp circuit.

Other commenters believed that the primary trailer ABS powering should be achieved through a separate electrical circuit, as proposed in Alternative One. Midland-Grau stated that such a configuration would provide continuous power to the trailer ABS, allowing the system to go through a self-diagnostic start-up check before the vehicle is moved and allowing adequate power to operate the ABS on double and triple trailer combinations. Advocates recommended full braking capacity of all trailers equipped with ABS on multiple trailers, and thus favored ABS powering through a separate circuit instead of the stop lamp circuit which it believed provides inadequate electrical power for current ABS designs and for multiple combination trailers. Advocates stated that stop lamp powering would result in the rear trailers receiving insufficient electrical power for ABS operation, and thus the second and third trailer would have an increased likelihood of lock-up. Although Advocates acknowledged that 95 to 98 percent of current truck trailers are single (non-towing) trailers, it state that multiple combination trailers pose a significant problem because multiple trailers are disproportionately involved in fatal crashes.

After reviewing the comments and other available information, NHTSA as decided to amend Standard No. 121 to allow trailer antilock brake systems to obtain their primary power through either the stop lamp circuit or a separate circuit. The agency agrees with comments by several manufacturers and the ATA that this approach will provide truck and trailer manufacturers and operators the flexibility needed to develop and use new trailer ABS system. By providing such flexibility, the agency anticipates that more vehicle operators will decide to purchase ABS-equipped trailers. This is consistent with the agency's attempt to foster voluntary adoption of trailer ABS by avoiding the specification of costly regulations that would act as disincentives for voluntarily equipping trailers and converter dollies with ABS.

With respect to non-towing trailers which can only be operated in single trailer combinations, NHTSA anticipates that most will continue to be powered by the stop lamp circuit, at least until further innovations with the dedicated circuit are made. Even those commenters that support a separate circuit, such as Advocates, acknowledge that the stop lamp circuit typically provides adequate electrical power for single trailers, which constitute the vast majority of combination vehicles.

With respect to multiple trailer combinations, NHTSA notes that the systems to provide electrical power for such vehicles are still being developed and no one best way has been established. Accordingly, the agency has decided to promulgate a general requirement that provides maximum flexibility to the vehicle and brake manufacturers to develop safe and cost effective ABS powering systems. Under this approach, manufacturers could comply with the trailer ABS powering requirements by providing primary ABS power either through the stop lamp circuit or the separate circuit. Notwithstanding Advocates' contention that the separate circuit is the only way to ensure adequate ABS powering for multiple trailers, the agency agrees with ATA and Bendix that improving the wiring or installing LED lamps may permit the stop lamp circuit to provide adequate power for multiple trailers. If these or other innovations are successfully developed, adequate powering of multiple trailer combinations could be achieved in a more cost effective manner than through a dedicated circuit.

In response to Advocates' concern that powering multiple trailers through the stop lamp circuit would result in a significant safety problem, NHTSA believes that Advocates overstates the risk to safety. First, as Advocates acknowledges, only between three and five percent of the tractor trailer fleet are multiple trailer combinations. Although Advocates contends that such vehicles are disproportionately represented in fatal crashes, it does not explain how adopting Alternative One would significantly decrease the number of fatal crashes. The agency notes that if inadequate power is provided for the trailer ABS to function as designed, then the electronic control unit should shut down the ABS, with the trailer reverting to the braking level of non-ABS trailers. Second, nothing in today's amendments preclude manufacturers from equipping their vehicles with a separate circuit to power trailer ABS; and the agency anticipates that since ABS systems represent a significant cost option, the typical purchaser of a trailer with ABS will install a dedicated circuit if this action significantly increases the benefits of the trailer ABS system.

Third, the agency is reluctant to require a separate circuit since comments indicate that it may be possible to redesign the stop lamp circuit to permit adequate powering even for multiple trailer combinations. Future improvements may occur through better wiring and connectors and through reduced power requirements for lighting and stop lamps. Fourth, even if a trailer without ABS capability operates in a mixed multi-trailer combination, the tractor and the other trailer or trailers may have operational ABS. Since a combination vehicle with some ABS capability provides better braking performance than one with no ABS capability, the agency believes that it is better to have some operational ABS than none at all. Based on the above considerations, NHTSA has decided to allow (but not mandate) the use of a separate circuit to power trailer ABS.

C. Backup Power From Stop Lamp Circuit

As explained above, Standard No. 121 currently requires trailer ABS to receive its primary power through the stop lamp circuit and expressly permits additional circuits to operate on redundant sources of electrical power. The purpose of permitting redundant power sources is to ensure compatibility among vehicles in combinations. As explained above, compatibility means that tractors and trailers with and without antilock can be used together in the same combination.

In its petition, WABCO acknowledged that, because individual trucks and tractors frequently are scheduled to pull a variety of trailers, tractors without a separate electrical circuit could be scheduled to operate with WABCO antilock equipped trailers. To decrease the potential for incompatibility problems, WABCO indicated their intention to provide a relay in the circuitry that would enable use of the separate electrical circuit for towing vehicles equipped with such a separate circuit, but that would also accept power through the stop lamp circuit for towing vehicles not equipped with the separate electrical circuit. According to the petitioner, this feature would allow compatibility among all non-antilock equipped towing units and trailers equipped with antilock.

Throughout this rulemaking, NHTSA has been very concerned about how best to ensure compatibility among towing vehicles and trailers. The NPRM, in Alternative One, proposed requiring that the antilock system automatically receive backup power from the stop lamp circuit in the event that the separate electrical circuit did not provide electrical power. The agency tentatively concluded that requiring such a backup powering system would help alleviate problems with incompatibility among new and old vehicles. The NPRM posed several questions about how the proposed requirements should be specified to ensure compatibility when new units would be towed in combination with old units.

The NPRM noted that partial compatibility would be ensured under the proposal's first alternative because all trailer antilock brake systems would be required to operate from the stop lamp circuit in the event that the dedicated electrical circuit did not provide electrical power, e.g., in situations where the ABS-equipped trailer is pulled by a towing vehicle that is not equipped with separate electrical circuits. Nevertheless, NHTSA recognized that any alternative that permits use of separate circuits would not fully resolve compatibility concerns. For instance, a single trailer might have an ABS system that required greater power than is available from the stop lamp circuit. Similarly, trailers used in doubles and triples combinations might require greater power than is available from the stop lamp circuit.

Several commenters, including Ford, MVMA, and Bendix, stated that maximizing compatibility was an important consideration in determining trailer ABS powering requirements. MVMA stated that the agency should require the stop lamp circuit to be available as a back-up power source to avoid tractor trailer incompatibility situations.

Several commenters addressed the need for requiring an automatic backup power source from the stop lamp circuit. Ford stated that such an approach would maximize the benefits of new ABS technology without discouraging the use of trailer ABS and without eliminating the current benefits from the continued use of such systems on the roads. Midland-Grau stated that all its trailer ABS use a second permanent powering connector with automatic backup through the stop lamp circuit. Advocates favored having the ABS of combination vehicles fully redundant if the primary circuit failed during over-the-road use. To achieve full stop lamp circuit redundancy of the ABS systems in multi-trailer trucks, Advocates recommended that the agency require multiplexing or other design enhancements of the stop-lamp circuit.

Grote stated that eventually a backup powering circuit might not be necessary since multiplexing might be able to ensure compatibility without the need for a dedicated ABS circuit.

After reviewing the available information, NHTSA has decided to amend Standard No. 121 to require the ABS-equipped trailers automatically receive power from the stop lamp circuit, in situations where the separate power circuit or circuits are not in use (i.e., if a separate circuit is used for primary power, the system must revert to the stop lamp circuit for backup in the event that the separate circuit is not powered or otherwise not in use.) The agency believes that this provision will facilitate the introduction of new trailer antilock brake systems while still ensuring their safety and compatibility. Specifically, by providing an automatic back-up system for trailer ABS powering, the agency will better ensure compatibility among new and existing vehicles, including trailers operated in mixed multiple trailer combinations.

D. Failure Warning

Standard No. 121 does not currently have requirements to provide an indication when the trailer ABS has an electrical failure or is otherwise inoperable. The NPRM, in Alternative One, proposed requiring that all ABS-equipped trailers (including trailer converter dollies) have a dedicated electrical circuit capable of signaling an electrical malfunction in the trailer antilock system to a towing vehicle.

Several commenters addressed the need for and placement of a failure indicator. Ford and Midland-Grau supported having an ABS malfunction indicator on the trailer's exterior. Midland-Grau believed that the warning should be standardized to reduce confusion about the operating status of various types of trailer ABS. Standardization would include such aspects as the location, type, and color of trailer mounted lights. Advocates favored a continuously lit warning monitor in the tractor cab that would indicate the operational status of ABS before pedal application.

In contrast, other commenters recommended that the agency not require a warning indicator at this time. ATA believed that requiring an in-cab trailer antilock failure warning was neither necessary nor desirable, claiming that drivers do not need to know the operational status of the antilock system on their vehicles when driving. PACCAR, in disagreeing with the proposal's underlying premise that a constant power source was needed to adequately facilitate the warning lamps, explained that an acceptable system could be designed using the stop lamp

circuit only. Bendix stated that the failure warning circuit should not be mandated unless the safety need could be demonstrated. It also stated that such a failure warning scheme should be considered on an individual vehicle basis.

After reviewing the comments, NHTSA has decided to address the need to provide a warning device that indicates an ABS malfunction in the more general rulemaking on braking stability and control, rather than in this rulemaking which responds only to the WABCO petition. The agency believes that addressing the issue of warning indicators here is premature because trailer ABS is not being required at this time. It is more appropriate to address this and many other detailed aspects of how ABS-equipped vehicles should be powered and failure warnings signalled in the more general rulemaking considering whether to require ABS. Among the other issues that will be considered in this future proposal are the types of indicators (e.g., self-contained indicators mounted on the trailer v. in-cab indicators), ways to standardize the electrical connectors and the circuitry, and electrical specifications for both ABS powering and failure indicators. In the interim, the agency urges the industry to arrive at a consensus about standardization for electrical connectors, circuitry, and warning indicators.

NHTSA emphasizes that this final rule is not the end of rulemaking about antilock brake systems on combination trailers and other heavy vehicles. The agency would consider adopting new requirements to reflect technological advances in ABS trailer powering. Among other things, the agency might reconsider the issues of primary ABS powering, backup powering, and ABS failure warning, if the agency were to require ABS. As the industry continues to develop ABS-equipped trailers, the agency anticipates that some degree of standardization will ensue. If such standardization of ABS and ABS related components becomes a reality, the agency would consider further rulemaking to ensure compatibility.

E. Miscellaneous Issues

1. Connectors

The NPRM explained that, while the connectors for additional electrical circuits should ultimately be standardized for maximum compatibility, the agency decided not to propose requiring a standardized connector at this time. At present, U.S. manufacturers are considering several connectors, including a connector standardized by the International Standardization Organization (ISO) and required by Economic Commission for Europe (ECE) and European Economic Community (EEC) regulations (see ISO Standard 7638, Road Vehicles—Brake Anti-lock Device Connector) and a "seven-plus" connector, i.e., a connector which is interchangeable with the current seven-pin connector but which includes additional circuits in an outer ring of additional contacts. In addition, several manufacturers are studying multiplexing to enhance ABS powering.

In the NPRM, the agency noted that the industry would probably settle on a standardized connector as manufacturers developed a new generation of antilock equipped trailers for the United States. The agency explained that if the industry failed to standardize a connector, resulting in a proliferation of incompatible connectors, the agency might then consider rulemaking to standardize the connector.

Several commenters, including MVMA, PACCAR, and Grote, stated that specifying a particular connector was a design restrictive condition.

As stated in the NPRM, NHTSA has decided not to specify a particular connector until the market-place addresses the use of different connectors because in time one type of connector may predominate. Notwithstanding the agency's reluctance to specify a connector, the agency may have to reconsider this issue in the future if there is a proliferation of different types of connectors.

2. Electrical Specifications

The NPRM proposed requiring that the peak current capacity of the circuit providing trailer antilock power be sufficient to provide at least 30 amperes to the modulator valve, and at least 2 amperes to the electronic control unit. The agency explained that this would be consistent with the specifications developed by the ISO for its connector, and would ensure that the circuits have sufficient power for available antilock systems.

Only Rockwell addressed the issue of specifying a value for the electrical capacity, recommending without explanation, a capacity of 35 amps.

As with the connectors, the agency has decided not to specify the electrical current capacity at this time. The agency believes that it is premature to specify the capacity, because that would reduce the flexibility in potential trailer ABS design innovations.

3. Effective Date

The NPRM proposed two different effective dates. The first alternative proposing to require trailer ABS powering by a separate electrical circuit would have become effective one year after the final rule's publication; optional compliance would have been permitted 30 days after the final rule's publication. The second alternative proposing to rescind the existing requirement that trailer antilock systems be powered from the stop lamp circuit would have become effective 30 days after publication.

As explained above, the final rule amends Standard No. 121 to allow trailer ABS powering by either a separate circuit or the stop lamp circuit. Prior to this rulemaking, the standard required trailer antilock systems to be powered by the stop lamp circuit. The final rule also specifies that a trailer antilock system must automatically receive power from the stop lamp circuit in the event that it receives no power from the separate circuit. The final rule thus provides truck and trailer manufacturers with greater flexibility to develop new trailer ABS systems without placing any new requirements on them. The agency has therefore determined that there is "good cause" to have an effective date 30 days after publication of the final rule. A longer leadtime is not necessary because this rulemaking provides an additional option to manufacturers and facilitates the introduction of certain trailer ABS powering systems, without imposing any new mandatory requirements on manufacturers. The public interest will be served by not delaying the introduction of new ABS systems that may provide better performance without having any negative impact on safety.

Regulatory Impacts

A. Executive Order 12291

NHTSA has analyzed this rulemaking and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The agency notes that the amendment allowing manufacturers the option of using a separate circuit on trailers (with a specific requirement for backup power through the stop lamp circuit) is optional; and therefore will not impose additional costs for manufacturers. Since there are no costs or other significant impacts, a Final Regulatory Evaluation is not necessary. The agency believes that the amendments will provide truck and

trailer manufacturers and operators with greater flexibility to develop and use new trailer ABS systems while ensuring safety and compatibility among ABS and non-ABS equipped trailers and tractors.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. Therefore, NHTSA has not prepared a regulatory flexibility analysis. The agency has determined that a significant number of the manufacturers of heavy air-braked trailers are small entities. However, there would be no impact on them from this rulemaking because the cost and complexity of trailer antilock systems built to comply with the requirements implemented by this notice would be the same as, and possibly less than, those for trailer antilock systems built to comply with the current requirements.

While some medium and heavy duty vehicle manufacturers and their suppliers of brake parts may be affected by NHTSA's rule, any economic impact is not expected to be significant. The added cost of trailer ABS powered by a separate connector is entirely optional. Therefore, NHTSA does not believe that this amendment will affect purchasing decisions by small entities acquiring such vehicles.

C. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this rule. The agency has determined that this rule will not have a significant impact on the quality of the human environment.

D. Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the rulemaking does not have sufficient federalism implications warrant the preparation of a Federalism Assessment. No state laws will be affected.

List of Subject in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Tires

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1391, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

* * * * *

2. S5.5.2 of § 571.121 is revised to read as follows:

§ 571.121 Standard No. 121; Air brake systems.

S5.5.2 *Antilock system power—trailers.* On a trailer (including a trailer converter dolly) equipped with an antilock system that requires electrical power for operation, the power shall be obtained from either the stop lamp circuit or one more separate electrical circuit or circuits specifically provided to power the trailer antilock system. The antilock system shall automatically receive power from the stop lamp circuit, if the separate power circuit or circuits are not in use.

* * * * *

Issued on July 7, 1992.

Frederick H. Grubbe,

Deputy Administrator.

[FR Doc. 92–16297 Filed 7–10–92; 8:45 am]

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49 CFR Parts 571 and 586

[Docket No. 88–06, Notice 19]

RIN 2127–AE32

Federal Motor Vehicle Safety Standards; Side Impact Protection—Light Trucks, Buses, and Multipurpose Passenger Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: On June 14, 1991, NHTSA published in the **Federal Register** (56 FR 27427) a final rule extending the quasi-static side door strength requirements of Federal Motor Vehicle Safety Standard No. 214, *Side Impact Protection*, to trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less. The agency established an effective date of September 1, 1993 for the extension of these requirements. NHTSA received one petition for reconsideration of the final rule, from General Motors (GM). The petitioner requested that the agency phase-in the new requirements instead of applying them to all of the newly covered vehicles simultaneously. In response to GM's petition, NHTSA is establishing a brief phase-in period for the new requirements and is delaying by one year the effective date for double opening cargo doors, doors with no windows, and certain contoured doors. The agency notes, however, that it is adopting a different phase-in schedule from that suggested by the petitioner. NHTSA is also establishing the reporting and recordkeeping requirements necessary for it to enforce the phase-in. Finally, NHTSA is adopting a phase-in exclusion for vehicles manufactured in two or more stages and for altered vehicles.

DATES: The amendments in this final rule are effective September 1, 1993. NHTSA notes, however, that the amendments to Standard No. 214 have the effect of providing an additional year's leadtime for certain doors and vehicles. Petitions for reconsideration must be received by August 12, 1992.

ADDRESSES: Petitions for reconsideration should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Kanianthra, Chief, Side and Rollover Crash Protection Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–4924).

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1991, NHTSA published in the **Federal Register** (56 FR 27427) a final rule extending the quasi-static side door strength requirements of Federal Motor Vehicle Safety Standard No. 214, *Side Impact Protection*, to trucks, buses and multipurpose passenger vehicles (MPV's) with a gross vehicle weight rating of 10,000 pounds or less. (These vehicles are collectively referred to as "LTV's.") The agency established an effective date of September 1, 1993 for the extended applicability of the requirements, thus providing a leadtime of just over two years from the time of the final rule. Certain side doors, including ones that are more than a specified distance away from seats and therefore unlikely to have vehicle occupants sitting near them, were excluded from the coverage of the standard.

Standard No. 214's quasi-static requirements, which have applied to passenger cars since January 1, 1973, seek to mitigate occupant injuries in side impacts by reducing the extent to which the side structure of a vehicle is pushed into the passenger compartment during a side impact. The requirements specify that side doors must resist crush forces that are applied against the door's outside surface in a laboratory test. The load is applied by means of a piston

pressing a vertical steel cylinder against the middle of the door. Since car manufacturers have generally chosen to meet the requirements by reinforcing the side doors with metal beams, the agency expects that LTV manufacturers will generally do the same.

Petition for Reconsideration

NHTSA received one petition for reconsideration of the final rule extending Standard No. 214's quasi-static side door strength requirements to LTV's, from General Motors (GM). The petitioner requested that, instead of making the requirements effective for all LTV's on September 1, 1993, the agency provide the following phase-in: 75 percent of LTV's manufactured in the production year beginning September 1, 1993, 90 percent of LTV's manufactured in the production year beginning September 1, 1994, and 100 percent of LTV's effective September 1, 1995.

GM stated that a phase-in of the requirements is essential for two reasons. First, that company noted that the agency has not yet established the test requirements for double cargo doors and for doors with no windows. GM stated that until the test requirements for double cargo doors and doors without windows are known, it cannot design the modifications needed to meet the requirements for those doors. According to the petitioner, the modifications may include structural or hardware changes as well as the installation of side door beams. GM stated that two years is an absolute minimum leadtime, barely allowing for validation of the design, and thus leaving inadequate time for other considerations such as cost and mass optimization.

GM also argued that because the requirements for some types of side doors are not yet completed, manufacturers cannot yet modify a vehicle to meet the requirements for all available types of side doors in one design iteration. According to GM, manufacturers generally implement design changes on all like models based on the most severe test requirements. Thus, if GM designed a particular model with sliding doors to meet Standard No. 214 and the test requirements for doors without windows or for double cargo doors later turned out to have the most severe implications on product design (e.g., required structural changes), GM's first redesign would be obsolete. The company indicated that a phase-in would help address this concern.

The second reason cited by GM in support of its argument that a phase-in is needed is the possible interaction between the requirements of Standard No. 214 and other safety standards, especially Standard No. 208, *Occupant Crash Protection.* GM argued that such interaction may require longer leadtime for some vehicles. (Under Standard No. 208, vehicles must meet specified injury criteria, including a head injury criterion (HIC), measured on test dummies in frontal barrier crash tests.)

According to GM, side door beams installed to meet Standard No. 214 can change a vehicle's frontal barrier performance enough to necessitate retesting to recertify the vehicles to Standard No. 208 and other standards. The company stated that the addition of door beams generally stiffens a vehicle's occupant compartment. While this usually helps reduce the likelihood of dummy head contacts in Standard No. 208 testing, GM stated that its experience shows that stiffening the occupant compartment can also increase non-contact HICs in Standard No. 208 tests, particularly when using the Hybrid III test dummy (one of two alternative test dummies specified by the standard). In a meeting with NHTSA staff concerning its petition, GM provided data from crash tests for one model in which the addition of a roof reinforcement increased HIC from 930 to 1010, and the further addition of door beams raised HIC to 1250.

GM stated that the expected modifications for Standard No. 214 will substantially affect the performance in Standard No. 208 tests only in a minority of LTV models. The company argued, however, that some LTV models will likely need significant changes to achieve adequate performance in frontal barrier crashes because of crash pulse changes caused by the installation of side door beams and that it will not know which models need such changes until it completes the frontal barrier tests. GM argued that a phase-in is needed to provide the longer leadtime it believes is required to make the necessary design changes and conduct compliance testing for this group of LTV's.

The petitioner stated that the first year phase-in of 75 percent that it recommends would include all of a manufacturer's LTV's except perhaps one or two van models that have double cargo doors or doors without windows for which test requirements are not yet defined and/or one or two other LTV models that cannot be recertified to meet Standard No. 208 by September 1, 1993 if side door beams are added. GM stated that the second year phase-in of 90 percent that it recommends would include all of a manufacturer's LTV's except perhaps one small-volume LTV model that cannot yet be recertified to meet Standard No. 208 if side door beams are added.

GM also argued that its recommended phase-in would allow manufacturers to meet the new requirements with designs that are more optimized for cost and mass, and that are less likely to degrade other areas of vehicle performance. The company stated that manufacturers may use the phase-in to avoid diverting test and design resources from other important safety and crashworthiness projects, such as implementing air bags in advance of the mandated automatic restraint phase-in. Finally, GM stated that it believes that its proposed phase-in is reasonable and meets the intent of the agency to extend Standard No. 214's side door strength requirements to LTV's promptly and practicably.

While GM was the only petitioner for reconsideration, Chrysler submitted a letter strongly urging that NHTSA grant GM's petition and adopt the phase-in schedule recommended by GM. Chrysler stated that it shared GM's concern that the test requirements for double-opening side cargo doors and doors without windows will not be available in time for it to meet the requirements by September 1, 1993. That company stated that while it does not manufacture any full-size vans/wagons with such doors which are sufficiently close to seats to be covered by the standard, it manufactures many such vans with those types of doors that are sold to van converters who do install seats close to the doors. Chrysler stated that it therefore expects to be asked to provide vehicles that meet door crush requirements to these final stage manufacturers so that they can take advantage of "pass-through" certification. Also, Ford Motor Company expressed its support for a brief phase-in, in a meeting with Department officials.

Summary of Amendments Being Made in Response to GM's Petition

In response to GM's petition, NHTSA is amending Standard No. 214 in several respects. First, the agency is establishing a brief phase-in for the newly-extended requirements. For the production year beginning September 1, 1993, 90 percent of a manufacturer's LTV's will be required to meet the new requirements; 100 percent compliance will be required effective September 1, 1994. Second, NHTSA is delaying by one year, to September 1, 1994, the effective date of the requirements for double opening cargo doors and doors with no windows, since the test procedure for these doors has not yet been established. The agency is also delaying the effective

date for certain contoured doors, since it has determined that the test procedure for these doors also needs clarification.

Since NHTSA is adopting a phase-in, it is also establishing the reporting and recordkeeping requirements necessary for the agency to enforce the phase-in. Similar requirements have been adopted by the agency as an integral part of its phase-ins of other major new safety requirements. Finally, the agency is adopting a phase-in exclusion for vehicles manufactured in two or more stages and for altered vehicles.

Response to GM's Petition

Several commenters on NHTSA's proposal to extend Standard No. 214's side door strength requirements to LTV's requested a phase-in of the requirements. In the preamble to the June 1991 final rule, the agency addressed the related issues of leadtime and the appropriateness of a phase-in as follows:

> After considering [the] comments and other information, NHTSA has decided to make the new requirements effective on September 1, 1993. NHTSA has concluded that manufacturers need this time period to equip all LTV's with side door beams as standard equipment after the necessary design, tooling, and testing. In addition, final-stage manufacturers need this much time to decide how to certify compliance with the requirements * * *.
>
> NHTSA does not believe that additional leadtime or a phase-in is necessary. Door beam technology has been used with passenger cars since 1973. Further, a few LTV's are currently manufactured with side door beams. While Ford initially asserted that the installation of side door beams in one of its models would require major design changes, Ford has since developed a beam design which can be installed in the door of the specific model without a major design change. 56 FR 27436.

After considering GM's petition for reconsideration, however, NHTSA has concluded that GM's two primary arguments have merit and warrant changes in the standard's effective date. The agency's analysis of GM's arguments and a discussion of the changes being made in response to those arguments follow.

NHTSA agrees with GM's first main argument that the lack of test procedures for double-opening cargo doors and doors without windows makes it impossible for manufacturers to complete the necessary design modifications for these doors. The agency indicated in the June 1991 final rule that it expected "in the near future" to propose amendments to address test procedures for these doors. However, the development of the proposal took longer than expected, and it was not published until January 15, 1992, with a comment closing date of March 16, 1992. See 57 FR 1716. Thus, the continuing lack of test procedures for these doors has cut much farther into the two-year leadtime period than expected. Assuming that a final rule is issued this summer or early Fall, the remaining leadtime would be little more than one year.

In order to ensure that the "practicability" requirements of the National Traffic and Motor Vehicle Safety Act are met and the manufacturers have sufficient leadtime for the necessary design, tooling, and testing of double-opening cargo doors and doors without windows, NHTSA has decided to extend the effective date for these doors by one year, to September 1, 1994. Assuming that the agency publishes a final rule concerning the test procedures some time this summer or early Fall, this will provide manufacturers with approximately two years leadtime for these doors.

NHTSA does not believe that GM's argument about its desire to modify all like models based on the most severe test requirements justifies relief beyond providing additional leadtime for the types of doors for which test procedures have not yet been established. First, even in the absence of the details of the test procedure, the agency believes that the performance requirements set forth in Standard No. 214 for double-opening cargo doors and doors without windows are sufficient for manufacturers to determine whether structural or other changes beyond adding a door beam will be required. Therefore, manufacturers should be able to determine whether these doors represent the most severe test requirement for a particular model and design other types of doors for the same model with that in mind, thereby avoiding a need for more than one design iteration. Second, given the safety benefits associated with this rulemaking, the agency believes that it would be inappropriate to delay application of the standard to types of doors for which design changes can easily be made merely to facilitate future compliance for other types of doors.

As discussed in the January 1992 notice of proposed rulemaking (NPRM) concerning test procedures for double-opening cargo doors and doors without windows, NHTSA has determined that clarification of the test procedure is also needed for certain contoured doors. The NPRM therefore proposed amendments to clarify the test procedure for contoured doors.

Standards No. 214's test procedure works well when a door's lower edge is essentially horizontal along its entire length, or only a small portion of the door's lower edge deviates from that description by being contoured upward. Almost all passenger cars have doors of these types. However, as discussed in the January 1992 NPRM, the standard's test procedure is not appropriate when only a small portion of a door's lower edge is horizontal and the edge is contoured significantly upwards for a large part of the door. Some LTV's have such doors. Since, in the absence of clarifying amendments concerning test procedures, these doors pose similar difficulties concerning compliance as those for double-opening cargo doors and doors without windows, NHTSA is also extending the effective date for these doors to September 1, 1994.

After reviewing the information submitted by GM in support of its petition, NHTSA is also persuaded that the possible interaction between the requirements of Standard No. 214 and other safety standards, particularly Standard No. 208, may require longer leadtime for a few vehicles.

As indicated above, NHTSA concluded in the June 1991 final rule that manufacturers required about two years leadtime for the design, tooling and testing necessary to meet the new requirements, and that additional leadtime was not needed in light of the time side door beam technology has been used for passenger cars. The two-years period did not, however, account for the possibility that a few vehicles, after being redesigned for Standard No. 214, might require further redesign to ensure that they continue to meet the dynamic test requirements of Standard No. 208.

NHTSA does not consider it likely, for a particular LTV, that the addition of side door beams would increase HIC in Standard No. 208 testing. The occupant compartments of LTV's are generally stiffer than those of passenger cars, and any incremental stiffness that may result from the addition of side door beams is likely to be extremely small. Further, as indicated by GM, the stiffening of a vehicle's occupant compartment usually reduces the likelihood of dummy head contacts in frontal crash tests. For most current vehicles, this would be expected to reduce HIC. In addition, even if the addition of side door beams did slightly raise non-contact HIC, this would only affect the compliance of vehicles with Standard No. 208 if the vehicles previously only marginally complied with the standard. The agency believes

that the small possibility of a particular vehicle's HIC being increased by the addition of side door beams is demonstrated by the fact that no other manufacturer has presented information to the agency concerning the problem. Further, GM, in responding to the agency's request for data concerning this problem, provided data for only one vehicle.

NHTSA agrees, however, that the test data presented by GM demonstrate that the addition of side door beams may, for a few vehicles, sufficiently affect HIC that further redesign will be necessary to ensure that the vehicles continue to meet Standard No. 208.

The agency has therefore decided to establish a brief phase-in for the new requirements. Accordingly, for the production year beginning September 1, 1993, 90 percent of a manufacturer's LTV's will be required to meet the new requirements; 100 percent compliance will be required effective September 1, 1994. Thus, the agency is providing an extra year's leadtime for up to 10 percent of a manufacturer's production of LTV's.

NHTSA believes that the phase-in being adopted will provide sufficient flexibility to cover the possibility that the compliance of a few LTV's with Standard No. 208 could be affected by the addition of side door beams and therefore need further redesign. The agency has carefully reviewed the information provided by GM and does not believe that the number of vehicles that could be affected would exceed 10 percent of that company's annual LTV production. Further, given the small number of vehicles, if any, that would be involved, the agency believes that an additional year's leadtime is ample for a manufacturer to make any additional changes necessary to ensure continuing compliance with Standard No. 208. Finally, given the fact that the delay in effective date affects no more than 10 percent of a manufacturer's LTV production for a single year and that it appears that not all manufacturers would avail themselves of the phase-in, any reduction in safety benefits is minimized.

NHTSA notes that it is not adopting the specific phase-in recommended by the petitioner, i.e., 75 percent of LTV's for the production year beginning September 1, 1993, and 90 percent of LTV's for the following year. The agency believes, for the reasons stated above, that the combination of delaying the effective date of double-opening cargo doors and doors without windows and the one-year phase-in adequately addresses the concerns raised by GM's two main arguments.

As indicated above, GM also asserted that its recommended phase-in would allow manufacturers to meet the requirements with designs that are more optimized for cost and mass and that are less likely to degrade other areas of vehicle performance. That company also asserted that manufacturers may use the phase-in to avoid diverting test and design resources from other important safety and crashworthiness projects, such as implementing air bags in advance of the mandated automatic restraint phase-in. However, GM did not provide any evidence demonstrating that additional leadtime, beyond that provided by this final rule, is needed for design optimization or would result in any safety benefits by facilitating design improvements in other areas. In the absence of such evidence and given the reduced safety benefits that could result from a longer phase-in, the agency does not believe that a longer phase-in is appropriate.

In the NPRM proposing to extend the side door strength requirements of Standard No. 214 to LTV's, the agency requested that any commenters supporting a leadtime longer than two years address whether such longer leadtime is needed for all vehicles or whether the proposed amendments could be phased in for some vehicles at an earlier time. See 54 FR 52832, December 22, 1989. The agency thus addressed in the NPRM the possibility of a phase-in. Several commenters, including GM, Ford and the Motor Vehicle Manufacturers Association, supported a phase-in. Ford requested that the agency adopt in any final rule, provisions such as those in Standard No. 208 for production volumes, carryforward credits, and cars produced by more than one manufacturer.

While NHTSA did not discuss in the NPRM the specific requirements that would be associated with a phase-in, the agency has addressed that issue in three other rulemakings: (1) The establishment of Standard No. 208's automatic crash protection requirements for cars, (2) the extension of those requirements to LTV's, and (3) the establishment of Standard No. 214's dynamic side impact protection requirements for cars. In each case, for example, reporting and recordkeeping requirements have been integral parts of the phase-ins. Given that the agency raised the possibility of a phase-in in the NPRM and the general understanding commenters had concerning how the agency implemented phase-ins in other rulemakings, NHTSA believes that the establishment of specific phase-in requirements along the lines of those in Standard No. 208 and Standard No. 214 (dynamic side impact requirements for passenger cars) are within the scope of notice for this rulemaking.

As suggested by Ford in its comment on the NPRM, the agency is including provisions similar to those in Standard No. 208 for production volumes and vehicles produced by more than one manufacturer. As in the case of the agency's phase-in of Standard No. 214's dynamic requirements for passenger cars, NHTSA is not, however, including the provisions for carry-forward credits. The purpose of the limited phase-in adopted in response to GM's petition is to provide an additional year's leadtime for up to 10 percent of a manufacturer's LTV production. Carryforward credits are unnecessary to meet this purpose. Further, some LTV's already meet the requirements of Standard No. 214, and a provision permitting manufacturers to count such vehicles toward the 90 percent one-year requirement could unnecessarily dilute the requirement, resulting in reduced safety benefits.

NHTSA is also establishing the reporting and recordkeeping requirements necessary for the agency to enforce the phase-in. The requirements are similar to those adopted for Standards No. 208 and No. 214, although only a single report is required since the phase-in is for one year. For a further explanation of the agency's rationale for the specific requirements, see the preamble to the final rule establishing those requirements for the phase-in of Standard No. 214's dynamic requirements for passenger cars (56 FR 45768, October 30, 1990).

As the agency recognized for the phase-in of Standard No. 208's automatic restraint requirements for LTV's, a phase-in of requirements for LTV's has the possibility of creating significant problems for many final stage manufacturers and alterers. Like other manufacturers, final stage manufacturers and alterers must certify that their vehicles meet all applicable safety standard. Many of these manufacturers are small businesses and typically complete or modify vehicles based on instructions from the major manufacturers, as a basis for certification.

The potential problems that could be caused by applying a phase-in requirement to these manufacturers can be illustrated by considering the case of a van converter which purchases vans from GM, Ford or Chrysler and then alters them for the specialty market. If the one-year 90 percent phase-in requirement were applied to van converters, each van converter would

need to ensure that 90 percent of the vans it altered complied with Standard 214. However, many van converters are very small and only alter a few vans each year. If the vehicles a particular van converter wanted to alter happened to be ones for which GM, Ford or Chrysler determined that the extra year's leadtime permitted by the phase-in was needed, it is highly unlikely the van converter could make the necessary design changes to those vehicles to certify that they would meet Standard No. 214.

In light of the potential problems that the phase-in could cause for final stage manufacturers and alterers, NHTSA is excluding LTV's manufactured in two or more stages and LTV's that are altered from Standard No. 214's requirements during the phase-in. This is the same approach that the agency followed for the phase-in of Standard No. 208's automatic crash protection requirements for LTV's. See 56 FR 12479–80, March 26, 1991. Because of this exclusion, this rule also permits original manufacturers the option to either include or exclude their LTV's that are sent to second stage manufacturers and alterers, when determining compliance during the phase-in for Standard No. 214.

This final rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Regulatory Impacts

A. Executive Order 12291 and DOT Regulatory Policies and Procedures

NHTSA has examined the impact of this rulemaking action and determined that it is not major within the meaning of Executive Order 12291. However, the agency has determined that the rulemaking action is significant within the meaning of the Department of Transportation's regulatory policies and procedures because it is related to an earlier major rule which extended Standard No. 214's quasi-static side door strength requirements to LTV's.

The only new requirements imposed on manufacturers by today's final rule are the reporting and recordkeeping requirements associated with the one-year phase-in. NHTSA has determined that the reporting and recordkeeping requirements will have a minimal impact on manufacturers. The amendments in today's final rule otherwise delay by one year the effective date of Standard No. 214's side door strength requirements for certain doors and LTV's and thereby provide manufacturers with additional flexibility.

NHTSA's Final Regulatory Impact Analysis (FRIA) prepared in conjunction with the June 1991 final rule extending Standard No. 214's side door strength requirements to LTV's remains valid. The effective date extensions made by this rule are necessary to meet the practicability requirements of the National Traffic and Motor Vehicle Safety Act. Changes in safety benefits from those estimated in the FRIA are expected to be minimal, since the number of vehicles affected is not large and since those LTV's most affected by this rule (e.g., those without windows) would not be passenger-carrying vehicles or, in the case of Ford, would be a van, which has a better-than-average safety record in side crashes compared to other LTV's.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities.

As discussed above, a phase-in of requirements for LTV's has the possibility of creating significant problems for small businesses which are final stage manufacturers and alterers, if the phase-in applies to them and the vehicles they wish to purchase from major manufacturers are ones which those manufacturers have not yet redesigned to meet the new requirements. Such problems will not occur as a result of this rulemaking action, however, since the agency is excluding LTV's manufactured in two or more stages and LTV's that are altered from Standard No. 214's requirements during the phase-in.

The phase-in issue aside, today's amendments simply delay by one year the effective date of Standard No. 214's side door strength requirements for certain doors and LTV's and thereby provide manufacturers with additional flexibility. This one-year delay for some doors/vehicles will not significantly affect the purchase price of vehicles, and today's amendments will therefore not have any significant economic impact on small manufacturers, small organizations, and small governmental units.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the reporting requirements associated with this rule are being submitted for approval to the Office of Management and Budget (OMB). Upon approval, NHTSA will publish the assigned OMB control number in the **Federal Register.**

D. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this final rule. The agency has determined that the final rule will not have a significant economic impact on the quality of the human environment.

E. Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Rubber and rubber products, Tires.

49 CFR Part 586

Reporting and Recordkeeping requirements.

In consideration of the foregoing, parts 571 and 586 of title 49 of the Code of Federal Regulations are amended as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. In § 571.214, S2.1, as added at 56 FR 27437, June 14, 1991, effective September 1, 1993, is revised to read as follows:

§ 571.214 Standard No. 214; Side impact protection.

* * * * *

S2.1 *Definitions.*

Double cargo doors means a pair of hinged doors with the lock and latch

mechanisms located where the door lips overlap.

Walk-in van means a van in which a person can enter the occupant compartment in an upright position.

3. In § 571.214, S3, as revised at 56 FR 27437, June 14, 1991, effective September 1, 1993, is amended by revising S3(a) and adding new S3(e)(5) through S3(e)(7) to read as follows:

S3. *Requirements.* (a)(1) Except as provided in section S3(e), each passenger car shall be able to meet the requirements of either, at the manufacturer's option, S3.1 or S3.2, when any of its side doors that can be used for occupant egress is tested according to S4.

(2) Except as provided in section S3(e), each multipurpose passenger vehicle, truck and bus manufactured on or after September 1, 1994 shall be able to meet the requirements of either, at the manufacturer's option, S3.1 or S3.2, when any of its side doors that can be used for occupant egress is tested according to S4.

(3) Except as provided in section S3(e), from September 1, 1993 to August 31, 1994, at least 90 percent of each manufacturer's combined yearly production of multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less, as set forth in S9, shall be able to meet the requirements of either, at the manufacturer's option, S3.1 or S3.2, when any of its side doors that can be used for occupant egress is tested according to S4.

* * * * *

(e) * * *

(5) For multipurpose passenger vehicles, trucks, and buses manufactured before September 1, 1994, any double cargo doors.

(6) For multipurpose passenger vehicles, trucks, and buses manufactured before September 1, 1994, any doors without one or more windows.

(7) For multipurpose passenger vehicles, trucks, and buses manufactured before September 1, 1994, any doors for which the ratio of the width of the lowest portion of the door to the width of the door at its widest point is not greater than 0.5. The width of the door is measured in a horizontal plane and on the outside surface of the door. The lowest portion of the door is that portion of the lower edge of the door which is lowest to the ground and which is essentially horizontal.

* * * * *

4. In § 571.214, S9 through S9.2.3 are added to read as follows:

§ 571.214 Standard No. 214; Side impact protection.

* * * * *

S9. *Phase-in of side door strength requirements for multipurpose passenger vehicles, trucks and buses.*

S9.1 *Multipurpose passenger vehicles, trucks and buses manufactured on or after September 1, 1993 and before September 1, 1994.*

S9.1.1 The combined number of multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less complying with the requirements of S3(a)(3) shall not be less than 90 percent of:

(a) The average annual production of multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less manufactured on or after September 1, 1990 and before September 1, 1993 by each manufacturer, or

(b) The manufacturer's annual production of multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less during the period specified in S9.1.

S9.1.2 Walk-in vans, vehicles which do not have any side doors that can be used for occupant egress, vehicles which exclusively have doors of the types specified in S3(e), and vehicles specified in S9.2.3 may be excluded from all calculations of compliance with S9.1.1.

S9.2 *Multipurpose passenger vehicles trucks and buses produced by more than one manufacturer.*

S9.2.1 For the purposes of calculating average annual production of multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less for each manufacturer and the number of multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less manufactured by each manufacturer under S9.1.1, a vehicle produced by more than one manufacturer shall be attributed to a single manufacturer as follows, subject to S9.2.2:

(a) A vehicle which is imported shall be attributed to the importer.

(b) A vehicle manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, shall be attributed to the manufacturer which markets the vehicle.

S9.2.2 A vehicle produced by more than one manufacturer shall be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR Part 586, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S9.2.1.

S9.2.3 Each multipurpose passenger vehicle, truck and bus with a GVWR of 10,000 pounds or less that is manufactured in two or more stages or that is altered (within the meaning of § 567.7 of this chapter) after having previously been certified in accordance with Part 567 of this chapter is not subject to the requirements of S3(a)(3).

PART 586—[AMENDED]

5. The authority citation for part 586 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1407; delegation of authority at 49 CFR 1.50.

6. Section 586.1 is revised to read as follows:

§ 586.1 Scope.

This part establishes requirements for passenger car manufacturers to submit a report, and maintain records related to the report, concerning the number of passenger cars manufactured that meet the dynamic test procedures and performance requirements of Standard No. 214, *Side Impact Protection* (49 CFR 571.214), and it establishes requirements for manufacturers of multipurpose passenger vehicles, trucks and buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less to submit a report, and maintain records related to the report, concerning the number of such vehicles that meet the side door strength requirements of Standard No. 214.

7. Section 586.2 is revised to read as follows:

§ 586.2 Purpose.

The purpose of the reporting requirements is to aid the National Highway Traffic Safety Administration in determining whether a passenger car manufacturer has complied with the requirements of Standard No. 214, *Side Impact Protection* (49 CFR 571.214) concerning dynamic test procedures and performance requirements concerning side impact protection, and whether a manufacturer of multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less has complied with the side door strength requirements of Standard No. 214.

8. Section 586.3 is revised to read as follows:

§ 586.3 Applicability

This part applies to manufacturers of passenger cars and to manufacturers of multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less. However, this part does not apply to any manufacturers of multipurpose passenger vehicles, trucks

and buses whose production consists exclusively of walk-in vans, vehicles which do not have any side doors that can be used for occupant egress, vehicles which exclusively have doors of the types specified in S3(e) of 49 CFR 471.214, vehicles manufactured in two or more stages, and vehicles that are altered after previously having been certified in accordance with part 567 of this chapter.

9. Section 586.4 is amended by revising paragraph (b) to read as follows:

§ 586.4 Definitions.

* * * * *

(b) Bus, gross vehicle weight rating or GVWR, multipurpose passenger vehicle, passenger car, and truck are used as defined in § 571.3 of this chapter.

* * * * *

10. Section 586.5 is amended by revising the section heading to read as follows:

§ 586.5 Reporting requirements—manufacturers of passenger cars.

* * * * *

11. Section 586.6 is amended by revising the section heading to read as follows:

§ 586.6 Records—passenger cars.

* * * * *

12. Section 586.7 is redesignated as section 586.9 and revised to read as follows:

§ 586.9 Petition to extend period to file report.

A petition for extension of the time to submit a report must be received not later than 15 days before expiration of the time stated in § 586.5(a) or § 586.7(a). The petition must be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The filing of a petition does not automatically extend the time for filing a report. A petition will be granted only if the petitioner shows good cause for the extension and if the extension is consistent with the public interest.

13. Sections 586.7 and 586.8 are added to read as follows:

§ 586.7 Reporting requirements—manufacuturers of trucks, buses and multipurpose passenger vehicles.

(a) *General reporting requirements.* Within 60 days after the end of the production year ending August 31, 1994, each manufacturer shall submit a report to the National Highway Traffic Safety Administration concerning its compliance with the requirements of S3(a) of Standard No. 214 for its trucks, buses and multipurpose passenger vehicles produced in that year. Each report shall—

(1) Identify the manufacturer;

(2) State and full name, title, and address of the official responsible for preparing the report;

(3) Contain a statement regarding whether or not the manufacturer complied with S3(a) (3) of Standard No. 214 and the basis for that statement;

(4) Provide the information specified in § 586.7(b);

(5) Be written in the English language; and

(6) Be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

(b) *Report content*—(1) *Basis for phase-in production goals.* Each manufacturer shall provide the number of trucks, buses and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less manufactured for sale in the United States for each of the three previous production years, or, at the manufacturer's option, for the current production year. A new manufacturer that has not previously manufactured trucks, buses and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less for sale in the United States must report the number of such vehicles manufactured during the current production year.

(2) *Production.* Each manufacturer shall report the number of multipurpose passenger vehicles, trucks and buses with a GVWR of 10,000 pounds or less that meet the side door strength requirements (S3.1 or S3.2) of Standard No. 214.

(3) *Vehicles produced by more than one manufacturer.* Each manufacturer who reporting of information is affected by one or more of the express written contracts permitted by S9.2.2 of Standard No. 214 shall:

(i) Report the existence of each contract, including the names of all parties to the contract, and explain how the contract affects the report being submitted.

(ii) Report the actual number of vehicles covered by each contract.

§ 586.8 Records—multipurpose passenger vehicles, trucks and buses.

Each manufacturer shall maintain records of the Vehicle Identification Number for each multipurpose passenger vehicle, truck and bus for which information is reported under § 586.7(b)(2) until December 31, 1996.

Issued on: July 7, 1992.

Frederick H. Grubbe,

Deputy Administrator.

[FR Doc. 92-16298 Filed 7-10-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 260

[Docket No. 920256-2056]

Inspection and Certification; Fee for Inauguration of Inspection Service on a Contract Basis

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

ACTION: Final rule.

SUMMARY: NMFS is amending the inspection and certification regulations pertaining to the NMFS National Seafood Inspection Program, to remove the fee charged for inauguration of inspection service on a contract basis. NMFS has found that the inauguration fee does not serve its intended purpose due to changes in the type of inspection services required by industry over the past several years and is no longer needed.

EFFECTIVE DATE: July 13, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. I. Sackett, Jr., Inspection Program Coordinator, Inspection Services Division, Office of Trade and Industry Services; telephone (301) 713-2355.

SUPPLEMENTARY INFORMATION: The original purpose of the inauguration fee for the National Seafood Inspection Program (Program) was to cover costs associated with hiring and establishing a NMFS inspector at a new contract inspection site, e.g., a processing plant. During the Program's early years, nearly all inspection service contracts called for an inspector to be assigned to a plant for a full, 40-hour work week. In recent years, the majority of firms contract for the minimum number of hours necessary to fulfill the Federal inspection requirements of the purchasers. Because the inspection requirements of plants vary depending upon product forms and production capability, it is not possible to establish an inauguration fee equitable in every case. Therefore, NMFS believes it best to revoke the inauguration fee. These costs are covered by the hourly rate NMFS charges currently for this type of inspection service.

Classification

This rule is not a "major rule" within the meaning of E.O. 12291 because it will not have an annual effect on the economy of $100 million or more, will not increase costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and will have no adverse effect.

Because this rule removes a fee for the provision of a contractual service provided by NMFS, as a contractual matter the requirements of 5 U.S.C. 553 do not apply.

Because this rule is being issued without prior comment, a regulatory flexibility analysis in not required under the Regulatory Flexibility Act and none has been prepared.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612, and does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 260

Food grades and standards, Food labeling, Seafood.

Dated: June 26, 1992.

Samuel W. McKeen,

Program Management Officer for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 260 is amended as follows:

PART 260—INSPECTION AND CERTIFICATION

1. The authority citation for part 260 continues to read as follows:

Authority: Sec. 6, 70 Stat. 1122, 16 U.S.C. 742e; secs. 203, 205, 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624; Reorganization Plan No. 4 of 1970 (84 Stat. 2090).

§ 260.71 [Removed]

2. Section 260.71 is removed and reserved.

[FR Doc. 92–16300 Filed 7–10–92; 8:45 am]
BILLING CODE 3510–22–M

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50 CFR Part 672

[Docket No. 911176–2018]

Groundfish of the Gulf of Alaska

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

ACTION: Rescission of closure.

SUMMARY: NMFS is modifying the closure to retention of the "other species" category in the Gulf of Alaska (GOA). This notice establishes a directed fishing allowance for the "other species" category, following promulgation of a recently published emergency rule that increased the total allowable catch (TAC) specification for this category. This action is necessary to prevent the TAC for the "other species" category from being exceeded in the Gulf of Alaska.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 8, 1992.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Chief, Fisheries Management Division, NMFS, (907) 586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the exclusive economic zone within the GOA is managed by the Secretary of Commerce (Secretary) according to the Fishery Management Plan for the Groundfish of the GOA (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 672.

On May 13, 1992, NMFS issued a notice of closure of the "other species" category in the Gulf of Alaska, declaring each species in this category to be a prohibited species under § 672.20(c)(3). NMFS took this action because the Regional Director, Alaska Region, NMFS (Regional Director), determined that the 1992 TAC specification of 13,432 metric tons (mt) for "other species" had been reached (57 FR 21215, May 19, 1992). On July 1, 1992, the Secretary implemented an emergency rule under sec. 305(c) of the Magnuson Act that increased the TAC for the "other species" category to 20,432 mt (57 FR 30168, July 8, 1992).

Under § 672.20(c)(2)(ii), the Regional Director has determined that the revised amount of the "other species" category is likely to be reached. Therefore, NMFS is prohibiting directed fishing for the "other species" category, effective from 12 noon A.l.t., July 8, 1992, until 12 midnight A.l.t., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20, and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: July 8, 1992.

David S. Crestin,

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

[FR Doc. 92–16355 Filed 7–8–92; 1:44 am]
BILLING CODE 3510–22–M

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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: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of pollock and Pacific ocean perch in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands Management Area (BSAI) and is requiring that incidental catches of pollock and Pacific ocean perch be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the apportionments of total allowable catch (TAC) for pollock assigned to the inshore and offshore components and the TAC for Pacific ocean perch in the AI have been reached.

EFFECTIVE DATE: Effective 12 noon, Alaska local time (A.l.t.), July 8, 1992, through 12 midnight, A.l.t., December 31, 1992.

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 Groundfish 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.

The 1992 initial TAC for pollock and the 1992 TAC for Pacific ocean perch in the AI were established by the final notice of specifications (57 FR 3952, February 3, 1992) as 43,860 metric tons (mt) and 9,945 mt, respectively. The TAC for pollock was revised to 47,730 mt (57 FR 27185, June 18, 1992) and allowances of 5,662 mt and 10,516 mt were apportioned to the inshore and offshore components of the fishery, respectively.

The Director of the Alaska Region, NMFS, has determined, in accordance with § 675.20(a)(9), that both the inshore and offshore allowances of the TAC for pollock and the TAC for Pacific ocean perch in the AI have been reached. Therefore, NMFS is requiring that pollock and Pacific ocean perch be treated as prohibited species. Under § 675.20(c), NMFS is prohibiting retention of pollock by vessels operating in the inshore and offshore components and Pacific ocean perch in the AI effective from 12 noon, A.l.t., July 8, 1992, through 12 midnight, A.l.t., December 31, 1992.

Classification

This action is taken under 50 CFR 675.20 and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: July 8, 1992.

David S. Crestin,

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

[FR Doc. 92–16354 Filed 7–8–92; 1:47 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 57, No. 134
Monday, July 13, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 124

[Docket No. 90-011]

Patent Term Restoration for Veterinary Biologics

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposal rule.

SUMMARY: We are proposing to establish regulations concerning the restoration of the time lost to the terms of veterinary biologics patents while awaiting premarket government approval. This action would implement the patent term extension provisions of the "Generic Animal Drug and Patent Term Restoration Act" of 1988 (Pub. L. 100-670).

DATES: Consideration will be given only to comments received on or before September 11, 1992.

ADDRESSES: Send an original and 3 copies of written comments to Chief, Regulatory Analysis and Development Staff, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 90-011. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Y. Tang, Biotechnologist, BCTA, BBEP, APHIS, USDA, room 851, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-4833.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1988, the President signed into law the Generic Animal Drug and Patent Term Restoration Act of 1988 (35 U.S.C. 156, as amended by Public Law 100-670) (the Act). Title II of the Act amended the U.S. patent laws to enable owners of patents relating to certain animal drugs and veterinary biological products, and the owners of patents relating to methods of using or manufacturing them, to apply for extension of the patent term to recover some of the time lost while awaiting premarket government approval. Patents concerning veterinary biologics subject to the Virus-Serum-Toxin Act (VSTA), as amended (21 U.S.C. 151-159) are covered by the Act. Patents on products primarily manufactured using recombinant DNA, recombinant RNA, hybridoma technology, or other processes involving site-specific genetic manipulation techniques are not eligible for patent term restoration under the Act.

United States patents are effective for 17 years from the date they are issued. A patent gives an inventor the right to exclude others from making, using, or selling the patented invention within the United States (see 35 U.S.C. 154.) This exclusive right is designed to encourage innovation and development of new products by protecting the patent holder from direct competition for a period of time. However, a patent does not automatically given an inventor the right to actually make, use, and sell the invention. Federal law requires some inventions, such as veterinary biological products, to be Federally approved before they are manufactured or marketed. For these inventions, a portion of the 17 years of protection afforded by a patent may be lost waiting for Federal review and approval.

The Virus-Serum-Toxin Act, among other things, prohibits the preparation, sale, barter, or exchange of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product intended for use in the treatment of domestic animals, in places under Federal jurisdiction. It also prohibits the shipment of such products anywhere in or from the United States. The Act also states that it is unlawful for anyone to prepare, sell, barter, or exchange in places under Federal jurisdiction, or ship in or from the United States, any virus, serum, toxin, or analogous product unless it is prepared in compliance with USDA regulations at an establishment holding a valid USDA license (21 U.S.C. 151). Therefore, veterinary biological products cannot be marketed until these requirements are met. It takes time to satisfy the regulations and standards under the VSTA which are designed to assure that only pure, safe, potent, and effective biological products are marketed. If a product is covered in any way by a patent, the time spent waiting for Federal review and approval reduces the effective length of the patent. Profits therefore are reduced, along with the incentive to develop new veterinary biological products. The Generic Animal Drug and Patent Term Restoration Act is designed to restore these incentives.[1]

The Generic Animal Drug and Patent Term Restoration Act of 1988

The Generic Animal Drug and Patent Term Restoration Act of 1988 contains two titles: Title I, among other things, authorizes the Food and Drug Administration to approve abbreviated new drug applications for generic animal drugs; Title II allows patent term restoration for certain patents covering animal drugs and veterinary biological products.

The Act specifically excludes veterinary drugs and biological products produced via biotechnology. As stated in the Act, biotechnology refers to manufacture that primarily sues recombinant DNA, recombinant RNA, hybridoma technology, or other processes involving site-specific genetic manipulation techniques. New applications for animal drug products manufactured using biotechnology are not approval under Title I of the Act. Patents covering veterinary biological products manufactured using biotechnology are also not eligible for extension under Title II of the Act.

Administration of Title II of the Act is divided among the Food and Drug Administration (FDA) of the Department of Health and Human Services, the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA), and

[1] In September, 1984, a similar statute, The Drug Price Competition and Patent Term Restoration Act (Pub. L. 98-417) became law. This Act, which allows patent term restoration to holders of patents claiming human drug products (including biologics and antibiotics), medical devices, food additives and color additives, became law in September, 1984. Regulations have been issued under this Act by both the Food and Drug Administration (FDA) and the Patent and Trademark Office (PTO). The FDA regulations appear at 21 CFR part 60. The PTO regulations appear at 37 CFR part 1.

the Patent and Trademark Office (PTO) of the United States Department of Commerce.

Applications for patent term extension are submitted to PTO for a determination whether a patent is eligible for extension. USDA would assist PTO by determining the length of the regulatory review period for any veterinary biological product involved; FDA does the same for animal drugs. In addition, APHIS and FDA are responsible for determining, if they are petitioned to do so, whether the applicant for patent term restoration acted with due diligence to obtain approval from the agency involved with the animal drug or veterinary biological product. A notice of a Memorandum of Understanding between the PTO and APHIS concerning implementation of procedures in determining a product's eligibility for patent term extension under 35 U.S.C. 156 was published in the **Federal Register** on June 23, 1989 (See 54 FR 26399). PTO issued regulations (See 54 FR 30375, July 20, 1989), governing the format, content, and submission of patent term restoration applications. Regulations covering FDA responsibilities have been proposed by that agency (see 56 FR 5784–5787, February 31, 1991).

Provisions of this Proposal

We are proposing to add a new Part 124 to our existing regulations in title 9, chapter I, Code of Federal Regulations.

Subpart A of the proposed regulations contains general provisions. Proposed subpart B provides for APHIS to assist PTO in determining a patent holder's eligibility for patent term restoration. Proposed subpart C contains regulations governing the determination of regulatory review periods. Subpart D provides for filing due diligence petitions; that is, challenging a regulatory review period determination on the grounds that an applicant did not diligently pursue premarketing approval. Standards for determining due diligence are also included in proposed subpart D. Subpart E contains regulations, governing informal hearings on the issue of due diligence

Subpart A—General Provisions (Sections 124.1–124.2)

Proposed Subpart A contains a statement of the scope of the regulations and APHIS's responsibilities in proposed § 124.1

In proposed § 124.2, we have included definitions of terms used in proposed new part 124. The terms we define are: "Applicant", "Due diligence petition", "Informal hearing", "License applicant", "License application", "Patent", and "PTO".

Subpart B—Eligibility Assistance (Section 124.10)

In subpart B, we are proposing new regulations to implement the Act's requirement that we assist PTO in determining eligibility for patent term restoration. Under the Act, a patent term restoration applicant must satisfy six conditions. First, the applicant must show that the patent has not expired (35 U.S.C. 156(a)(1)). Second, the applicant must establish that the patent has not been previously extended (35 U.S.C. 156(a)(2)). Third, the applicant must, as part of its application, supply certain details regarding the patent and regulatory review time spent in securing approval (35 U.S.C. 156(a)(3)). Fourth, the applicant must establish that the product was subject to a regulatory review period before its commercial marketing or use (35 U.S.C. 156(a)(4)). Fifth, the applicant must show that the product either: (1) Represents the first permitted commercial marketing or use of the product under the provision of law under which the regulatory review period occurred; or (2) in the case of a veterinary biological product which has received permission for commercial marketing or use in both non-food-producing animals, and food-producing animals, and the product was not extended on the basis of a regulatory review period for use in non-food-producing animals, that the product represents the first permitted commercial marketing or use of the product for administration to a food-producing animal (35 U.S.C. 156(a)(5)(C)). Sixth, the applicant must submit the application for patent term restoration to PTO within 60 days of the date APHIS approves the application for commercial marketing or use of the product (35 U.S.C. 156(d)(1)).

Although the Commissioner of PTO must decide whether an applicant has satisfied these six conditions, APHIS possesses information which PTO must have to decide whether the last four requirements have been met. To assist PTO in its responsibilities under the Act, we have developed the procedures proposed in § 124.10.

We are proposing that, upon a request and submission of a copy of an application by PTO, APHIS will advise PTO whether:

(1) The product underwent a regulatory review period within the meaning of the Act (35 U.S.C. 156(g)) before commercialization (see proposed § 124.10(a)(1));

(2) The marketing approval represents the first approval for commercial marketing or use of the product under the provision of law under which such regulatory review period occurred (see proposed § 124.10(a)(2)), and whether the marketing approval represents the first approval for commercial marketing or use of the product in a food-producing animal; and

(3) The patent term restoration application was received within 60 days after the product was approved (see proposed § 124.10(a)(3)).

In addition, proposed § 124.10(a)(4) explains that we may provide PTO with any other information relevant to their determination whether the patent is eligible for extension. Finally, we would, under proposed § 124.10(b), notify PTO in writing of our findings and make them available to the public and the applicant.

Subpart C—Regulatory Review Period (Sections 124.20–124.24)

Patent term extension calculation

Proposed § 124.20(a) of the regulations and 35 U.S.C. 156(g)(5)(B) define a regulatory review period for veterinary biological products as the sum of the following:

(i) the period beginning on the date authorization to prepare an experimental biological product under the Virus-Serum-Toxin Act became effective and ending on the date an application for a license was submitted under the Virus-Serum-Toxin Act, and (ii) the period beginning on the date an application for a license was initially submitted for approval under the Virus-Serum-Toxin Act and ending on the date such license was issued.

Under this proposal, we will consider a license application to be "initially submitted" when the application contains sufficient information to allow the agency to begin substantive review (see proposed § 124.20(b)).

A license is issued under proposed § 124.20(b) on the date we notify the applicant of such issuance in writing. A letter to an applicant stating that the license will be issued if certain conditions are met, would not constitute issuance under the proposed regulations.

Regulatory Review Period Determination

Our proposed § 124.21 sets 30 days for APHIS to determine a product's regulatory review period. The time limit is prescribed by the Act (35 U.S.C. 156(d)(2)(A)). (See proposed § 124.21(a).) Under the proposal, once we have determined the regulatory review period, we would notify both PTO and the applicant of the determination, make a copy of it available to the public, and

publish a notice in the **Federal Register** announcing our determination (see proposed § 124.21 (a) and (b)). The **Federal Register** notice would state the applicant's name, the product's trade name (and generic name, if applicable), the product's approved uses and indications, and the number of the patent for which an extension of the patent term is sought. In addition, the notice would state what the regulatory review determination was, including a statement of the length of the testing and approval phases and the dates used in calculating each phase.

Revision of Regulatory Review Period Determination

Section 124.22 of the proposed regulations would allow any interested person to request a revision of a regulatory review period determination within 30 days after the publication of that determination in the **Federal Register**. The person requesting a revision must explain the basis of the request and may submit evidence to support the person's position. We would provide the applicant for patent term restoration an opportunity to respond to the request for revision if made by another person. Any revision would be made under proposed § 124.21. We would notify the PTO, the applicant, and the person requesting the revision (if not the applicant) of any revision and publish that revision in the **Federal Register**. Under this proposed section, we could correct a product's regulatory review period if there was an error in the dates we used to determine it.

Final Action on Regulatory Review Period Determination

Proposed § 124.23 describes the circumstances under which we would consider a regulatory review period determination final. In general, a regulatory review period determination would be final when the 180-day period allowed for filing a due diligence petition expired. Once this period expired, we would notify PTO and the applicant that the determination was final, and would make a copy of the notification available to the public in room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Subpart D—Due Diligence Petition (Sections 124.30–124.33)

The regulations contained in proposed subpart D would detail what format and procedures to follow when submitting a due diligence petition to APHIS. The proposed regulations also describe the standard we would use to determine whether an applicant has met the due diligence requirement. Under proposed subpart D, we would reduce the regulatory review period by the amount of time the applicant unreasonably delayed our review.

Filing, Format, and Content of Petition

Proposed § 124.30(a) would allow any person to challenge a regulatory review period determination made by APHIS. Such person would have to file a petition known as a due diligence petition with the agency upon which it may be reasonably determined that the applicant did not act with "due diligence" in pursuing APHIS approval of the product. This is in accordance with the Act, 35 U.S.C. 156(d)(2)(B)(i). Under proposed § 124.30(a) such a petition would have to be filed within 180 days after publication of a regulatory review period determination by APHIS.

In accordance with proposed § 124.30(b), a due diligence petition would have to be filed under the docket number of the **Federal Register** notice announcing the regulatory review period determination. In addition, proposed § 124.30(c) requires the petitioner to claim that the applicant failed to act with due diligence sometime during the regulatory review period and must set forth sufficient facts to merit an investigation.

Proposed § 124.30(d) would require the petitioner to serve the applicant with a copy of the petition. APHIS, as prescribed by the Act, has 90 days in which to act on the petition. Proposed § 124.31(a) indicates that the applicant has 10 days in which to respond to the petition.

Applicant's Response to Petition

Proposed § 124.31(a) affords the applicant 10 days to respond to the petition. Proposed § 124.31(b) states that the applicant may respond only to the issue raised in the due diligence petition. This provision is designed to eliminate irrelevant and immaterial information in the applicant's response. Proposed § 124.31(c) states that if the applicant does not respond to the petition, APHIS will decide the matter on the basis of information available to APHIS.

APHIS Action on Petition

Under proposed § 124.32 due diligence petitions would be handled in two ways.

(1) We could deny the petition without conducting a due diligence investigation; or

(2) We could investigate and determine whether the applicant acted with due diligence.

Under proposed § 124.32(b), a due diligence petition could be denied in three situations. These are: (1) When the petition does not conform to the requirements of proposed § 124.30 (see proposed § 124.32(b)(1)); (2) when the petition does not provide sufficient information to make a due diligence determination (see proposed § 124.32(b)(2)); or (3) when the petition, though alleging that the applicant was not diligent for a period of time, alleges that the lack of diligence lasted for a period of time which is too short for it to have an effect on the maximum patent term extension that the applicant is entitled to under 35 U.S.C. 156 (see proposed § 124.32(b)(3)). This would prevent APHIS from expending its resources to investigate unnecessary due diligence petitions.

Due Diligence Standard

We propose in § 124.33 of the regulations to incorporate the definition of due diligence in the Act (35 U.S.C. 156(d)(3)). The Act states that due diligence is "that degree of attention, continuous directed effort, and timeliness as may reasonably be expected from, and are ordinarily exercised by, a person during a regulatory review period."

APHIS would apply a rule of reason or balancing approach in making due diligence determinations. This approach is the same as used by FDA when handling patent term restoration applications for patents covering human drugs (see 21 CFR 60.36).

Proposed § 124.33(b) would provide that, in making a due diligence determination, we shall consider the actions of the patent term restoration applicant, the USDA licensing applicant and all those acting on behalf of the applicants. We recognize that because of business arrangements and other circumstances, the applicant for patent extension is frequently not the same person as the applicant seeking a USDA license.

Subpart E—Due Diligence Hearing (§§ 124.40–124.43)

Request for Hearing

Proposed § 124.40 states that a request for an informal due diligence hearing must be filed within 60 days after publication of a due diligence determination by APHIS. This time period is specified in the Act. Under this proposal, any person (including persons who filed a due diligence petition, the patent term restoration applicant, the licensing applicant, and third parties) may request a due diligence hearing.

The hearing request would have to be filed under the docket number of the **Federal Register** notice of APHIS's regulatory review period determination. The docket number is printed in the **Federal Register** as part of the notice. Under the proposed regulations, the hearing request must also contain a full statement of the facts upon which the hearing request is based.

Proposed § 124.40(c) would incorporate the statutory provision that a hearing would be held not later than 30 days after the date of the request for a hearing, or at the request of the person making the request for the hearing, not later than 60 days after such date.

Notice of Hearing

Proposed § 124.41 would implement the hearing notice requirements contained in 35 U.S.C. 156(d)(2)(B)(ii). The Act requires APHIS to notify the patent holder and "any interested person" of the hearing and provide them with an opportunity to participate. The proposed regulations would require that notice of the hearing be given to the applicant, the petitioner, the person requesting the hearing (who might also be the applicant or the petitioner), and any other interested person no less than 10 days before the hearing date.

Hearing Procedure

Proposed § 124.42 would establish the basic procedures to be used in due diligence hearings. The Act provides that the term "informal hearing" has the meaning prescribed for such term in section 201(y) of the Federal Food, Drug, and Cosmetic Act. Therefore, the procedures proposed in this rule are based on those contained in section 201(y). See 21 U.S.C. 321(y).

Administrative Decision

Under proposed § 124.43, the Assistant Secretary of Marketing and Inspection Services would affirm or revise the determination made under § 124.32. This action would be termed a "due diligence redetermination" in the proposed regulations.

Executive Order 12291, Executive Order 12778, and Regulatory Flexibility Act

This proposed rule has been reviewed in accordance with Executive Order 12991 and Departmental Regulation 1512–1 and has been determined to be a non-major rule since it does not meet the criteria for a major regulatory action. Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The patent extension provision in 35 U.S.C. 156 (as amended by title II of Pub. L. 100–670) benefits the patent holder by restoring to the patent holder that part of the term of the patent which has been lost due to regulatory review of the patented product. Thus the statute results in a net economic benefit to the patent holder. The proposed rule is intended merely to implement the statute. The proposed rule simply provides procedures to allow APHIS to assist PTO in carrying out the requirements of the Act. An application for patent term restoration is made voluntarily by the patent holder. The time and cost required to comply with the proposed regulation is far outweighed by the benefit conferred by patent term restoration to the patent holder.

The Administrator of APHIS has determined that this action would not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act. (5 U.S.C. 601 *et seq.*).

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative proceedings which must be exhausted by an applicant for patent term extension prior to any judicial challenge to the regulatory review period determination under this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*), we will submit the information collection provisions in this proposed rule to the Office of Management and Budget (OMB) for approval. You may send written comments on these provisions to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to 1) Chief, Regulatory Analysis and Development Staff, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 and 2) Clearance Officer, ORIM, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

Executive Order 12372

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

List of Subjects in 9 CFR Part 124

Animal biologics, Patents.

Accordingly, we are proposing to amend title 9 CFR, chapter I, Subchapter E by adding a new Part 124—"Patent Term Restoration" to read as follows:

PART 124—PATENT TERM RESTORATION

Subpart A—General Provisions

Sec.

124.1 Scope.
124.2 Definitions.

Subpart B—Eligibility Assistance

124.10 APHIS liaison with PTO.

Subpart C—Regulatory Review Period

124.20 Patent term extension calculation.
124.21 Regulatory review period determination.
124.22 Revision of regulatory review period determination.
124.23 Final action on regulatory review period determination.

Subpart D—Due Diligence Petitions

124.30 Filing, format, and content of petitions.
124.31 Applicant response to petition.
124.32 APHIS action on petition.
124.33 Standard of due diligence.

Subpart E—Due Diligence Hearing

124.40 Request for hearing.
124.41 Notice of hearing.
124.42 Hearing procedure.
124.43 Administrative decision.

Authority: 35 U.S.C. 156.

Subpart A—General Provisions

§ 124.1 Scope.

(a) This Part sets forth procedures and requirements for APHIS review of applications for the extension of the term of certain patents for veterinary biological products pursuant to 35 U.S.C. 156—Extension of patent term. Responsibilities of APHIS include:

(1) Assisting PTO in determining eligibility for patent term restoration;

(2) Determining the length of a product's regulatory review period;

(3) If petitioned, reviewing and ruling on due diligence challenges to APHIS's regulatory review period determinations; and

(4) Conducting hearings to review initial APHIS findings on due diligence challenges.

(b) The regulations in this Part are designed to be used in conjunction with regulations issued by PTO concerning patent term restoration which may be found in 37 CFR part 1.

§ 124.2 Definitions.

Applicant. Any person who submits an application or an amendment or

Due diligence petition. A petition submitted under § 124.30 of this part.

Informal hearing. An hearing which is not subject of the provisions of 5 U.S.C. 554, and 557 and which is conducted as provided in 21 U.S.C. 321(y).

License applicant. Any person who, in accordance with Part 102 of this Chapter, submits an application to the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture for a U.S. Veterinary Biological Product License.

Patent. A patent issued by the Patent and Trademark Office of the United States Department of Commerce.

PTO. The Patent and Trademark Office of the United States Department of Commerce.

Subpart B—Eligibility Assistance

§ 124.10 APHIS liaison with PTO.

Upon receipt of a copy of an application for extension of the term of a veterinary biologic patent from PTO, APHIS will assist PTO in determining whether a patent related to a biological product is eligible for patent term extension by:

(a)(1) Verifying whether the product was subject to a regulatory review period before its commercial marketing or use;

(2) Determining whether the permission for commercial marketing or use of the product after the regulatory review period was the first permitted commercial marketing or use of the product under the provision of law under which such regulatory review period occurred, and if so; whether it was the first permitted commercial marketing or use of the veterinary biological product for administration to a food-producing animal;

(3) Ascertaining whether the patent term restoration application was submitted within 60 days after the product was approved for marketing or use; and

(4) Providing such other information as may be necessary and relevant to PTO's determination of whether a patent related to a product is eligible for patent term restoration.

(b) APHIS will notify PTO of its findings in writing, send a copy of this notification to the applicant, and make a copy available for public inspection in room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Subpart C—Regulatory Review Period

§ 124.20 Patent term extension calculation.

(a) As provided by 37 CFR 1.779 of PTO's regulations, in order to determine a product's regulatory review period, APHIS will review the information in each application to determine the lengths of the following phases of the review period, and will then find their sum:

(1) The number of days in the period beginning on the date authorization to prepare an experimental biological product under the Virus-Serum-Toxin Act became effective and ending on the date an application for a license was submitted under the Virus-Serum-Toxin Act; and

(2) The number of days in the period beginning on the date an application for a license was initially submitted for approval under the Virus-Serum-Toxin Act and ending on the date such license was issued.

(b) A license application is "initially submitted" on the date it contains sufficient information to allow APHIS to commence review of the application. A product license is issued on the date of the APHIS letter informing the applicant of the issuance. The issuance of a license releases the product for commercial marketing or use.

§ 124.21 Regulatory review period determination.

(a) Not later than 30 days after the receipt of an application from PTO, APHIS shall determine the regulatory review period. Once the regulatory review period for a product has been determined, APHIS will notify PTO in writing of the determination, send a copy of the determination to the applicant, and make a copy available for public inspection in room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

(b) APHIS will also publish a notice of the regulatory review period determination in the **Federal Register**. The notice will include the following:

(1) The name of the applicant;

(2) The trade name and generic name (if applicable) of the product;

(3) The number of the patent for which an extension of the term is sought;

(4) The approved indications or uses for the product;

(5) The regulatory review period determination, including a statement of the length of each phase of the review period and the dates used in calculating each phase.

§ 124.22 Revision of regulatory review period determination.

(a) Any interested person may request a revision of the regulatory review period determination within the 30 day period beginning on its publication in the **Federal Register**. The request must be sent to Deputy Director, Veterinary Biologics, BBEP, APHIS, USDA, room 838, 6505 Belcrest Road, Hyattsville, MD 20782.

The request must specify the following:

(1) The identity of the product;

(2) The identity of the applicant for patent term restoration;

(3) The docket number of the **Federal Register** notice announcing the regulatory review period determination; and

(4) The basis for the request for revision, including any documentary evidence.

(b) If APHIS revises its prior determination, APHIS will notify PTO of the revision, send a copy of notification to the applicant, and publish the revision in the **Federal Register**, including a statement giving the reasons for the revision.

§ 124.23 Final action on regulatory review period determination.

APHIS will consider its regulatory review period determination to be final upon expiration of the 180-day period for filing a due diligence petition under § 124.30 unless it receives:

(a) New information from PTO records, or APHIS records, that affects the regulatory review period determination;

(b) A request under § 124.22 for revision of the regulatory review period determination;

(c) A due diligence petition filed under § 124.30; or

(d) A request for a hearing filed under § 124.40.

Subpart D—Due Diligence Petitions

§ 124.30 Filing, format, and content of petitions.

(a) Any person may file a petition with APHIS, no later than 180 days after the publication of a regulatory review period determination under § 124.21, alleging that an applicant did not act

with due diligence in seeking APHIS approval of the product during the regulatory review period.

(b) The petition must be filed with APHIS under the docket number of the **Federal Register** notice of the agency's regulatory review period determination. The petition must contain any additional information required by this subpart.

(c) The petition must allege that the applicant failed to act with due diligence sometime during the regulatory review period and must set forth sufficient facts to merit an investigation of APHIS of whether the applicant acted with due diligence.

(d) The petition must contain a certification that the petitioner has served a true and complete copy of the petition on interested parties by certified or registered mail (return receipt requested) or by personal delivery.

§ 124.31 Applicant response to petition.

(a) The applicant may file with APHIS a written response to the petition no later than 10 days after the applicant's receipt of a copy of the petition.

(b) The applicant's response may present additional facts and circumstances to address the assertions in the petition, but shall be limited to the issue of whether the applicant acted with due diligence during the regulatory review period. The applicant's response may include documents that were not in the original patent term extension application.

(c) If the applicant does not respond to the petition, APHIS will decide the matter on the basis of the information submitted in the patent term restoration application, the due diligence petition, and APHIS records.

§ 124.32 APHIS action on petition.

(a) Within 90 days after APHIS receives a petition filed under § 124.30, the Assistant Secretary for Marketing and Inspection Services shall make a determination under paragraphs (b) or (c) of this section or under § 124.33 whether the applicant acted with due diligence during the regulatory review period. APHIS will publish its determination in the **Federal Register** together with the factual and legal basis for the determination, notify PTO of the determination in writing, and send copies of the determination to PTO, the applicant, and the petitioner.

(b) APHIS may deny a due diligence petition without considering the merits of the petition if:

(1) The petition is not filed in accordance with § 124.30;

(2) The petition does not contain information or allegations upon which APHIS may reasonably determine that the applicant did not act with due diligence during the applicable regulatory review period; or

(3) The petition fails to allege a sufficient total amount of time during which the applicant did not exercise due diligence so that, even if the petition were granted, the petition would not affect the maximum patent term extension which the applicant is entitled to under 35 U.S.C. 156.

§ 124.33 Standard of due diligence.

(a) In determining the due diligence of an applicant, APHIS will examine the facts and circumstances of the applicant's actions during the regulatory review period to determine whether the applicant exhibited the degree of attention, continuous directed effort, and timeliness as may reasonably be expected from, and are ordinarily exercised by, a person during a regulatory review period. APHIS will take into consideration all relevant factors, such as the amount of time between the approval of an experimental use permit and licensure of the veterinary biological product.

(b) For purposes of this Part, the actions of the marketing applicant shall be imputed to the applicant for patent term restoration. The actions of an agent, attorney, contractor, employee, licensee, or predecessor in interest of the marketing applicant shall be imputed to the applicant for patent term restoration.

Subpart E—Due Diligence Hearing

§ 124.40 Request for hearing.

(a) Any interested person may request, within 60 days beginning on the publication of a due diligence determination by APHIS (See § 124.32), that APHIS conduct an informal hearing on the due diligence determination.

(b) The request for a hearing must:

(1) Be in writing;

(2) Contain the docket number of the **Federal Register** notice of APHIS's regulatory review period determination;

(3) Be delivered to the Deputy Director, Veterinary Biologics, BBEP, APHIS, USDA, room 838, 6505 Belcrest Road, Hyattsville, MD 20782.

(4) Contain a full statement of facts upon which the request for hearing is based;

(5) Contain the name, the address, and the principal place of business of the person requesting the hearing; and

(6) Contain a certification that the person requesting the hearing has served a true and complete copy of the request upon the petitioner of the due diligence determination and the applicant for patent term extension by certified or registered mail (return receipt requested) or by personal service.

(c) The request must state whether the requesting party seeks a hearing not later than 30 days after the date APHIS receives the request, or, at the request of the person making the request, not later than 60 days after such date.

§ 124.41 Notice of hearing.

No later than ten days before the hearing, APHIS will notify the requesting party, the applicant, the petitioner, and any other interested person of the date, time, and location of the hearing.

§ 124.42 Hearing procedure.

(a)(1) The presiding officer shall be appointed by the Administrator of APHIS from officers and employees of the Department who have not participated in any action of the Secretary which is the subject of the hearing and who are not directly responsible to an officer or employee of the Department who has participated in any such action.

(2) Each party to the hearing shall have the right at all times to be advised and accompanied by an attorney.

(3) Before the hearing, each party to the hearing shall be given reasonable notice of the matters to be considered at the hearing, including a comprehensive statement of the basis for the action taken or proposed by the Secretary which is the subject of the hearing and any general summary of the information which will be presented at the hearing in support of such action.

(4) At the hearing the parties to the hearing shall have the right to hear a full and complete statement of the action which is the subject of the hearing together with the information and reasons supporting such action, to conduct reasonable questioning, and to present any oral and written information relevant to such action.

(5) The presiding officer in such hearing shall prepare a written report of the hearing to which shall be attached all written material presented at the hearing. The participants in the hearing shall be given the opportunity to review and correct or supplement the presiding officer's report of the hearing.

(6) The Secretary may require the hearing to be transcribed. A party to the hearing shall have the right to have the hearing transcribed at his expense. Any transcription of a hearing shall be included in the presiding officer's report of the hearing.

(7) The due diligence hearing will be conducted in accordance with rules of practice adopted for the proceeding. APHIS will provide the requesting party, the applicant, and the petitioner with an opportunity to participate as a party in the hearing. The standard of due diligence set forth in § 124.33 will apply at the hearing. The party requesting the due diligence hearing will have the burden of proof at the hearing.

§ 124.43 Administrative decision.

Within 30 days after completion of the due diligence hearing, the Assistant Secretary for Marketing and Inspection Services, taking into consideration the recommendation of the Administrator, will affirm or revise the determination made under § 124.32. APHIS will publish the due diligence redetermination in the **Federal Register**, notify PTO of the redetermination, and send copies of the notice to PTO and the requesting party, the applicant, and the petitioner.

Done in Washington, DC, this 8th day of July 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-16343 Filed 7-10-92; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 92-AMN-7]

Proposed Establishment of Control Zone; Jackson, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a control zone at Jackson, Wyoming, to prove additional controlled airspace for aircraft executing instrument approach procedures to the Jackson Hole Airport. The intent of this proposal is to segregate aircraft operating in visual flight rules (VFR) conditions from those operating under instrument flight rules (IFR). The area would be depicted on aeronautical charts to provide reference for pilots.

DATES: Comments must be received on or before August 15, 1992.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Docket No. 92-ANM-7, 1601 Lind Avenue SW., Renton, WA 98055-4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-535, Federal Aviation Administration, Docket No. 92-ANM-7, 1601 Lind Avenue SW., Renton, WA 98055-4056, Telephone: (206) 227-2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92-ANM-7." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination at the Federal Aviation Administration, 1601 Lind Avenue SW., Renton, Washington, 98055-4056, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, 1601 Lind Avenue SW., Renton, Washington, 98055-4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA proposes an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a control zone at Jackson, Wyoming to provide additional controlled airspace for aircraft executing instrument approach procedures to the Jackson Hole Airport. The Wyoming Department of Tranporation petitioned the FAA to propose this action.

This action, if promulgated, would segregate aircraft operating in VFR from those aircraft operating in IFR. This action would accurately define controlled airspace for pilot reference. The airspace would be depicted on aeronautical charts. Control zones are published in section 71.171 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1 The control zone listed in this document would be published subsequently in the handbook.

The FAA has determined that this proposed 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 proposed rule, if adopted, 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, Control zones, Incorporation by reference.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposed to amend 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 71.171 Designation

* * * * *

Jackson, Wyoming [new]

Within a 4.3 mile radius of Jackson Hole Airport, Jackson, Wyoming (lat. 43°36'24"N, long. 110°44'15"W.).

* * * * *

Issued in Seattle, Washington, on June 24, 1992.

Helen M. Parke,

Assistant Manager, Air Traffic Division.

[FR Doc. 92-16217 Filed 7-10-92; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1832 and 1852

Addition of Coverage to NASA FAR Supplement on the Use of Milestone Billing Arrangements for Contract Financing

AGENCY: Office of Procurement, Procurement Policy Division, National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice amends the NASA Federal Acquisition Regulation Supplement (NFS), Chapter 18 of the Federal Acquisition Regulation System in title 48 of the Code of Federal Regulations. This rule sets forth the policies and criteria for the use of milestone billing arrangements for contract financing, as well as the clause to be included in contracts using such financing. It also sets forth the policy regarding advance payment determinations and findings for the use of milestone billing arrangements for expendable launch vehicle (ELV) services contracts.

DATES: Comments must be received on or before August 12, 1992.

ADDRESSES: Submit comments to the Assistant Administrator for Procurement, NASA, Code HC, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Le Cren, Procurement Analyst, Contract Pricing and Finance Division (Code HC), Telephone: (202) 453-9203.

SUPPLEMENTARY INFORMATION:

Background

FAR 32.102(e)(1) allows for the use of progress payments based on a percentage or stage of completion. Subparagraph 32.102(e)(2) allows for such payments in accordance with agency procedures. NASA has used and intends to use in the future a form of such payments—milestone billing arrangements, which provide for payment upon the successful completion of specific performance events. In addition, the use of milestone billing arrangements for expendable launch vehicle (ELV) services contracts currently requires an advance payment determinations and findings (DF). NASA has determined that D&Fs are not required for such contracts.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. This proposed regulation falls in this category. NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1832 and 1852

Government procurement.

Don G. Bush,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR parts 1832 and 1852 continues to read as follows:

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

PART 1832—CONTRACT FINANCING

2. Part 1832 is amended as set forth below:

a. Section 1832.402-2 is added to read as follows:

1832.402-2 Expendable launch vehicle services contracts.

Determinations and findings are not required for advance payments for contracts supporting expendable launch vehicle (ELV) services contracts (however, see 1832.70 for Milestone Billing Arrangements). Instead, all advance payments clauses for ELV services contracts shall be submitted to Code HC for concurrence prior to issuance of the solicitation (see 1832.7005) and to the Assistant Administrator for Procurement (Code HC) for approval prior to award (see 1832.7006).

b. Subpart 1832.70 is added to read as follows:

Subpart 1832.70 Milestone Billing Arrangements

1832.7001 General.
1832.7002 Policy.
1832.7003 Criteria for use.
1832.7004 Contractual implementation.
1832.7005 Concurrence prior to solicitation.
1832.7006 Approval prior to contract award.
1832.7007 Subcontracts and contract amendments.
1832.7008 Solicitation and contract clause.

Subpart 1832.70—Milestone Billing Arrangements

1832.7001 General.

As authorized at FAR 32.102(e), milestone billing arrangements may be used for contract financing. Milestone billing arrangements fall between progress payments based on costs with unusual terms and advance payments in the order of preference specified in FAR 32.106. Milestone billing arrangements are contractual provisions which provide for payments to a contractor upon successful completion of specific performance events not involving physical deliveries to the Government. As milestone arrangements are interim payments with respect to total contract performance, they are fully recoverable, in the same manner as progress payments, in the event of default. Milestone payments shall not be considered as payments for contract items delivered and accepted, incentive price revisions, or inspection and acceptance provisions of the contract. Milestone billing arrangements are contract financing payments and as such are not subject to prompt payment.

1832.7002 Policy.

In negotiating milestone billing arrangements, contracting officers must seek to establish an overall level of contract financing that will result in the contractor maintaining an appropriate investment in contract work-in-process inventory. The level of contract financing should be based on the number, value and timing of the milestone billing events, and the manner in which milestone payments are liquidated against contract line item deliveries. Therefore, proposed milestone billing arrangements should be carefully evaluated to insure that contract financing objectives are being met, that the proposed milestone billing arrangement will not result in an unreasonably low or negative level of contractor work-in-process inventory, or create an administrative burden (e.g., too frequent payments).

1832.7003 Criteria for use.

(a) Milestone billing arrangements are limited to fixed-price type contracts in excess of $10 million with long lead times (at least 12 months) between the

initial incurrence of costs under the contract and the delivery of the first end item.

(b) The contract shall not provide for progress payments based on cost or advance payments, with the exception of expendable launch vehicle (ELV) services contracts (see 1832.7003(d)).

(c) The established milestone events will be readily determinable.

(d) Milestone billing amounts shall not exceed the Government's best estimate of the cost to perform each milestone event. For ELV services contracts, 42 U.S.C. 2459c provides authority to make advance payments in conjunction with milestone billing arrangements. Advance payments provided under such arrangements must be reasonably related to launch vehicle and related equipment, fabrication, and acquisition costs. However, 42 U.S.C. 2459c provides considerable flexibility in determining what types of costs (committed, incurred, expended) may be considered in determining payment schedules for ELV services contracts. Individual milestone payments may exceed a contractor's incurred costs during performance only if the payment schedules comply with the intent of 42 U.S.C. 2459c, are considered fair and reasonable, and serve the Government's best interests.

(e) The contract milestones should represent the completion of substantial items of service or events that would normally require management visibility and attention to assure their timely accomplishment. Milestones should not be based on insignificant events, administrative functions, percentage of completion estimates, or the passage of time. The number of milestone events will be kept to a minimum.

1832.7004 Contractual implementation.

Contracts containing milestone billing arrangements will include the following requirements:

(a) Normally, milestone billings will not be submitted after deliveries of major end items commence upon which milestone payments have been made. In the event the period between delivery of such major end item and the next end item delivery exceeds three months, milestone payments can continue to be made as mutually agreed for appropriate events.

(b) Completion of each milestone must be certified by the contractor and verified by the contract administration office in order for payment to be made.

(c) The processing of milestone billing vouchers shall not be delegated outside NASA.

(d) The relationship between milestone billing events and deliverable contract line items will be clearly established in the contract. A milestone billing event should normally be associated with only one contract line item. However, a contract line item may have more than one related milestone billing event. Upon delivery and acceptance of a contact line item on which milestone payment(s) has/have been made, the amount of the related milestone payment(s) will be deducted from the amount otherwise payable for the contract line item.

(e) Milestone billing amounts will not be subject to the "Adjusting Billing Prices" paragraph of the Incentive Price Revision-Firm Target clause (FAR 52.216-16(f)) in fixed-price incentive contracts and will not be adjusted for actual costs incurred above or below the contract target cost. Milestone billings will not be adjusted as a result of the operation of an economic price adjustment clause.

(f) Milestone payments are interim payments with respect to total performance and, as such, are fully recoverable, in the case of default, in the same manner as progress payments.

1832.7005 Concurrence prior to solicitation.

Prior to the issuance of a solicitation in which a milestone billing arrangement is made available, concurrence shall be requested in writing from Code HC. The request shall provide the reasons why a milestone billing arrangement is appropriate and include a copy of the milestone billing arrangement clause if it differs from the clause at 1852.232–83, Milestone Billing Arrangements.

1832.7006 Approval prior to contract award.

Subsequent to solicitation, but prior to contract award, a request for approval of the milestone billing arrangement shall be submitted to the Assistant Administrator for Procurement (Code HC). The request for approval should include the following information:

(a) The name and phone number of the contracting officer.

(b) A copy of the contractor's support for a milestone billing arrangement, including the rationale and statement of need for milestone billings.

(c) A copy of the proposed milestone billing clause.

(d) Description of the milestone billing events, with a schedule milestone completion dates and milestone values, and the method of verifying completion.

(e) Description of the contract end items with their delivery schedule and prices.

(f) Proposed milestones and contract end items, with appropriate narrative showing how the milestone amounts were estimated and distributed to the contract end items for interim milestone payment and end item final payment purposes.

(g) Financial analysis (numeric and graphic) showing cash flow and contractor investment in the contractor work-in-process inventory, with and without milestone billings.

(h) Any other information considered relevant.

1832.7007 Subcontracts and contract amendments.

Subcontracts and amendments to prime contracts that incorporate milestone billing arrangements are also subject to the criteria, contractual implementation, concurrence and approval policies in this Subpart. Requests for concurrence and approval shall be submitted to the prime contractor through the next higher tier subcontractor, if applicable, to the contracting officer.

1832.7008 Solicitation and contract clause.

(a) The contracting officer shall insert a clause substantially the same as the clause at 1852.232–83, Milestone Billing Arrangements, in solicitations and contracts when a fixed-price type contract will be awarded and a milestone billing arrangement is contemplated.

(b) The contracting officer shall include a clause substantially the same as the clause at 1852.232–84, Milestone Billing Arrangements—Subcontracts, in all solicitations and contracts when a fixed-price subcontract in excess of $10 million with a milestone billing arrangement is contemplated.

Part 1852—Solicitation Provisions and Contract Clauses

3. Sections 1852.232–83 and 1852.232–84 are added to read as follows:

1852.232–83 Milestone Billing Arrangements.

As prescribed in 1832.7008(a), insert the following clause.

Milestone Billing Arrangements (XXX 1992)

(a) A payment will be made to the contractor upon completion of each milestone event specified in paragraph (g) of this clause in the amount specified for the relevant milestone event.

(b) Upon completion of each milestone billing event, the contractor shall notify the contracting officer in writing, accompanied by a certification, that the milestone event has been completed. The contractor's written notification shall contain a brief narrative of the work activity accomplished for the particular milestone event. The contracting

officer shall promptly verify that successful completion of the milestone event has occurred and notify the contractor of NASA's concurrence. The contractor shall then submit a voucher with a copy of the contracting officer's verification to the designated paying office.

(c) Milestone billings shall not be submitted after deliveries of major end items commence upon which milestone payments had been made.

(d) All milestone payments are interim contract financing payments with respect to total contract performance. As such, they are fully recoverable in the event of default under the Default clause. Therefore, all milestone payments made with respect to contract line items that are not delivered and accepted by the Government shall, in the event of a termination for default, be paid to the Government upon demand.

(e) The contractor shall establish and record a preferred creditor's lien on behalf of the Government, i.e., a first lien paramount to all other liens, in each jurisdiction where property subject to this contract is located. The lien shall be on the contractor's work-in-process covered by the contract, except to the extent that the Government by virtue of any other terms of this contract, or otherwise, shall have valid title to the supplies, materials, or other property as against other creditors of the contractor. The property subject to the liens shall include that to be acquired under subcontracts where payments are to be made to the subcontractor prior to the acceptance of such property. The contractor shall promptly provide to the Government a copy of all lien filings.

(f) The contractor represents and warrants that it maintains with responsible insurance carriers (1) insurance on plant and equipment against fire and other hazards, to the extent that similar properties are usually insured by others operating plants and properties of similar character in the same general locality; (2) adequate insurance against liability on account of damage to persons or property; and (3) adequate insurance under all applicable workers' compensation laws. The contractor agrees that, until work under this contract has been completed and all payments made under the contract have been liquidated, it will maintain this insurance and furnish any certificates with respect to its insurance that the administering office may require.

(g) Upon successful completion of a milestone event, the contractor may request milestone payments based on the following milestone data:

Milestone event	Contract line item	Amount	Estimated date of completion
(1)			
(2)			
(3) etc.			

(h)(1) A milestone event may be successfully completed in advance of the date appearing in paragraph (g) of this clause. However, payment shall not be made prior to that date without the prior written consent of the contracting officer.

(2) The contractor is not entitled to partial payment for less than successful completion of a milestone event.

(3) All preceding milestone events must be successfully completed before payment can be made for the next milestone event.

(End of clause)

1852.232-84 Milestone Billing Arrangements—Subcontracts.

As prescribed in 1832.7008(b), insert the following clause.

Milestone Billing Arrangements—Subcontracts (XXX 1992)

(a) The contractor is prohibited from using milestone billing arrangements in subcontracts except in accordance with NASA FAR Supplement Subpart 1832.70.

(b) The contractor shall insert the substance of this clause, including this paragraph (b), in all subcontracts in excess of $10 million.

(End of clause)

[FR Doc. 92-16138 Filed 7-10-92; 8:45 am]

BILLING CODE 7510-01-M

Notices

Federal Register
Vol. 57, No. 134
Monday, July 13, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 92-108-1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that two environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612. For copies of the environmental assessments and findings of no significant impact, write to Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
92-076-02	New York State Agricultural Experiment Station	6-18-92	Squash, cantaloupe, and tomato plants genetically engineered to express the coat protein gene of cucumber mosaic virus white leaf strain.	Ontario County, New York.
92-105-02	Holden's Foundation Seeds, Incorporated	6-18-92	Corn plants genetically engineered to express male sterility linked with kanamycin or phosphinothricin tolerance as markers.	Iowa County, Iowa.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384, August 28, 1979, and 44 FR 51272-51274, August 31, 1979).

Done in Washington, DC, this 8th day of July 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-16346 Filed 7-10-92; 8:45 am]

BILLING CODE 3410-34-M

Rural Electrification Administration

East Kentucky Power Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA) has prepared an environmental assessment (EA) and has made a finding of no significant impact (FONSI) with respect to the potential environmental impact resulting from a proposal by East Kentucky Power Cooperative, Inc. (EKPC) to construct and operate a combustion turbine generation facility at a site within EKPC's service territory. This action has been taken in accordance with REA Environmental Policies and Procedures, 7 CFR 1794.34. The preferred Smith site is located within the boundaries of the J.K. Smith Generating Station Complex in southeastern Clark County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, room 1246, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: As part of its environmental review process, REA held an interagency and two public scoping meetings in September 1991. EKPC was required by REA to develop an environmental analysis (EVAL) and other documentation to support its proposal. The documentation provided by EKPC, input from the three meetings, and input from certain Federal and state agencies have been used by REA to develop its EA. REA has concluded that the EA represents an accurate assessment of the environmental impacts of the proposed project and that the impacts are acceptable.

The J.K. Smith Generation Complex (3,200 acres) is located approximately 9 miles southeast of Winchester, Kentucky, in southeastern Clark County. The complex contains the partially completed facilities associated with a coal-fired generation project. Construction of this project was suspended in 1982. The proposed project would impact approximately 48 acres of land within the complex. It consists of three combustion turbine generating units with a total net capacity of 300 megawatts and associated facilities. The three units would have dual fuel capability. Natural gas would be obtained from existing pipelines that cross the complex. Fuel oil, the secondary fuel, would be delivered by tanker truck and stored in an above ground tank. Water would be obtained from the Kentucky River through existing intake facilities and treated wastewater would be returned to the river through existing discharge facilities. The electrical output of the facility would be routed through the Dale Station to the Powell 138 kilovolt (kV) transmission line that is currently under construction, and a new 138 kV transmission line of approximately 15 miles that would connect the project to the proposed Fawkes Substation in Madison County. The new one acre substation would be located adjacent to an existing Kentucky Utilities, Inc., substation.

Alternatives considered to the project as proposed were no action, demand side options, purchased capacity from both utility and non-utility generators, and ownership participation in a coal-fired unit. Alternative generation technologies and alternative sites were also evaluated. REA has considered these alternatives and concludes that the development of a combustion turbine generation project with associated transmission facilities at the Smith site is the preferred alternative for EKPC to meet peak load capacity requirements beginning in 1995.

Based upon an independent analysis of the EVAL and other information available, as defined in the EA, REA has concluded that the construction and operation of the proposed combustion turbine generation facility utilizing the Smith site will have no significant impact on air quality, water quality, wetlands, the 100-year floodplain, existing land uses, prime farmland, cultural resources, or flora and fauna. In addition, REA has determined that the construction and operation of the proposed project should have no effect on Federally-listed or proposed threatened and endangered species, designated critical habitat, or candidate species. However, as a precaution, surveys of specific habitats within the project site and transmission line route will be conducted to determine the potential occurrence of one listed and three candidate plant species.

No other potential significant impact resulting from the construction and operation of the proposed project has been identified.

Copies of the environmental analysis, environmental assessment and finding of no significant impact are available for review at, or can be obtained from, REA at the address provided herein or from Mr. Robert E. Hughes, Jr., East Kentucky Power Cooperative, Inc., 4758 Lexington Road, P.O. Box 707, Winchester, Kentucky 40392, during normal business hours. Copies of the documents have also been sent to various Federal, state and local agencies and will also be available for review at the following libraries in Kentucky: Adair County Public Library in Columbia, Madison County Public Library in Richmond, Clark County Public Library in Winchester, Green County Public Library in Greensburg, and the Jamestown Public Library in Jamestown.

REA will take no final action with respect to EKPC's request for financing assistance for the proposed project for at least thirty (30) days after publication of this notice in the **Federal Register** and in newspapers of general circulation in the five counties previously identified.

Any comments should be sent to REA at the address given previously. All comments received will be considered.

Dated: July 2, 1992.

George E. Pratt,

Deputy Administrator—Program Operations.

[FR Doc. 92–16243 Filed 7–10–92; 8:45 am]

BILLING CODE 3410–15–M

COMMISSION ON CIVIL RIGHTS

Agenda and Public Meeting of the New York State Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York State Advisory Committee will be convened at 1:30 p.m. and adjourn at 4 p.m. on Monday, August 3, 1992, in Conference Room 914, T.J. Dulski Federal Building, 111 West Huron Street, Buffalo, New York, 14202. The purpose of the meeting is to release the Committee's recently completed report, Shelter Issues in New York: The New Fair Housing Amendments Act, and Western New York Public Housing; take action on a draft report, Minority Access to Health Care and Nursing Homes; and complete details for a Statewide conference.

Persons desiring additional information, or planning a presentation to the Committee, should contact Paula M. Ciprich, Member and Convener, at (716/857–7548), or John I. Binkley, Director, ERO, at (202/523–5264) or TDD (202/376–8116). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the regional office at least five (5) working days before the scheduled date of the meeting. The meeting will be conducted

pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 2, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92-16323 Filed 7-10-92; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-802]

Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Italy; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On April 20, 1992, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on industrial belts and components and parts thereof, whether cured or uncured, from Italy (57 FR 14385). The review covers one manufacturer/exporter of the subject merchandise, Pirelli Trasmissioni Industriali, S.p.A., and the period June 1, 1990 through May 31, 1991.

As a result of the review, the Department of Commerce has determined to assess antidumping duties based on the best information available.

EFFECTIVE DATE: JULY 13, 1992.

FOR FURTHER INFORMATION CONTACT: Megan Pilaroscia or Jean C. Kemp, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On July 19, 1991, in accordance with 19 CFR 353.22(c), the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order (54 FR 25313, June 14, 1989) on industrial belts and components and parts thereof from Italy for the period June 1, 1990 through May 31, 1991 (56 FR 33250). On April 20, 1992, we published the preliminary results of this administrative review (57 FR 14385). The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

The products covered by this review are shipments of industrial belts and components and parts thereof, whether cured or uncured, from Italy. The covered merchandise consists of V-belts and synchronous industrial belts used for power transmission. These include V-belts and synchronous belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (*i.e*, closed loops) belts, or in belting in lengths or links.

This review excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

During the review period, the merchandise was classifiable under Harmonized Tariff System (HTS) subheadings 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00. The HTS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one manufacturer/exporter of industrial belts from Italy to the United States, Pirelli Trasmissioni Industriali, S.p.A. (Pirelli), and the period June 1, 1990 through May 31, 1991.

Final Results of the Review

Because Pirelli did not submit a complete response to our questionnaires, we preliminarily determined to use the best information available (BIA). As BIA, we used the rate from the original investigation of sales at less-than-fair-value, which was 74.90 percent. We give interested parties an opportunity to comment on our preliminary results; we received on comments. Therefore, the antidumping duty margin is 74.90 percent for merchandise produced by Pirelli and entered during the period June 1, 1990 through May 31, 1991.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be as outlined above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 74.90 percent. This rate normally represents the highest rate for any firm with shipments in the administrative review, other than those firms receiving a rate based entirely on BIA. Because the only firm in this review received a BIA rate, and there is no previous review in which a non-BIA rate was established, the "all other" rate will be the "all other" rate from the original investigation of sales at less-than-fair-value.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

In addition, this notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: July 7, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-16377 Filed 7-10-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-814]

Pure and Alloy Magnesium From Canada: Final Affirmative Determination; Rescission of Investigation and Partial Dismissal of Petition

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

EFFECTIVE DATE: July 13, 1992.

FOR FURTHER INFORMATION CONTACT: Magd Zalok, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone (202) 377-4162.

FINAL DETERMINATION AND RESCISSION OF INVESTIGATION: The Department determines that pure magnesium from Canada is being, or likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)). The estimated margin is shown in the "Suspension of Liquidation" section of this notice. In addition, we are rescinding our investigation of alloy magnesium.

Case History

Since the publication of our preliminary determination on February 20, 1992 (57 FR 6092), the following events have occurred: In response to requests from Norsk Hydro Canada Inc. (NHCI), we postponed the deadlines for the final determinations in these cases (57 FR 508860, March 13, 1992) and (57 FR 20809, May 15, 1992). On April 27, 1992, the Department preliminarily determined that pure and alloy magnesium are two classes or kinds of merchandise (see discussion, below).

Class or Kind of Merchandise

As stated above, the Department preliminarily determined that pure and alloy magnesium are two separate classes or kinds of merchandise (*see* April 27, 1992 Memorandum to Francis J. Sailer). The Department's decision was based on numerous submissions of factual information by the parties to this proceeding, as well as information collected by the Department at verification. Since the Department's preliminary determination on class or kind, we have received no new arguments on this issue. For the reasons discussed below, we determine that pure and alloy magnesium constitute two separate classes or kinds of merchandise.

The Department is permitted to separate products under investigation into separate classes or kinds of merchandise based on the criteria set forth in *Diversified Products Corporation* v. *United States*, 6 CIT 155, 572 F. Supp. 883 (1983) ("Diversified"). According to Diversified, the Department may rely upon the following factors in determining whether products belong to the same class or kind of merchandise: (1) The general physical characteristics of the merchandise; (2) the ultimate use of the merchandise; (3) the expectations of the ultimate purchaser; (4) the channels of trade in which the product is sold; and (5) the manner in which the product is advertised and displayed. See e.g., Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, 54 FR 18992 (May 3, 1989). Our analysis of pure and alloy magnesium in light of the Diversified criteria supports a finding that these two products are separate classes or kinds of merchandise.

Although the percentages of magnesium, by weight, contained in pure and alloy magnesium can be very similar, the addition of alloying elements to pure magnesium clearly results in products with different physical characteristics. Pure magnesium is a soft metal of low strength and low corrosion resistance. When alloyed with other elements, however, the mechanical and physical properties of the magnesium are significantly altered, becoming harder and stronger and possessing a high corrosion resistance. While much of the production process for pure and alloy magnesium is the same, the final stage in the production of alloy magnesium is more costly, requiring alloying furnaces for the addition of alloying agents and more controlled conditions throughout the remaining production process.

The different ultimate uses of pure and alloy magnesium offer the strongest support for separating these products into two classes or kinds of merchandise. There is a considerable lack of interchangeability between pure and alloy magnesium. While pure magnesium is used primarily as a chemical in the aluminum alloying and desulfurization industries, alloy magnesium is a structural material, used primarily for die casting.

Because of the different ultimate uses of pure and alloy magnesium, along with their lack of interchangeability, it follows that customers have different expectations for the two metals (e.g., only alloy magnesium is suitable for die or gravity casting). The different expectations of the pure and alloy customer is also evidenced in the highly controlled nature of the final stage in the production process for alloy magnesium. Because of its specialized nature, customers of alloy magnesium are very interested in how it is produced. This degree of specialization and customer interest in the production process is typically not present in the manufacture of pure magnesium.

The channels of trade for pure and alloy magnesium are very similar. Both pure and alloy magnesium are typically sold directly by producers to end-users. Furthermore, some companies use the same sales staff for both pure and alloy magnesium.

Throughout these investigations, we have seen advertising which applies to only pure and alloy magnesium and advertising which applies to both. Therefore, the way in which the product is advertised and displayed is not particularly instructive for purposes of our class or kind analysis.

In sum, our analysis of pure and alloy magnesium in light of the Diversified criteria supports a finding that these products should be separate classes or kinds of merchandise. Although there is evidence that the channels of distribution for these two products are similar, the product characteristics, ultimate uses, and expectations of the customer show that pure and alloy magnesium are two distinct classes or kinds of merchandise.

Rescission of Investigation With Respect to Alloy Magnesium

The dumping allegation presented in Magnesium Corporation of America's ("Magcorp's") September 5, 1991 petition contained pricing information only with respect to pure magnesium. Prior to the Department's preliminary determination that pure and alloy magnesium are two separate classes or kinds of merchandise, Magcorp submitted new information concerning the prices it believed were being charged in the United States for alloy magnesium by Norsk Hydro.

The Department has determined that the evidence supporting petitioner's dumping allegation regarding alloy magnesium is insufficient. This determination is based on the following facts:

- Significant terms of petitioner's and Norsk Hydro's sales referred to in the new allegation were not described in detail (e.g., the scrap buy-back program). Without terms, the Department is unable to quantify an accurate net selling price.
- Petitioner only provided data on the alloy prices that petitioner, allegedly, had to charge to meet the prices on magnesium from Canada and Norway

without any explanation of how these prices are representative of petitioner's U.S. selling price.

• There is no indication in any of petitioner's supporting information as to the source country for the foreign magnesium referenced by petitioner.

Because the evidence provided by the petitioner is insufficient to support the dumping allegation against alloy magnesium, we are rescinding the portion of this investigation dealing with alloy magnesium from Canada.

Scope of the Investigation

The product covered by this investigation is pure magnesium from Canada. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Granular and secondary magnesium are excluded from the scope of this investigation. Pure magnesium is currently classified under subheading 8104.11.0000 of the Harmonized Tariff Schedule ("HTS"). Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

"On Behalf of" Issue

Norsk Hydro has challenged petitioner's ability to file the petition and has requested that the Department dismiss the petition and terminate this investigation. Norsk Hydro argues that this investigation is being conducted in violation of U.S. law since the petitioner is acting alone and not on behalf of the domestic industry. After finding no opposition to the petition, the Department concluded in the preliminary determination that there was no basis to say that the petition was not filed on behalf of the domestic industry. Norsk Hydro claims that the Court of International Trade ("CIT"), the Court of Appeals for the Federal Circuit ("Federal Circuit"), and a panel established under the General Agreement on Tariffs and Trade ("GATT") have interpreted the phrase "on behalf of" as requiring an affirmative showing of support by others in the domestic industry.

First, Norsk Hydro cites *Suramericana de Aleaciones Laminadas, C.A.* v. *United States*, 746 F. Supp. 139, 144 (CIT 1990), No. 91–1015 (Fed. Cir. Oct. 5, 1990), in which the CIT held that an interested party must show that a majority of the domestic industry backs its position. In Suramericana, the petitioner lacked standing because only thirty-four percent of the domestic industry supported the petition for an investigation. *Id.* at 150. Norsk Hydro argues that in this investigation, petitioner clearly lacks standing because it is the only company to support the petition and represents twenty-two percent of the industry. Norsk Hydro concludes that petitioner did not act "on behalf of" the domestic industry and, therefore, does not have standing to initiate the investigation.

Second, Norsk Hydro claims that relevant case precedents reaffirm that petitioner does not have standing in this investigation. Norsk Hydro cites *Oregon Steel Mills, Inc.* v. *United States*, 862 F.2d 1541, 1545 (Fed. Cir. 1988), to substantiate the assertion that "industry support is an essential part of the merits of an affirmative determination."

Finally, Norsk Hydro claims that Commerce' finding of standing is inconsistent with a GATT panel decision, United States—Imposition of Anti-Dumping Duties on Imports of Seamless Steel Hollow Products from Sweden ADP/47 (Aug. 20, 1990) ("Swedish Steel"). Under similar circumstances, this GATT panel rejected an affirmative standing determination by the Department and stated that "on behalf of the industry affected' implies that such a request must have the authorization or approval of the industry affected." *Id.* at ¶ 5.9. Norsk Hydro contends, therefore, that Commerce's conduct violated U.S. obligations under the GATT and Antidumping Code.

The Department disagrees with Norsk Hydro and continues to find that MagCorp filed the petition on behalf of the domestic industry in the instant investigation. The Federal Circuit recently reversed the CIT's decision in Suramerica and upheld the Department's interpretation of the statutory phrase "on behalf of." *Suramericana de Aleaciones Laminadas, C.A.* v. *United States*, Slip Op. 91–1015, —1055 (June 11, 1992). The Federal Circuit explained that nothing in the statute or legislative history indicates the degree of support that must be shown before the Department may accept a petition as filed "on behalf of" the domestic industry. The court noted that, absent any indication of Congressional intent, there are several possible interpretations of the statute but that the CIT erred in choosing its interpretation over that of the Department (citing *Chevron U.S.A. Inc.* v. *Natural Resources Defense Fund*, 467 U.S. 837, 866 (1984)). The Federal Circuit held that the Department's interpretation of the phrase "on behalf of" is a permissible interpretation of the statute. The Oregon Steel decision, as the Federal Circuit noted, did not address the issue of quantification of support required by the phrase "on behalf of." The Federal Circuit's decision in Suramerica follows numerous CIT decisions upholding Commerce's interpretation of the phrase "on behalf of." For example, in *Citrosuco Paulista* v. *United States*, 704 F. Supp. 1075, 1980 (CIT 1988), the CIT held "neither the statute, nor Commerce's regulations require a petitioner to establish affirmatively that it has the support of a majority of a particular industry, and the Court declines to impose such a requirement." See also, *Comeau Seafoods* v. *United States*, 724 F. Supp. 1407, 1411 (CIT 1989); *Sandvik AB* v. *United States, 721 F. Supp. 1322, 1328 (CIT 1989), Vitro Flex* v. *United States*, 714 F. Supp. 1229, 1235 (CIT 1989). The CIT has suggested that the Department may dismiss petitions that are not actively supported by a majority of the domestic industry, but has found no statutory requirement for doing so. *Citrosuco Paulista* v. *United States*, 704 F. Supp. at 1095.

At the outset of this investigation, the petitioner clearly stated that it had brought its petition "on behalf of" the domestic producers of pure and alloy magnesium. While the two other domestic producers chose not to affirmatively support the petition, they declined the Department's published invitation to oppose the investigation. Absent any showing of opposition by domestic producers, the Department properly continued the investigation. The Department's actions in this regard are consistent with the Federal Circuit's opinion in Suramerica.

In Suramerica, the Federal Circuit also rejected the argument that a presumption of standing for the petitioner violates U.S. obligations under the GATT and the Subsidies Code. As the Federal Circuit noted, the decision in Swedish Steel was limited in scope, by the panel's express language, to the specific case before it. Furthermore, as the Federal Circuit stated, GATT interpretations are not controlling over U.S. law: "If the statutory provisions at issue here are inconsistent with the GATT, it is a matter for Congress and not this court to decide and remedy." Slip Op. at 18.

In sum, the Department's interpretation of the phrase "on behalf of" in this case is consistent with the Federal Circuit's decision in Suramerica. An affirmative showing of support by the domestic industry was not required in order for the Department to conduct these investigations. The evidence reviewed by the Department supports the determination that MAGCORP's petition was brought "on behalf of" the domestic industry.

Critical Circumstances

On March 4, 1992, petitioner alleged that "critical circumstances" existed with respect to imports of pure and alloy magnesium from Canada. Section 733(e)(1) of the Act provides that critical circumstances exist when:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of investigation at less than its fair value, and

(B) There have been massive imports of the merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 735(a)(3)(B) of the Act, and section 353.16(f) of the Department's regulations, we generally consider the following factors in determining whether imports have been massive over a short period of time: (1) the volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports. (See, *e.g.*, Silicon Metal from Brazil, 56 FR 26977, June 12, 1991). If imports during the period immediately following the filing of a petition increase by at least 15 percent over imports during a comparable period immediately preceding the filing of a petition, we consider them massive.

Since the petition was filed on September 5, 1991, we compared the volume of imports for NHCI during the three month period from the filing of the petition, September 1991 through November 1991, to a comparable period immediately preceding the filing of the petition (June through August 1991). We believe that use of the minimum period of three months (provided in section 353.16(g) of the Department's regulation) best serves the objective of determining whether critical circumstances exist, since the Department directed the U.S. Customs Service to suspend liquidation on or after December 6, 1991, as a result of the affirmative preliminary determination in the countervailing duty investigation of pure and alloy magnesium from Canada. Including the three months after the CVD suspension of liquidation in our critical circumstances analysis could mask the companies' attempts to bring in imports prior to any suspension of liquidation.

NHCI failed to provide the Department with the necessary information regarding its volume of pure magnesium exports to the United States. Therefore, as best information available, we used the volume of imports provided in the United States Import Statistics (IM–146) in our analysis of critical circumstances. Based on this, we determine that NHCI's imports of pure magnesium have been massive over a relatively short period.

It is our standard practice to impute knowledge of dumping under section 735(a)(3)(A)(ii) of the Act when the estimated margins in our determinations are of such a magnitude that the importer should realize that dumping exists with regard to the subject merchandise. Normally we consider estimated margins of 25 percent or greater to be sufficient. See, *e.g.*, Final Determinations of Sales at Less than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, 54 FR 18992, (May 3, 1989).

Because NHCI's margin exceeds 25 percent and because we found that NHCI's imports of pure magnesium were massive over relatively short period of time, we determine that critical circumstances exist with respect to this company. With respect to Timminco's imports of pure magnesium, we determine that no critical circumstances exist. This finding is in accordance with section 353.16 of the Department's regulations. (19 CFR 353.16) (1991).

Period of Investigation

The period of investigation (POI) is April 1, 1991 through September 30, 1991.

Such or Similar Comparisons

We find that pure magnesium constitutes one such or similar category of merchandise. All of our comparisons were based on sales of identical merchandise.

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of best information available is appropriate for NHCI. Section 776(c) requires the Department to use the best information available "whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation * * *" Given NHCI's failure to respond to sections B, C, and D of the Department's questionnaire, this section of the Act applies.

In deciding what to use as best information available, section 353.37(b) of the Department's regulations (19 CFR 353.37(b) (1991)) provides that the Department may take into account whether a party refuses to provide requested information. Thus, the Department determines on a case-by-case basis what is the best information available. Given NHCI's refusal to submit its responses to sections B, C, and D of the questionnaire, we assigned it the highest calculated margin based on information submitted by petitioner regarding pure magnesium, as best information available. This margin is 31.33 percent.

Fair Value Comparisons

To determine whether sales of pure magnesium by Timminco to the United States were made at less than fair value, we compared the United States price to the foreign market value, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

All of Timminco's sales were made directly to unrelated U.S. customers price to importation. Therefore, U.S. Price was based on purchase price in accordance with section 772(b) of the Act. Exporter's sales price methodology was not indicated by other circumstances.

We calculated purchase price based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, U.S. brokerage and handling expenses, U.S. duties, and U.S. freight, in accordance with section 772(d)(2) of the Act. We also made deductions, where appropriate, for discounts.

We recalculated credit expenses for U.S. sales to reflect the company's actual short-term interest rates during the period of investigation and to deduct the discount from the selling price before calculating the actual credit expense incurred on each sale.

Foreign Market Value

In order to determine whether Timminco had adequate sales of magnesium in the home market to serve as a basis for calculating foreign market value (FMV), we compared the volume of home market sales to the aggregate volume of third country sales, in accordance with 19 CFR 353.48(a). We have determined that home market sales were less than five percent of the aggregate volume of third country sales. Therefore, FMV was based on third country sales.

We based our selection of the appropriate third country on whether the third country had an "adequate" volume of sales, within the meaning of 19 CFR 353.49(b)(1). We selected Japan because the merchandise sold in the

United States and because Japan constituted Timminco's largest third country market.

We calculated FMV on the basis of prices to unrelated customers in Japan. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, and packing expenses. We made a circumstance of sale adjustment, where appropriate, for differences in credit costs pursuant to 19 CFR 353.56(a). Where appropriate, we added U.S. packing to FMV, in accordance with Section 773(a)(1) of the Act.

We recalculated third country credit expenses to reflect the company's actual short-term interest expenses for the period of investigation.

Currency Conversion

We made currency conversions in accordance with § 353.60 (a) of the Department's regulations. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

Pursuant to section 776(b) of the Act, we verified the information used in reaching the final determination in this investigation. We used standard verification procedures, including examination of relevant accounting records and original source documents provided by respondents. Our verification results are outlined in detail in the public versions of our verification report, which are on file in the Central Records Unit (Room B-099) of the Main Commerce Building.

Comments

All written comments submitted by the interested parties in this investigation which have not been previously addressed in this notice are addressed below:

Comment 1

NHCI argues that the Department should revise certain elements of Magcorp's constructed value calculations used in the Department's calculation of NHCI's foreign market value since they are not reasonably quantified or valued.

DOC Position

The Department reviewed Magcorp's allegation extensively at the time this case was initiated. We accepted petitioner's constructed value calculation because it was consistent with the Department's methodology. It was up to NHCI to provide a response that might demonstrate that petitioner's allegation was incorrect. Given that NHCI chose not to provide responses to the Department's questionnaire, Magcorp's allegation was accepted as the best information available.

Suspension of Liquidation

In accordance with section 735 (d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation on all entries from NHCI of pure magnesium, as defined in the "Scope of Investigation" section of this notice. Also because we determined that critical circumstances exist with respect to NHCI, we are instructing the U.S. Customs Service to suspend liquidation of such entries that are entered or withdrawn from warehouse, for consumption, on or after the date which is 90 days prior to the publication of the notice of the preliminary determination in this investigation in the **Federal Register**. The U.S. Customs Service shall require a cash deposit equal to the estimated amounts by which the foreign market value of pure magnesium exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average margins for pure magnesium are as follows:

Manufacturer/producer/exporter	Weighted-average margin (Percent)
Norsk Hydro Canada Inc	31.33
Timminco Limited	00.00
All Others	31.33

We are also directing the U.S. Customs Service to terminate suspension of liquidation of all entries of alloy magnesium pursuant to our rescission of the investigation of this class or kind of merchandise. The U.S. Customs Service shall release any cash deposits or bonds posted on entries of alloy magnesium made prior to this determination.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determinations.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)) and (19 CFR 353.20(a)(4)).

Dated: July 6, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration

[FR Doc. 92-16376 Filed 7-10-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-403-803]

Pure and Alloy Magnesium From Norway: Final Negative Determination; Rescission of Investigation and Partial Dismissal of Petition

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

EFFECTIVE DATE: July 13, 1992.

FOR FURTHER INFORMATION CONTACT: The Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1274.

FINAL DETERMINATION AND RESCISSION OF INVESTIGATION: We determine that pure magnesium from Norway is not being, nor is it likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673d(a)). In addition, we are rescinding our investigation of alloy magnesium.

Case History

Since the publication of our preliminary determination in the **Federal Register** (57 FR 6092, February 20, 1992), the following events have occurred.

On March 16, 1992, Norsk Hydro a.s ("Norsk Hydro") submitted revised sales listings for its home, third country, and U.S. markets. On March 25, 1992, Norsk Hydro submitted additional corrections to its U.S. sales listing. The Department verified the questionnaire responses of Norsk Hydro in Norway, Germany, and Canada from March 23 to April 3, 1992.

On April 27, 1992, the Department preliminarily determined that pure and alloy magnesium are two classes or kinds of merchandise, as discussed, below. A public hearing was held on May 1, 1992.

On May 7, 1992, Norsk Hydro requested that the Department extend the final determination in this investigation. Accordingly, on May 11, 1992, the Department extended the final determination to July 6, 1992 (57 FR 20809, May 15, 1992).

Class or Kind of Merchandise

As stated above, the Department preliminarily determined that pure and

alloy magnesium are two separate classes or kinds of merchandise (see April 27, 1992 Memorandum to Francis J. Sailer). The Department's decision was based on numerous submissions of factual information by the parties to this proceeding, as well as information collected by the Department at verification. Since the Department's preliminary determination on class or kind, we have received no new arguments on this issue. For the reasons discussed below, we determine that pure and alloy magnesium constitute two separate classes or kinds of merchandise.

The Department is permitted to separate products under investigation into separate classes or kinds of merchandise based on the criteria set forth in *Diversified Products Corporation* v. *United States*, 6 CIT 155, 572 F. Supp. 883 (1983) ("Diversified"). According to Diversified, the Department may rely upon the following factors in determining whether products belong to the same class or kind of merchandise: (1) The general physical characteristics of the merchandise; (2) the ultimate use of the merchandise; (3) the expectations of the ultimate purchaser; (4) the channels of trade in which the product is sold; and (5) the manner in which the product is advertised and displayed. See e.g., *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany*, 54 FR 18992 (May 3, 1989). Our analysis of pure and alloy magnesium in light of the Diversified criteria supports a finding that these two products are separate classes or kinds of merchandise.

Although the percentages of magnesium, by weight, contained in pure and alloy magnesium can be very similar, the addition of alloying elements to pure magnesium clearly results in products with different physical characteristics. Pure magnesium is a soft metal of low strength and low corrosion resistance. When alloyed with other elements, however, the mechanical and physical properties of the magnesium are significantly altered, becoming harder and stronger and possessing a high corrosion resistance. While much of the production process for pure and alloy magnesium is the same, the final stage in the production of alloy magnesium is more costly, requiring alloying furnaces for the addition of alloying agents and more controlled conditions throughout the remaining production process.

The different ultimate uses of pure and alloy magnesium offer the strongest support for separating these products into two classes or kinds of merchandise. There is a considerable lack of interchangeability between pure and alloy magnesium. While pure magnesium is used primarily as a chemical in the aluminum alloying and desulfurization industries, alloy magnesium is a structural material, used primarily for die casting.

Because of the different ultimate uses of pure and alloy magnesium, along with their lack of interchangeability, it follows that customers have different expectations for the two metals (e.g., only alloy magnesium is suitable for die or gravity casting). The different expectations of the pure and alloy customer is also evidenced in the highly controlled nature of the final stage in the production process for alloy magnesium. Because of its specialized nature, customers of alloy magnesium are very interested in how it is produced. This degree of specialization and customer interest in the production process is typically not present in the manufacture of pure magnesium.

The channels of trade for pure and alloy magnesium are very similar. Both pure and alloy magnesium are typically sold directly by producers to end-users. Furthermore, some companies use the same sales staff for both pure and alloy magnesium.

Throughout these investigations, we have seen advertising which applies to only pure or alloy magnesium and advertising which applies to both. Therefore, the way in which the product is advertised and displayed is not particularly instructive for purposes of our class or kind analysis.

In sum, our analysis of pure and alloy magnesium in light of the Diversified criteria supports a finding that these products should be separate classes or kinds of merchandise. Although there is evidence that the channels of distribution for these two products are similar, the product characteristics, ultimate uses, and expectations of the customer show that pure and alloy magnesium are two distinct classes or kinds of merchandise.

Rescission of Investigation With Respect to Alloy Magnesium

The dumping allegation presented in Magnesium Corporation of America's ("Magcorp's") September 5, 1991 petition contained pricing information only with respect to pure magnesium. Prior to the Department's preliminary determination that pure and alloy magnesium are two separate classes or kinds of merchandise, Magcorp submitted new information concerning the prices it believed were being charged in the United States for alloy magnesium by Norsk Hydro.

The Department has determined that the evidence supporting petitioner's dumping allegation regarding alloy magnesium is insufficient. This determination is based on the following facts:

- Significant terms of petitioner's and Norsk Hydro's sales referred to in the new allegation were not described in detail (e.g., the scrap buy-back program). Without terms, the Department is unable to quantify an accurate net selling price.
- Petitioner only provided data on the alloy prices that petitioner, allegedly, had to charge to meet the prices on magnesium from Canada and Norway without any explanation of how these prices are representative of petitioner's U.S. selling price.
- There is no indication in any of petitioner's supporting information as to the source country for the foreign magnesium referenced by petitioner.

Because the evidence provided by the petitioner is insufficient to support the dumping allegation against alloy magnesium, we are rescinding the portion of this investigation dealing with alloy magnesium from Norway.

Scope of Investigation

The product covered by this investigation is pure magnesium from Norway. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Granular and secondary magnesium are excluded from the scope of this investigation. Pure magnesium is currently classified under subheading 8104.11.0000 of the Harmonized Tariff Schedule ("HTS"). Althought the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

"On Behalf Of" Issue

Norsk Hydro has challenged petitioner's ability to file the petition and has requested that the Department dismiss the petition and terminate this investigation. Norsk Hydro argues that this investigation is being conducted in violation of U.S. law since the petitioner is acting alone and not on behalf of the domestic industry. After finding no opposition to the petition, the Department concluded in the preliminary determination that there was no basis to say that the petition was not filed on behalf of the domestic industry. Norsk Hydro claims that the Court of International Trade ("CIT"), the Court of Appeals for the Federal Circuit

("Federal Circuit"), and a panel established under the General Agreement on Tariffs and Trade ("GATT") have interpreted the phrase "on behalf of" as requiring an affirmative showing of support by others in the domestic industry.

First, Norsk Hydro cites *Suramericana de Aleaciones Laminadas, C.A.* v. *United States*, 746 F. Supp. 139, 144 (CIT 1990), No. 91–1015 (Fed. Cir. Oct. 5, 1990), in which the CIT held that an interested party must show that a majority of the domestic industry backs its position. In Suramerica, the petitioner lacked standing because only thirty-four percent of the domestic industry supported the petition for an investigation. *Id.* at 150. Norsk Hydro argues that in this investigation, petitioner clearly lacks standing because it is the only company to support the petition and represents twenty-two percent of the industry. Norsk Hydro concludes that petitioner did not act "on behalf of" the domestic industry and, therefore, does not have standing to initiate the investigation.

Second, Norsk Hydro claims that relevant case precedents reaffirm that petitioner does not have standing in this investigation. Norsk Hydro cites *Oregon Steel Mills, Inc.* v. *United States*, 862 F.2d 1541, (Fed. Cir. 1988), to substantiate the assertion that "industry support is an essential part of the merits of an affirmative determination."

Finally, Norsk Hydro claims that Commerce's finding of standing is inconsistent with a GATT panel decision, United States—Imposition of Anti-Dumping Duties on Imports of Seamless Steel Hollow Products from Sweden ADP/47 (Aug. 20, 1990) ("Swedish Steel"). Under similar circumstances, this GATT panel rejected an affirmative standing determination by the Department and stated that " 'on behalf of the industry affected' implies that such a request must have the authorization or approval of the industry affected." *Id.* at ¶ 5.9. Norsk Hydro contends, therefore, that Commerce's conduct violated U.S. obligations under the GATT and Antidumping Code.

The Department disagrees with Norsk Hydro and continues to find that MagCorp filed the petition on behalf of the domestic industry in the instant investigation. The Federal Circuit recently reversed the CIT's decision in Suramerica and upheld the Department's interpretation of the statutory phrase "on behalf of." *Suramericana de Aleaciones Laminadas, C.A.* v. *United States*, Slip Op. 91–1015–1055 (June 11, 1992). The Federal Circuit explained that nothing in the statute or legislative history indicates the degree of support that must be shown before the Department may accept a petition as filed "on behalf of" the domestic industry. The court noted that, absent any indication of Congressional intent, there are several possible interpretations of the statute but that the CIT erred in choosing its interpretation over that of the Department (*citing Chevron U.S.A. Inc.* v. *Natural Resources Defense Fund*, 467 U.S. 837, 866, (1984)). The Federal Circuit further held that the Department's interpretation of the phrase "on behalf of" is a permissible interpretation of the statute. The Oregon Steel decision, as the Federal Circuit noted, did not address the issue of quantification of support required by the phrase "on behalf of."

The Federal Circuit's decision in Suramerica follows numerous CIT decisions upholding Commerce's interpretation of the phrase "on behalf of." For example, in *Citrosuco Paulista* v. *United States*, 704 F. Supp. 1075, 1080 (CIT 1988), the CIT held "neither the statute, nor commerce's regulations require a petitioner to establish affirmatively that is has the support of a majority of a particular industry, and the Court declines to impose such a requirement." See also, *Comeau Seafoods* v. *United States*, 724 F. Supp. 1407, 1411 (CIT 1989); *Sandvik AB* v. *United States*, 724 F. Supp. 1322, 1328 (CIT 1989); *Vitro Flex* v. *United States*, 714 F. Supp. 1229, 1235 (CIT 1989). The CIT has suggested that the Department may dismiss petitions that are not actively supported by a majority of the domestic industry, but has found no statutory requirement for doing so. *Citrosuco Paulista* v. *United States*, 704 F. Supp. at 1085.

At the outset of this investigation, the petitioner clearly stated that it had brought its petition "on behalf of" the domestic producers of pure and alloy magnesium. While the two other domestic producers chose not to affirmatively support the petition, they declined the Department's published invitation to oppose the investigation. Absent any showing of opposition by domestic producers, the Department properly continued the investigation. The Department's actions in this regard are consistent with the Federal Circuit's opinion in Suramerica.

In Suramerica, the Federal Circuit also rejected the argument that a presumption of standing for the petitioner violates U.S. obligations under the GATT and the Subsidies Code. As the Federal Circuit noted, the decision in Swedish Steel was limited in scope, by the panel's express language, to the specific case before it. Furthermore, as the Federal Circuit stated, GATT interpretations are not controlling over U.S. law: "If the statutory provisions at issue here are inconsistent with the GATT, it is a matter for Congress and not this court to decide and remedy." Slip Op. at 18.

In sum, the Department's interpretation of the phrase "on behalf of" in this case is consistent with the Federal Circuit's decision in Suramerica. An affirmative showing of support by the domestic industry was not required in order for the Department to conduct these investigations. The evidence reviewed by the Department supports the determination that Magcorp's petition was brought "on behalf of" the domestic industry.

Critical Circumstances

On March 4, 1992, petitioner filed a critical circumstances allegation. The narrative of this allegation, however, dealt solely with imports of magnesium from Canada. Nowhere did petitioner's submission allege that massive imports of Norwegian magnesium were being sold at less than fair value over a relatively short period. Furthermore, the import data supplied by the petitioner (the Department of Commerce IM–145 statistics) did not support such an allegation.

Because the petitioner provided neither a written allegation of critical circumstances nor information in support of an allegation in accordance with 19 CFR 353.16, we did not initiate a critical circumstances investigation with regard to magnesium from Norway.

Period of Investigation

The POI is April 1, 1991, through September 30, 1991.

Such or Similar Comparison

For pure magnesium, comparisons were made on the basis of: (1) Product type, (2) American Society for Testing and Materials ("ASTM") specification, (3) purity, (4) form, and (5) size.

We used home market sales as the basis for foreign market value for sales of pure magnesium, as described in the "Foreign Market Value" section of this notice. Where there were no sales of identical merchandise in the home market to compare to sales of merchandise in the United States, we used sales of the most similar merchandise based on the characteristics described above. All comparisons to products sold in the home market had difference in merchandise adjustments which were less than 20 percent of the total cost of manufacturing the U.S. merchandise.

Fair Value Comparisons

To determine whether sales of pure magnesium from Norway to the United States were made at less than fair value, we compared the United States price ("USP") to the foreign market value ("FMV"), as specified in the "United States Price" and "Foreign Market Value" sections of this notice. Based on these comparisons, we determine that Norsk Hydro made sales at not less than fair value.

United States Price

In calculating USP, the Department used purchase price, as defined in section 772(b) of the Act, for certain sales, both because the subject merchandise was sold to unrelated purchasers in the United States prior to its importation and because exporter's sales price ("ESP") methodology was not indicated by other circumstances. We also based USP on ESP, in accordance with section 772(c) of the Act, for those sales which were made to unrelated parties after importation into the United States.

We calculated purchase price based on prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, insurance, import duties, inland freight, inland freight between Montreal and Toledo, merchandise processing fees and broker fees in accordance with section 772(d)(2) of the Act. For the sales made during the period in which a value added tax ("VAT") was collected in Norway, we added to the net price the amount of VAT that was not collected by reason of exportation of the merchandise in accordance with section 772(d)(1)(c) of the Act.

Where USP was based on ESP, we calculated ESP based on prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, insurance, ocean freight, import duties, inland freight, freight allowances, brokerage and handling, and merchandise processing fees in accordance with section 772(e) of the Act. We made further deductions, where appropriate, for credit, commissions and in direct selling expenses, including warehousing charges, inventory carrying charges, advertising, and non-U.S. indirect selling expenses in accordance with section 772(e) of the Act. For sales made during the period in which a VAT was collected in Norway, we added to the net unit price the amount of VAT that was not collected by reason of exportation of the merchandise in accordance with section 772(d)(1)(C) of the Act.

We excluded from our analysis one sample sale because it involved an extremely small quantity of merchandise which would have no effect on our calculations.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated FMV based on home market sales.

In order to determine whether there were sufficient sales of such or similar merchandise in the home market to serve as the basis for calculating FMV, we compared the volume of home market sales of pure magnesium to the aggregate volume of third country sales of the such or similar category, in accordance with section 773(a)(1) of the Act. The volume of home market sales of pure magnesium exceeded five percent of the aggregate volume of third country sales.

We based FMV on prices to unrelated customers in Norway. We made deductions, where appropriate, for rebates and quality control. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

Where USP was based on purchase price, we made adjustments to FMV for differences in circumstances of sale. We adjusted for differences in credit, warehouse handling, and VAT in accordance with 19 CFR 353.56.

For comparisons involving ESP transactions, we made adjustments to FMV for differences in circumstances of sale. We adjusted for differences in credit and VAT in accordance with 19 CFR 353.56. We made further deductions for home market indirect selling expenses, including advertising, inventory carrying costs, and indirect selling expenses, capped by the sum of commissions paid and indirect selling expenses incurred on ESP sales, in accordance with 19 CFR 353.56(b)(2).

Norsk Hydro reported certain advertising expenses in the home market as direct selling expenses. Because Norsk Hydro did not adequately demonstrate that such expenses were directed at its customer's customer, we have reclassified these expenses as indirect selling expenses.

Norsk Hydro requested a difference in merchandise adjustment for one sale. Because Norsk Hydro provided no cost information to support this difference in merchandise adjustment, as requested by the Department is its original questionnaire, we are not allowing the downward adjustment to FMV.

Currency Conversions

We made currency conversions in accordance with 19 CFR 353.60(a). All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

Pursuant to section 776(b) of the Act, we verified the information used in reaching the final determination in this investigation.

Interested Party Comments

Comment 1

Respondent argues that in the Department's preliminary determination, it erred in reclassifying Norsk Hydro's reported home market advertising expenses as indirect selling expenses. According to respondent, 19 CFR 353.56(a)(2) authorizes the Department to treat advertising expenses as direct selling expenses and make adjustments where the producer demonstrates that the cost of advertising was undertaken on behalf of its customers. Respondent argues that its advertisements do, in fact, demonstrate that respondent assumed expenses on behalf of its customers.

Respondent further argues that its direct advertising expense claim consisted only of those expenses bearing a "direct relationship to the sales compared" as is required by the Department's regulations. Respondent claims that its advertising encouraged consumption of primary magnesium, the merchandise subject to investigation, since the ads specifically highlighted the benefits of pure magnesium to the customers of products made by respondent's customers. That respondent's customers transform the magnesium is of no consequence to the "direct relationship" of the advertisements to the sales under investigation because the advertisements focus on the benefits of magnesium in later developed products. Finally, respondent argues that, given the derived demand for magnesium, it would be unreasonable for the Department to conclude that respondent's claimed direct advertising expenses should be reclassified as indirect selling expenses because they promote the company's image. Citing *Brother Indus. Ltd.* v. *United States*, 540 F. Supp. 1341 at 1366 (CIT 1982), where the CIT stated that "the particular product in question * * * is the sole subject of the advertisement, such advertisement does not lose its direct relationship to the sales of that product under investigation," respondent states

that its advertisements were not undertaken to promote the company's image, but rather the specific magnesium products under investigation.

DOC Position

Norsk Hydro has failed to demonstrate that its home market advertising expenses were directed at its customer's customer. Of Norsk Hydro's *various* home market advertising expenses, it has only recently provided the Department with an explanation of how *one* sample advertisement is directed to its customer's customer. This one example is not a sufficient indication that all of Norsk Hydro's home market advertising was directed to its customer's customer. Therefore, we have continued to classify this expense as an indirect selling expense.

Comment 2

Respondent argues that two small quantity home market sales which are not reflective of Norsk Hydro's usual commercial quantities be excluded from the Department's foreign market value calculations.

DOC Position

Our review of Norsk Hydro's home market sales listing does not support the claim that these two small quantity sales are not reflective of Norsk Hydro's usual commercial quantities. Therefore, we used these sales in our calculations.

Suspension of Liquidation

We are directing the U.S. Customs Service to terminate suspension of liquidation of all entries of pure magnesium by virtue of our finding of sales made at not less than fair value. We are also directing the U.S. Customs Service to terminate suspension of liquidation of all entries of alloy magnesium pursuant to our rescission of the investigation of this class or kind of merchandise. The U.S. Customs Service shall release any cash deposits or bonds posted on entries of pure and alloy magnesium made prior to this determination.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: July 6, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–16378 Filed 7–10–92; 8:45 am]

BILLING CODE 3510–DS–M

[A–834–802, A–835–802, A–821–802, A–842–802, A–823–802, A–844–802, A–831–802, A–832–802, A–822–802, A–833–802, A–841–802, A–843–802]

Postponement of Final Antidumping Duty Determinations: Uranium From Kazakhstan, Kyrgystan, Russia, Tajikistan, Ukraine, Uzbekistan, Armenia, Azerbaijan, Byelarus, Georgia, Moldova an Turkmenistan

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

EFFECTIVE DATE: July 13, 1992.

FOR FURTHER INFORMATION CONTACT: Larry Sullivan or Carole A. Showers, Investigations, Import Administration, U.S. Department of Commerce, room B–099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telehone (202) 377–0114 or 377–3217, respectively.

NOTICE OF POSTPONEMENT: On June 23, 1992, Techsnabexport Ltd. ("Tenex"), NUEXCO Trading Corportion ("NUEXCO"), Energy Fuels Nuclear, Inc. ("EFN"), and Global Nuclear Services and Supply Ltd. ("GNSS") (referred to collectively as "Tenex"), respondents in these investigations, requested that for those investigations in which the Department made affirmative preliminary determinations, the Department postpone the final determinations until October 16, 1992, in accordance with section 735(a)(2) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)). Tenex represents a significant proportion of exports of the subject merchandise from the states subject to these investigations.

On June 30, 1992, the Ad Hoc Committee of Domestic Uranium Producers and the Oil, Chemical and Atomic Workers International Union, petitioners in the above-referenced investigations, requested that for those investigations in which the Department made negative preliminary determinations, the Department postpone the final determinations until October 16, 1992.

Accordingly, we are postponing the date of the final determinations of each of these investigations until not later than October 16, 1992.

In accordance with 19 CFR 353.38(b), we will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. We are rescheduling the public hearing announced in the preliminary determinations of sales at less than fair value, (57 FR 23380, June 3, 1992). Tentatively, the hearing in these proceedings will be held on October 2, 1992 at 10 a.m. in room 3708 at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Parties should confirm by telephone the time, date and place of the hearings 48 hours prior to the scheduled time.

In accordance with 19 CFR 353.38, ten copies of the business proprietary version an five copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than September 16, 1992. Ten copies of the business proprietary version and five copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than Septemer 23, 1992. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with § 353.38 of the Commerce Department's regulations and will be considered if received within the time limits specified above.

This notice is published pursuant to 19 CFR 353.20(b).

Dated: July 2, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–16379 Filed 7–10–92; 8:45 am]

BILLING CODE 3510–DS–M

[C–122–815]

Final Affirmative Countervailing Duty Determinations: Pure Magnesium and Alloy Magnesium From Canada

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

EFFECTIVE DATE: July 13, 1992.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Magd Zalok, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–3530 or 377–4162, respectively.

FINAL DETERMINATION:

Case History

Since the publication of the preliminary determination (56 FR 63927, December 6, 1991), the following events have occurred. On February 11, 1992, petitioner, the Magnesium Corporation of America (Magcorp), requested that the final determinations of the countervailing duty investigations be extended to coincide with the date of the final determinations in the antidumping duty investigations of pure magnesium and alloy magnesium from Canada. The final determinations in the antidumping investigations were postponded, at the request of respondents, on March 13, 1992 and May 15, 1992 to July 6, 1992 (57 FR 8860 and 57 FR 20809, respectively).

On February 24, 1992, a supplemental questionnaire was issued to the Government of Quebec regarding certain aspects of Hydro-Quebec's Risk and Profit Sharing Program. On April 27, 1992, we divided the subject merchandise into two different classes or kinds of merchandise, pure magnesium and alloy magnesium. (See the "Class or Kind of Merchandise" section of Pure and Alloy Magnesium from Canada: Final Affirmative Determination; Rescission of Investigation and Partial Dismissal of Petition, which is published concurrently with this notice, for a detailed discussion of this issue). At the same time, we also determined that alloy billets are included within the scope of the investigation of alloy magnesium. For the analysis underlying this determination, see the April 27, 1992 Memorandum to Francis J. Sailer, Deputy Assistant Secretary, regarding "Scope Issues" which is on file in the Central Records Unit (Room B-099) of the Main Commerce Building.

"On Behalf Of" Issue

Respondents have challenged petitioner's ability to file the petition and requested that the Department dismiss the petition and terminate these investigations. They argue that these investigations are being conducted in violation of U.S. law since the petitioner is acting alone and not on behalf of the domestic industry. They state that while the Department assumed in the preliminary determination that the petition was filed on behalf of the domestic magnesium industry, the Court of International Trade (CIT) in *Suramericana de Aleaciones Laminadas, C.A.* v. *United States*, 746 F. Supp. 139 (CIT 1990), No. 91-1015 (Fed. Cir. Oct. 5, 1990) (Suramerica) has held that an affirmative showing of support by the rest of the domestic industry is a necessary prerequisite for a petitioner to seek relief under U.S. trade laws.

Respondents further state that a presumption of standing violates U.S. obligations under the GATT and the Subsidies Code. They state that a recent GATT panel rejected a finding of standing under very similar circumstances to those present in these investigations. United States—Imposition of Antidumping Duties on Imports of Seamless Stainless Steel Hollow Products from Sweden, ADP/47 (Aug. 20, 1990) at paragraph 5.17. Respondents argue that the GATT Panel determined that the absence of opposition to an investigation by any domestic producer did not satisfy the Antidumping Code's standing requirements, which mirrors those of the Subsidies Code.

We determine that the petitioner does have standing to file these investigations. The Court of Appeals for the Federal Circuit (Federal Circuit) recently reversed the CIT's decision in Suramerica and upheld Commerce's interpretation of the statutory phrase "on behalf of." *Suramericana de Aleaciones Laminadas, C.A.* v. *United States*, Slip Op. 91-1015, -1055 (June 11, 1992). The Federal Circuit explained that nothing in the statute or legislative history indicates the degree of support that must be shown before the Department may accept a petition as having been filed "on behalf of" the domestic industry. The court noted that, absent any indication of Congressional intent, there are several possible interpretations of the statute but that the CIT erred in choosing its interpretation over that of the Department (citing *Chevron U.S.A. Inc.* v. *Natural Resources Defense Fund*, 467 U.S. 837, 866 (1984)). The Federal Circuit further held that the Department's interpretation of the phrase "on behalf of" is a permissible interpretation of the statute. The Oregon Steel decision, 862 F.2d 1541 (Fed. Cir. 1988), as the Federal Circuit noted, did not address the issue of quantification of support required by the phrase " on behalf of."

The Federal Circuit's decision in Suramerica follows numerous CIT decisions upholding Commerce's interpretation of the phrase "on behalf of." For example, in *Citrosuco Paulista* v. *United States*, 704 F. Supp. 1075, 1085 (CIT 1988), the CIT held "[n]either the statute nor Commerce's regulations require a petitioner to establish affirmatively that it has the support of a majority of a particular industry, and the Court declines to impsoe such a requirement." See also, *Comeau Seafoods* v. *United States*, 724 F. Supp. 1407, 1411 (CIT 1989); *Sandvik AB* v. *United States*, 721 F. Supp. 1322, 1328 (CIT 1989); and *Vitro Flex* v. *United States*, 714 F. Supp. 1229, 1235 (CIT 1989). The CIT has suggested that the Department may dismiss petitions that are not actively supported by a majority of the domestic industry, but has found no statutory requirement that it do so. *Citrosuco Paulista* v. *United States*, 704 F. Supp. at 1085.

At the outset of these investigations, the petitioner, Magcorp, clearly stated that it had brought its petitions "on behalf of" the domestic producers of pure and alloy magnesium. While the two other domestic producers chose not to support the petition affirmatively, they declined Commerce's published invitation to oppose the investigations. Absent any showing of opposition by domestic producers, the Department properly continued the investigations. The Department's actions in this regard are consistent with the Federal Circuit's opinion in Suramerica.

In Suramerica, the Federal Circuit also rejected the argument that a presumption that the petitioner is acting on behalf of the domestic industry violates U.S. obligations under the GATT and the Subsidies Code. As the Court noted, the decision in Imposition of Antidumping Duties on Imports of Seamless Stainless Steel Hollow Products from Sweden was limited in scope, by the Panel's express language, to the specific case before it. Furthermore, the Federal Circuit stated that GATT interpretations are not controlling over U.S. law: "If the statutory provisions at issue here are inconsistent with the GATT, it is a matter for Congress and not this court to decide and remedy." Slip Op. at 18.

In sum, Commerce's interpretation of the phrase "on behalf of" in this case is consistent with the Federal Circuit's decision in Suramerica. An affirmative showing of support by the domestic industry was not required in order for the Department to conduct these investigations. The evidence reviewed by the Department supports the determination that Magcorp's petition was brought "on behalf of" the domestic industry.

Scope of Investigations

The products covered by these investigations are pure magnesium and alloy magnesium from Canada. Pure magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight, with magnesium being the largest

metallic element in the alloy by weight, and are sold in various ingot and billet forms and sizes. Pure and alloy magnesium are currently provided for in subheadings 8104.11.0000 and 8104.19.0000, respectively, of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Secondary and granular magnesium are not included in these investigations. Our reasons for excluding granular magnesium are summarized in the Preliminary Determination of Sales at Less Than Fair Value: Pure and Alloy Magnesium From Canada (57 FR 6094, Feb. 20, 1992).

Analysis of Programs

For purposes of these determinations, the period for which we are measuring subsidies (the period of investigation) is calendar year 1990, which corresponds to the fiscal year of Norsk Hydro Canada Inc. (NHCI) and Timminco Limited.

During the period of investigation, NHCI made sales of magnesium produced by its parent company (Norsk Hydro a.s) in Norway. In order to measure the subsidy conferred upon NHCI, we deducted the value of the Norwegian merchandise from NHCI's total sales value. Since the subsidies provided to NHCI confer benefits on the production of merchandise, we allocated the subsidies only over the value of merchandise manufactured in Canada.

The subsidies provided to respondents benefit the production of both pure magnesium and alloy magnesium and cannot be segregated. Therefore, we have calculated a single estimated net subsidy for both classes or kinds of merchandise. Because there is a significant differential in the estimated net subsidy calculated for the two companies, we have assigned individual company rates for NHCI and Timminco pursuant to 19 CFR 355.20(d) (1991).

Based upon our analysis of the petition, responses to our questionnaires, verification and written comments from respondents, petitioner, and other interested parties, we determine the following:

A. Programs Determined to be Subsidies

We determine that subsidies are being provided to manufacturers, producers, or exporters in Canada of pure and alloy magnesium under the following programs:

1. Federal Funding for a Feasibility Study under the Canada-Quebec Subsidiary Agreement on Industrial Development

Under this Subsidiary Agreement, the Governments of Canada and Quebec established a program to provide financial assistance to companies to cover the cost of feasibility studies related to major industrial projects. This Subsidiary Agreement was implemented under the 1984 Canada-Quebec Economic and Regional Development Agreement (ERDA). ERDAs provide the legal basis for various departments of the federal and provincial governments to cooperate in the establishment of economic development programs. Subsidiary agreements, like the Subsidiary Agreement on Industrial Development, establish programs, delineate administrative procedures and set up the relative funding commitments of the federal and provincial governments. This Subsidiary Agreement was signed on January 23, 1985, and terminated on March 31, 1992. The last date for authorizing a project under this Agreement was March 31, 1990.

To qualify for funding under this program, the project to be studied must involve the establishment, expansion or modernization of a manufacturing or advanced processing facility. Maximum funding is 75 percent of the actual cost of the study.

Norsk Hydro a.s, the parent company of NHCI, received a grant to undertake a feasibility study under this program. The grant was funded equally by the Governments of Canada and Quebec. A condition of the grant was that it was to be repaid if the company commenced operations in Quebec.

We determine that the funds provided by the Government of Canada under this Subsidiary Agreement are countervailable because assistance under this Agreement is limited to companies located in a particular region of Canada (*i.e.*, the Province of Quebec). However, we determine that the funds provided by the Government of Quebec under the Subsidiary Agreement are not countervailable because the provincial funds were not limited to a specific enterprise or industry, or group of enterprises or industries.

Since NHCI commenced business operations in Quebec and, as a result, was obligated to repay the funds, we are treating the reimbursable grant as an interest-free, short-term loan rolled over from year to year. To calculate the benefit from the Government of Canada's portion of the funds provided to NHCI under this program, we calculated the amount of interest which should have been paid based on the number of days this "loan" was outstanding during the period of investigation. We used the national average short-term interest rate for 1990, as provided by the Government of Canada, to calculate the amount of interest that would have been paid had this reimbursable grant been in the form of a short-term commercial loan. We then divided this amount by NHCI's total sales of Canadian-produced merchandise for the period of investigation and calculated an estimated net subsidy of 0.10 percent *ad valorem* for NHCI. Timminco did not receive any benefits from this program.

Since NHCI reimbursed the Government of Canada for the funds received under the Subsidiary Agreement in 1990, and because the company will not receive any more assistance under this Subsidiary Agreement, we are not including the amount of this subsidy in our duty deposit rate.

2. Exemption from Payment of Water Bills

Under an agreement signed between NHCI and Le Societe du Parc Industriel du Centre du Quebec, the company is exempt from paying its water bills. Since no other company receives such an exemption, we determine this program to be countervailable since benefits are limited to a specific enterprise or industry, or a group of enterprises or industries.

To calculate the benefit under this program, we divided the amount NHCI should have paid for industrial water for the period of investigation by NHCI's total sales of Canadian-manufactured products for the period of investigation. On this basis, we calculated an estimated subsidy of 1.43 percent *ad valorem* for NHCI. Timminco did not receive any benefits from this program.

3. Article 7 Grants from the Quebec Industrial Development Corporation

The Industrial Development Corporation (Societe de Developpement Industriel du Quebec) (SDI) is a crown corporation which acts as an investment corporation and administers development programs on behalf of the Government of Quebec. Established in 1971 under the Quebec Industrial Development Act, the program has been amended several times. Funding for SDI is obtained through the Quebec National Assembly, through the sale of notes, bonds and other securities, and by an endowment established by the

Government of Quebec at the time of SDI's formation.

Acting on special mandates from the Government of Quebec, the SDI provides assistance under Article 7 in the form of loans, loan guarantees, grants, assumptions of costs on loans, and equity investments. This assistance is offered to major projects capable of having a major impact upon Quebec's economy. Article 7 assistance greater than 2.5 million dollars must be approved by the Council of Ministers, and assistance over 5 million dollars becomes a separate budget item under Article 7. To be approved for assistance in this amount, the Council of Ministers must determine that the project to be financed is of special economic importance and value to the province. Funding for this type of assistance does not come from the SDI budget, but comes from the budget of the Council of Ministers. After approval from the Council of Ministers, the Treasury Board will authorize release of the funds. This is done on a project-by-project basis.

NHCI received a grant under this program. The amount of the grant was calculated as a percentage of the cost of environmental protection equipment purchased by NHCI. The money was primarily used by NHCI to pay interest on NHCI's outstanding debt.

To determine whether this program is countervailable, we reviewed the number of recipients which received benefits under Article 7 of SDI. We compared the amount of assistance provided to each of the recipients to the amount of assistance provided to NHCI. While a wide variety of firms did receive Article 7 assistance, we determine that NHCI received a disproportionately large share of assistance under the program. Therefore, we determine the program, with respect to the assistance provided to NHCI, to be countervailable. (We note that the number of recipients, the amount of assistance provided to each recipient, and the exact forms of assistance provided under Article 7 is proprietary. Therefore, a complete analysis of this determination of disproportionality is provided in a separate proprietary memorandum which is part of the official record for these investigations. A public summary of this memorandum is available in our Central Records Unit in the main Commerce Building. See, July 6, 1992 Memorandum for Francis J. Sailer, Deputy Assistant Secretary, regarding "Benefits Provided to Norsk Hydro By the Societe de Developpement Industriel du Quebec (SDI)".)

Our policy with respect to grants is (1) to expense recurring benefits to the year of receipt, and (2) to allocate nonrecurring benefits over the average useful life of assets in the industry, unless the sum of grants provided under a particular program is less than 0.5 percent of a firm's total or export sales (depending on whether the program is a domestic or export subsidy). (See, *e.g.*, Final Affirmative Countervailing Duty Determination; Fresh and Chilled Atlantic Salmon from Norway, 56 FR 7678 (February 25, 1991).) We have determined that the Article 7 assistance received by NHCI is nonrecurring, as it was received based on a one-time authorization of funds. Therefore, we have allocated the benefits over 14 years, the average useful life of assets in the magnesium industry.

We calculated the benefit from the grant received by NHCI using the company's cost for long-term, fixed-rate debt as a discount rate and our declining balance methodology as described in the Department's proposed rules (Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989)), and used in prior investigations (see, *e.g.*, Final Affirmative Countervailing Duty Determination; Oil Country Tubular Goods From Canada, 51 FR 15037 (April 22, 1986).) We divided that portion of the benefit allocated to the period of investigation by NHCI's total sales of Canadian-manufactured products and calculated an estimated net subsidy of 6.18 percent *ad valorem* for NHCI. Timminco did not receive any benefits from this program.

4. Preferential Electric Rates

The Risk and Profit Sharing Program is administered by the provincially-owned power company, Hydro-Quebec. Under this program, long-term contracts are signed between Hydro-Quebec and its industrial customers for the provision of electricity. A portion of the rate to be charged under these contracts is based either on the price of the customer's products or the customer's profitability. Therefore, the price paid by each of these customers for electricity varies from year-to-year because of fluctuations in the customer's prices or profits. The Government of Quebec states that the contracts are negotiated with the expectation that over the term of the contract, Hydro-Quebec will earn the full projected revenue that would have been generated under its general rates and programs.

According to Hydro-Quebec, the objective of the Risk and Profit Sharing Program is to strengthen and develop Quebec's industrial sector. Industrial customers which meet the following criteria are eligible to participate in the program:

- A capital-intensive firm;
- A firm requiring a major power demand (at least 5 megawatts);
- A firm where energy costs represent a major factor in production costs (15 percent or more); and
- a firm for which energy rates and availability of electricity in the long term constitute a major factor in the choice of location (in Quebec or elsewhere in the world).

The first contract with features of Risk and Profit Sharing was signed in 1984, although the program was not formalized until 1985. All the remaining contracts were negotiated between 1985 and 1989.

In our preliminary determination, we found the Risk and Profit Sharing Program to be provided to a specific enterprise or industry or group of enterprises or industries because there were only 14 companies with Risk and Profit Sharing contracts while there were over 300 industrial users of electricity in Quebec. Furthermore, we preliminarily found the rates paid by NHCI to be preferential when compared to the weighted-average rate paid by other industrial customers during the review period.

Implicit in the methodology used in the preliminary determination is a finding that electricity contracts that include risk and profit sharing provisions, like those under the Risk and Profit Sharing Program, are preferential, *per se*. This is because preferential rates will be found to exist whenever the rate paid by a Risk and Profit Sharing customer falls below the benchmark rate. Given the structure of these types of contracts, shortfalls are expected, as are higher payments in those years when the customers' profits are high or when the price for the customers' output is high. For this reason, a year-by-year comparison between rates actually paid and the benchmark, as used in the preliminary determination, is not an appropriate measure of the benefits potentially arising from such contracts, which based on information on the record, are not unusual in the electric power industry. On this basis, we have reconsidered our preliminary determination.

As a general matter, the first step the Department takes in analyzing the potential preferential provision of electricity—assuming a finding of specificity—is to compare the price charged with the applicable rate on the power company's non-specific rate schedule. If the amount of electricity purchased by a company is so great that

the rate schedule is not applicable, we will examine whether the price charged is consistent with the power company's standard pricing mechanism applicable to such companies. If the rate charged is consistent with the standard pricing mechanism and the company under investigation is, in all other respects, essentially treated no differently than other industries which purchase comparable amounts of electricity, we would probably not find a countervailable subsidy.

The difficult issue we addressed in the preliminary determination was how to analyze variable rate pricing mechanisms for extremely large purchasers. As mentioned above, we implied in our preliminary determination that variable rate pricing is *per se* preferential.

In the course of suspension agreement negotiations, NHCI stated that it was in the process of negotiating a letter of intent regarding an amendment to the company's power contract. Subsequently, a letter of intent was signed, and we requested that it be placed on the record. In light of the analysis discussed above, if we were to confront a power contract similar to the one envisioned by the letter of intent between NHCI and Hydro-Quebec, we would not find that it was preferential simply on the basis that the rate varied. Rather, we would likely look to see if, over the life of the contract, one could reasonably expect that the price charged would yield a revenue stream consistent with the power company's standard pricing mechanism for purchasers of comparable quantities of electricity. However, we need not resolve this issue now.

For this final determination, we find that we are able to analyze the contract between NHCI and Hydro-Quebec without reaching the issue of whether its risk and profit sharing aspects confer a subsidy on NHCI. This is because, under the terms of this contract, the risk and profit sharing elements, *i.e.*, those where NHCI's electricity rates depend on its profitability, did not occur until after the period of investigation. During the period of investigation, NHCI simply received discounts from an established standard industrial rate schedule. Therefore, for purposes of this final determination, we are limiting our analysis to whether the same discounts were provided to a specific enterprise or industry, or group of enterprises or industries.

During the period 1983–1991, Hydro-Quebec operated a rate discount program for industrial customers. From 1983 through 1986, qualifying customers were able to obtain a 50 percent discount. Between 1987 and 1991, the discount percentage decreased. During the period of investigation, 1990, qualifying customers were able to obtain a 20 percent discount.

We determine that the discount scheme described above was available to and used by a wide variety of industries in Quebec. However, under the terms of its contract, NHCI, and only NHCI, received a 60 percent discount during the period of investigation. Moreover, the electricity rate against which NHCI's discount was applied was lower than the large power rate in force for other industrial customers. Therefore, we determine that NHCI benefitted from the preferential provision of electricity and that the provision of electricity on these terms was limited to a specific enterprise.

To calculate the benefit to NHCI, we compared the actual amount paid for electricity during the period of investigation under its Risk and Profit Sharing contract to the amount it would have paid under the published tariff schedules of Hydro-Quebec, including all discounts which would have been applicable to NHCI under the tariff schedule. We then divided that difference by NHCI's total sales of Canadian-manufactured products and calculated an estimated net subsidy of 14.00 percent *ad valorem* for NHCI. Timminco did not receive any benefits from this program.

B. Programs Determined Not to be Countervailable

We determine that subsidies are not being provided to manufacturers, producers, or exporters in Canada of magnesium under the following programs:

1. Research Conducted by the Institute of Magnesium Technology (IMT)

The IMT was incorporated in 1989, as a private, non-profit company. The creation of the IMT was a joint effort by the Governments of Canada and Quebec and the magnesium industry. Its purpose is both to promote the development of the magnesium processing industry and the promote the growth of world markets for magnesium products. The IMT provides magnesium processors with the expertise and equipment necessary for development work, as well as for the improvement of products and processes. In addition, the IMT also offers development of prototypes and pre-production trials.

Currently, the IMT has 30 members from throughout the world, including the United States. These members are magnesium producers, diecasters, and end-users. U.S. producers of magnesium have been invited to join the IMT. Members pay a yearly fee to the IMT to support the operation of the Institute.

The IMT aims to be self-sustaining by 1995, through membership fees and research contracts, but initial funding was provided by the Governments of Canada and Quebec under the Canada-Quebec Subsidiary Agreement on Scientific and Technological Development. Under this Subsidiary Agreement, both governments provided funds for the construction of a research laboratory and the purchase of equipment for the IMT. In addition, both governments provided funds to the IMT to help it launch its research program.

The Department's practice regarding the countervailability of research and development assistance is that when the results of the research are made available to the public, including competitors in the United States, the assistance does not confer a countervailable benefit. (See, *e.g.*, Final Affirmative Countervailing Duty Determination; Fresh and Chilled Atlantic Salmon from Norway, 56 FR 7678 (February 25, 1991).) Using this standard, we determine that research performed by the IMT is not countervailable, because membership is open to all parties, and these parties can obtain research performed by the Institute on equal terms.

2. Manpower Training Program

This program is administered by the Quebec Ministry for Manpower and Income Security. The Province of Quebec offers this program to individuals for manpower training and retraining. To be eligible for training under this program, an individual has to be more than 16 years old, either employed or in the job market, knowledgeable of the area in which training was chosen, and either employed or seeking employment directly related to the training. During the period of investigation, NHCI received payments under this program for teaching materials and teacher services used in the training of employees and non-employees of the company.

We verified that there are no *de jure* or *de facto* limitations of any kind pertaining to the enterprise or industrial sector employing the worker or potential hiree. Since the program is offered and provided to individuals employed or seeking employment, and to companies providing such training, within a large number and broad range of industrial sectors in Quebec, we determine that this program is not countervailable.

C. Programs Determined Not to be Used

We determine that producers or exporters in Canada of the subject merchandise did not use, or receive benefits under, the following programs during the review period (a description of these programs can be found in the notice of our preliminary determination):

1. *St. Lawrence River Environmental Technology Development Program (ETDP)*
2. *Program for Export Market Development (PEMD)*
3. *The Export Development Corporation (EDC)*
4. *Canada-Quebec Subsidiary Agreement on the Economic Development of the Regions of Quebec*
5. *Opportunities To Stimulate Technology Programs*
6. *Development Assistance Program*
7. *Industrial Feasibility Study Assistance Program*
8. *Export Promotion Assistance Program*
9. *Creation of Scientific Jobs in Industries*
10. *Business Investment Assistance Program*
11. *Business Financing Program*
12. *Research and Innovation Activities Program*
13. *Export Assistance Program*
14. *Energy Technologies Development Program*
15. *Financial Assistance Program for Research, Formation and for the Improvement of the Recycling Industry*
16. *Transportation Research and Development Assistance Program*

Comments

All written comments submitted by the interested parties in this investigation which have not been previously addressed in this notice are addressed below.

Comment 1

The government of Canada and NHCI state that we should determine the federal portion of the funding for the feasibility study provided to NHCI under the Subsidiary Agreement on Industrial Development not countervailable because the Government of Canada funds feasibility studies through a variety of "integrally linked" initiatives. These initiatives include the Advanced Manufacturing Technologies Application Program (AMTAP) and the Strategic Technologies Program (STP), as well as other subsidiary agreements signed with other provinces in Canada.

DOC Position

If the Department determines that two or more programs are integrally linked, it will examine the beneficiaries under all of the programs to determine whether benefits are being provided to a specific enterprise or industry or group of enterprises or industries. In determining whether programs are integrally linked, we examine, among other factors, the administration of the programs, evidence of a government policy to treat industries equally, the purposes of the programs as stated in their enabling legislation, and the manner of the funding of the programs. (See Final Affirmative Countervailing Duty Determination: Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada, 50 FR 25098 (June 15, 1985).)

Although administered by the same agency and financed by that agency's budget, no evidence has been provided to establish that the three programs are integrally linked.

STP provides funding for feasibility studies and for research and development. Individual recipients can receive no more than C$50,000. AMTAP provides funding for qualified firms to engage outside consultants to conduct feasibility studies on advanced manufacturing technologies applicable to their manufacturing operations. AMTAP contributes no more than C$15,000 for a single applicant. The Subsidiary Agreement on Industrial Development (SAID) has a much broader purpose than the funding of feasibility studies and the hiring of outside consultants. SAID also funds the cost of infrastructure development. SAID also provides financial assistance to Quebec companies in the form of repayable or non-repayable contributions, interest rebates and other forms of assistance. Therefore, the purpose of SAID differs from the two other programs cited by respondents. The level of funding is also much higher for SAID approved projects. In addition, applicants for AMTAP must already be engaged in manufacturing or secondary processing in Canada. Therefore, companies seeking to open a manufacturing operation in Canada could not qualify for assistance under AMTAP, while they could qualify for assistance under SAID. For these reasons, we determine that SAID is not integrally linked with AMTAP and STP.

Respondents' statement that the Government of Canada funds feasibility studies under other subsidiary agreements in other provinces does not warrant an examination of whether the programs are integrally linked, unless such agreements exist between the Government of Canada and each of the provinces. There was no evidence presented that demonstrated that subsidiary agreements for the funding of feasibility studies exist with all provinces. Therefore, we conclude that funding provided by the Government of Canada under the Canada-Quebec Subsidiary Agreement on Industrial Development is countervailable.

Comment 2

In calculating any benefit arising from the funding of NHCI's feasibility study, the Government of Quebec claims that the Department has abandoned its practice for measuring benefits from grants and has created a methodology that has no basis in law. The Government of Quebec states that calling the grant a loan was the only apparent way Commerce could countervail the program and that the Department provided no explanation for its divergence from past practice. The Government of Quebec further states that if Commerce's grant methodology were properly applied, the grant from this program must be expensed in the year of receipt.

DOC Position

Our treatment of this reimbursable grant as a rolled-over short-term loan is consistent with past practice. For example, see our calculation of the benefit provided under the Program for Export Development in the Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada (Groundfish), 51 FR 10041 (March 24, 1986), and the calculation of tax savings under the Export Tax Reserves Program in the Final Affirmative Countervailing Duty Determination; Certain Stainless Steel Cooking Ware From The Republic of Korea (Cooking Ware), 51 FR 42867 (November 26, 1986). In addition, we believe the methodology is appropriate because if the "grant" were treated under the grant methodology but subsequently repaid, the countervailing duties that would be assessed would be much larger than the actual benefit provided to the company. This would be contrary to the statute, to our regulations, and to our GATT obligations.

Comment 3

The Government of Canada and NHCI argue that the Department used the wrong benchmark in calculating the benefit conferred by government funding of NHCI's feasibility study. They state that a fixed long-term interest rate from the year the funding was received should have been used to calculate the benefit from this program.

DOC Position

Our use of a short-term benchmark is consistent with the Department's policy and practice (see Groundfish). A fixed long-term interest rate would only be an

appropriate benchmark if the date of repayment was known with certainty and that date was far enough in the future to enable us to characterize the loan as long-term.

Comment 4

The Governments of Canada and Quebec state that the Department incorrectly found that a benefit was conferred by the grant provided for the feasibility study. They state that since the assistance was paid back during the period of investigation, no subsidy was provided. To support this argument they cite the Final Negative Countervailing Duty Determination: Certain Computer Aided Software Engineering Products From Singapore (Software), 55 FR 12248 (April 2, 1990).

DOC Position

The grant provided to NHCI was provided to the company prior to the period of investigation. As previously stated, NHCI was only obligated to repay the grant if it established a magnesium plant in Quebec. During a portion of the period of investigation, the entire amount of the grant was outstanding. Therefore, NHCI benefitted from the use of the entire grant amount for a portion of the period of investigation. When repayment was required, it was done so on an interest-free basis. Moreover, there were no other fees or costs for which NHCI was responsible as a condition for receiving the grant. Furthermore, we have consistently treated benefits which are potentially repayable as short-term interest-free loans. (See Groundfish and Cooking Ware.) For these reason, we find that this case is distinguishable from the *Software* case. However, since the amount of the assistance was paid back and there is evidence that NHCI cannot use the program again, we did not reflect this subsidy in our calculation of the duty deposit rate.

Comment 5

The Government of Quebec states that the Department's decision to countervail the governmental provision of industrial water contradicts the Department's past policy and practice not to countervail the use of natural resources.

DOC Position

NHCI was exempted from paying its industrial water bills, No other company has received such an exemption. Therefore, we found the program countervailable in accordance with section 771(5) of the Act. There is no precedent to support the Government of Quebec's contention that the provision of water at a preferential rate, which is limited to one company, is not countervailable.

Comment 6

The Government of Quebec and NHCI argue that the Department incorrectly calculated the benefit conferred by NHCI's exemption from the payment of its industrial water bills. They argue that Commerce should look at the actual water consumed by NHCI rather than the projected amount reflected in the water bills issued by Le Societe du Parc Industriel du Centre du Quebec.

DOC Position

At verification, officials of the industrial park stated that all of their water bills are based on forecasted water usage. Absent NHCI's exemption it would have, like all other companies, paid amounts based on projected water usage. The benefit to NHCI is what it would have paid absent the exemption. Therefore, the Department was correct in calculating the subsidy based on projected water usage.

Comment 7

NHCI states that in determining whether assistance provided under Article 7 of SDI is countervailable, the Department should examine the whole universe of SDI funding. In NHCI's view, Article 7 and general assistance under SDI are integrally linked because all SDI funding is provided by the same government pursuant to the same legal authority.

DOC Position

As discussed under Comment 1, in evaluating whether programs are integrally linked, the Department considers, among other factors, the administration of the programs, evidence of a government policy to treat industries equally, the purposes of the programs as stated in their enabling legislation, and the manner of funding the programs. Based on the evidence in these cases, we determine that general SDI assistance and Article 7 assistance are not integrally linked.

Most of the assistance, in monetary terms, provided by the SDI is in the form of venture loans and the creation of Quebec Business Investment Companies (SPEQs). Venture loans are loans where the borrower also pays a "success premium"—either an option to purchase equity in the company or participation in some form of profit sharing. The SPEQs are private companies, whose main operations are to invest capital in small- and medium-size businesses and to enable those who invest to obtain an income tax deduction. While some Article 7 assistance may take these forms, it can also include grants and assumption of interest. Such grants are not provided under general SDI programs, only under Article 7. In addition, in terms of purpose, Article 7 assistance is designed for "important" projects carried out under special mandates from the Government of Quebec, whereas the goals of other SDI-established programs are much broader (business development, export growth, research and development). Therefore, the two programs offer different types of assistance and have been established for different purposes.

Funding for general SDI programs comes from SDI's own budget and the organization aims to achieve self-financing of its operations. A majority of the Article 7 assistance must be approved by the Council of Ministers. In addition, funding for Article 7 assistance approved by the Council of Ministers does not come from the SDI budget, but comes from the Council's own budget. Therefore, the process for approving assistance differs under the general SDI program and Article 7, and the two are funded from different sources.

Finally, even SDI considers its general programs and Article 7 assistance to be separate. Article 7 expenses are segregated from its own expenditures and revenues in SDI's financial statements.

Comment 8

NHCI argues that even if the Department continues to examine Article 7 assistance apart from general SDI assistance, it should not continue the practice adopted in its preliminary determination of looking only at assistance in forms similar to that received by NHCI in determining specificity. Evidence shows that Article 7 assistance, in various forms, went to a wide range of enterprises.

DOC Position

For purposes of these final determinations, we have considered all forms of Article 7 assistance in making our specificity determination. Based on assumptions which are fully supported by the evidence in this record, we have calculated grant equivalents for all the Article 7 projects. While we agree with respondents that Article 7 assistance is available to and used by a wide variety of enterprises and industries, we found that NHCI received a disproportionate share of benefits when compared to other projects funded under Article 7.

Comment 9

Respondents claim that the Department's preliminary determination incorrectly compares the amount provided to NHCI with the amounts provided to other individual projects. If amounts received by various industries are compared, the base metals industry (including NHCI) did not receive a disproportionate share.

DOC Position

Section 771(5)(A) of the Act directs that a countervailable subsidy is conferred when benefits are provided to a specific enterprise or industry, or group of enterprises or industries. Consistent with this, our analysis focused on funding provided to an individual enterprise, NHCI, as opposed to a group of industries, the base metals industries.

Comment 10

Respondents claim that it is the Department's practice to apply a two-step analysis when considering whether the benefits received by individual firms or industries are disproportionate. First, the Department looks across firms to determine whether some have received a larger share of total funds available than others. Second, they claim that the Department examines "vertical proportionality", *i.e.*, the amount of assistance received by individual firms or industries in relation to the size of the project being funded.

DOC Position

In support of their claim that the Department performs a second step in its analysis of proportionality, respondents cite to the Final Affirmative Countervailing Duty Determination: Certain Fresh Cut Flowers From the Netherlands (Dutch Flowers), 52 FR 3301 (Feb. 3, 1987), and the Final Affirmative Countervailing Duty Determination; Cold-Rolled Carbon Steel Flat-Rolled Products from the Republic of Korea (Korean Steel), 49 FR 47284 (Dec. 3, 1984). In both cited cases, we looked to the share of benefits in relation to the share of production. In Dutch Flowers, we found that horticulture received 50 percent of the funding, although it accounted for only 24 percent of the value of agricultural production. In Korean Steel, we compared the amount of loans made to the basic metals sector with the percentage of GNP accounted for by steel production. Thus, neither precedent directs us to look at the amount of assistance as a percentage of project size, as respondents would have us do.

Respondents argue that an assistance-to-investment comparison is appropriate because it is the best measure of the economic distortion caused by the subsidy. As they put it, the greater the share of government investment, the less likely the investment would have occurred. Conversely, the less the government's share, the less likely the government assistance had much effect. However, it can be argued that the effect (and distortion to the economy) of luring a large investment which would employ thousands of workers is much greater than the effect of luring a small investment employing dozens of workers. Therefore, one dollar of assistance, if that is all it takes to attract a magnesium smelter to your area, can be more distortive than one million dollars to a restaurant employing 20 people. In either case, a distortion has occurred.

Therefore, because there is no precedent to support assistance-to-investment analysis and because no conclusive argument has been put forward as to why this standard should be adopted by the Department, we are rejecting this argument.

Comment 11

NHCI states that the funds provided to the company under Article 7 of SDI should be expensed in the year of receipt. It states that all disbursements made under this program were made in connection with interest payments on NHCI's outstanding loans and that the interest payments are recurring annual charges expensed by NHCI. NHCI also states that the assistance provided under the program was an assumption of interest. Such assistance is similar to an interest-free loan; therefore, the benefit should be expensed in the year of receipt.

DOC Position

While the Department will expense recurring benefits such as a five percent payment received every time a product is exported, we look to the nature of the program to determine whether the benefits are recurring, not to the manner in which the funds are used. The authorization of assistance to NHCI was made by the Government of Quebec in a single act. There is no evidence in the record to support the conclusion that Article 7 assistance to Norsk Hydro will recur. Therefore, these benefits are not considered recurring and are allocated over time. Similarily, we do not look to respondent's accounting treatment of the benefits to determine the appropriate allocation period. Therefore, the fact that NHCI's interest expenses are not amortized is irrelevant to our determination of the proper allocation period.

The second part of respondent's argument for expensing SDI benefits is an attempt to liken interest assumption to an interest-free loan, the benefits of which would be expensed at the time of the interest payment. While the interest assumption could be modeled in many ways, our precedent is to treat such assistance as grants. (See our treatment of "Grants for Payment of Principal and Interest on Debentures" in the Final Affirmative Countervailing Duty Determination: New Steel Rail, Except Light Rail, from Canada, 54 FR 31991 (August 3, 1989).)

Comment 12

NHCI states that if the Department decides not to expense the Article 7 grant in the year of receipt, then the Department should allocate the benefits over the useful life of the company's assets as determined by its depreciation schedule, rather than the 14-year amortization schedule used in the preliminary determination. In support of its argument, NHCI cites to *IPSCO, Inc.* v. *United States* (701 F. Supp. 236, 238–240 (CIT 1988)) in which the CIT remanded a determination in which the Department amortized certain grants according to the same IRS schedules used in these investigations.

DOC Position

It is the Department's practice to use the IRS schedules in determining the length of time over which it will allocate benefits provided in the form of nonrecurring grants. (See, e.g., Groundfish.) We believe that use of a firm's estimation of useful life, as reflected in its accounting records, suffers from the fact that a firm may select a useful life for a variety of reasons, such as tax liability or to qualify for a tax subsidy. Thus, to use a firm's accounting useful life could result in drastically different benefit amounts, even though firms might be receiving identical subsidies and might be otherwise identically situated. For these reasons, we continue to believe that the IRS schedule is the most appropriate source with respect to determining the period over which benefits are to be allocated.

We were ordered to use company-specific experience in *IPSCO, Inc.* v. *United States* 701 F. Supp. 236 (CIT 1988), because our regulations did not provide for the use of IRS tables. In partial response to *IPSCO*, we have now issued proposed substantive regulations which would require us to use the IRS tables. See, Notice of Proposed

Rulemaking, 54 FR 23366, 23384 (May 31, 1989).

Comment 13

Timminco requests that the Department exclude its specialized product, MAG–CAL, from this investigation. MAG–CAL is used for the specialized purpose of removing bismuth from lead as part of the lead refining process. Typically, MAG–CAL combines 70 percent magnesium and 30 percent calcium. Timminco is the only company producing this product.

DOC Position

This issue is moot since Timminco is the only company which produces this product and the company received a zero rate. Therefore, Timminco will be excluded from the countervailing duty orders on pure and alloy magnesium from Canada.

Comment 14

Respondents argue that no government action was involved in the sale of electricity to NHCI under the Risk and Profit Sharing Program (RPSP), and where there is no government action there can be no countervailable subsidy.

DOC Position

Hydro-Quebec is wholly-owned by the Government of Quebec. All contracts under the RPSP must be individually approved by the Government of Quebec. Government officials also sit on Hydro-Quebec's Board of Directors. In addition, the utilization of the province's hydro-electric resources plays a central role in the Government of Quebec's development policies. Therefore, we believe it is correct to treat Hydro-Quebec as a government entity capable of conferring subsidies through its actions.

We note that this determination is consistent with the Department's practice. See, Dutch Flowers. In that case, we found that a utility company owned 40 percent by the Government of the Netherlands acted on behalf of the government because the Netherlands Minister of Economic Affairs reserved the right to approve selling prices and contracts.

Comment 15

Respondents argue that the companies which have RPSP contracts do not comprise a specific group of enterprises or industries. They state that participants in the RPSP represent a wide range of industries. They also state that the eligibility criteria for the RPSP were neutral and objective.

DOC Position

For purposes of these final determinations, we have not examined whether RPSP customers comprise a specific enterprise or industry, or group of enterprises or industries. Instead, we examined recipients of non-reimbursable discounts and found that only NHCI received excessive discounts during the period of investigation.

Comment 16

Respondents argue that Hydro-Quebec acted in a commercially reasonable manner in negotiating its electricity contract with NHCI. They also state that at the time of the negotiations with NHCI, Hydro-Quebec was anticipating energy surpluses. Thus, water behind the dams would either be used to generate electricity or be wasted. Respondents state that as long as the sales price of electricity to NHCI exceeded Hydro-Quebec's short-term marginal cost, it was commercially sound to enter into the contract. Respondents further argue that commercially justified price differentials do not constitute preferential pricing. To support this argument they cite Dutch Flowers and the Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Certain Steel Wire Nails from New Zealand, 52 FR 37196 (Oct. 5, 1987).

DOC Position

In these final determinations we do not reach the issue of whether the RPSP contract negotiated between NHCI and Hydro-Quebec is preferential because we looked only at the non-reimbursable discounts received by NHCI during the period of investigation. However, respondents' arguments are equally applicable to those discounts as they claim that the marginal cost of providing electricity at the time of the discounts was near zero.

Section 771(5)(A) defines as a subsidy the preferential provision of goods and services (when provided to a specific enterprise or industry, or group of enterprises or industries). The Department has consistently taken the position that preference results when different prices are charged to different customers. Regardless of whether price discrimination is considered commercially reasonable in any given circumstance, it still constitutes the preferential provision of the good or service.

The Department's definition of preference does not require that all users pay identical prices. In the case of electricity, where users can be categorized according to different use characteristics, a finding of no preference requires that similarly situated users pay the same rate. In these investigations, no evidence was provided to demonstrate that all customers similar to NHCI received discounts of the same magnitude.

The position taken by Commerce in Dutch Flowers supports this position. In Dutch Flowers, natural gas prices were broken down into five categories or zones, designated "a" through "e". Zone "a" users were small gas consumers, while zone "e" users were the largest consumers of natural gas. Zone "a" users paid the highest price, while zone "e" users paid the lowest. The price charged for natural gas within each of the zones was based on world market prices for light and heavy fuel oil with an adjustment based on the readiness of various buyers to switch to, and maintain usage of, the substitute fuel. Under a separate contract negotiated with the utility company, the greenhouse growers paid the rates applicable to zone "d" users. Individually, these growers would have fallen in zones "a", "b" or "c". Their collective consumption would have made them eligible for the lowest rates provided in zone "e".

Thus, in Dutch Flowers, a consistent rate-making "philosophy" was applied to each customer category—each group was charged the rate necessary to prevent them from switching to alternative fuel sources. Because this same philosophy was applied to each group, the Department was able to find that no preference was exhibited towards users in any group.

In these investigations, Hydro-Quebec offered non-reimbursable discounts to a large group of industrial users in order to sell its surplus electricity. The same discount formula applied to all, except NHCI which received a 60 percent discount.

Comment 17

Respondents argue that fixed-discount provisions are a normal commercial practice and an integral part of RPSP-type contracts.

DOC Position

See Comment 18, below, with respect to fixed discounts generally. We disagree with respondents' statement that such discounts are common in RPSP-type contracts. Respondents have provided no evidence to support this statement. Of the 14 RPSP contracts negotiated by Hydro-Quebec, only three incorporated these types of discounts. Therefore, the practice is not even a common practice with Hydro-Quebec.

Comment 18

The Government of Quebec states, that during the period of investigation, NHCI benefitted from a rate discount widely advertised and generally available. The Government of Quebec states that it was that particular discount, not a feature of the Risk and Profit Sharing Program, that was countervailed in the preliminary determination. They further state that NHCI was enrolled in the surplus power program. The Government of Quebec certifies that for the period of investigation, NHCI's rate for electricity was not based on a formula for a group of 14 companies. Instead, they argue, it was one of a number of companies that received discounts for increasing electricity consumption. The Government of Quebec states that these companies do not constitute a specific group of enterprises or industries.

DOC Position

The Government of Quebec's assertion is not supported by evidence on the administrative record. The program referred to by the Government of Quebec was a 1983 industrial discount program for companies which expaned capacity and, thus, increased electricity usage. According to information collected at verification, the Department found that NHCI did not apply for, was not enrolled in, nor was it even eligible to participate in the program. The fact that NHCI received special discounts not available to other firms supports the Department's determination that NHCI received preferential benefits.

Comment 19

Reynolds Metals Company states that in order to determine whether the NHCI contract provides a preferential benefit to the company, the Department must analyze the prices to be paid by NHCI over the life of the contract.

DOC Position

The methodology employed in our preliminary determination implicitly required that the benchmark rate be obtained in each year of the life of NHCI's contract. We agree with Reynolds that this is not necessary.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, examination of relevant accounting records, and examination of original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B-099) of the Main Commerce Building.

Suspension of Liquidation

In accordance with our affirmative preliminary determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of pure and alloy magnesium from Canada which were entered, or withdrawn from warehouse, for consumption, on or after December 6, 1991, the date of publication of our preliminary determination in the **Federal Register**. These final countervailing duty determinations were extended to coincide with the final antidumping duty determinations on pure magnesium and alloy magnesium from Canada and Norway, pursuant to section 606 of the Trade and Tariff Act of 1984 (section 705(a)(1) of the Act).

Under article 5, paragraph 3 of the Subsidies Code, provisional measures cannot be imposed for more than 120 days without final affirmative determinations of subsidization and injury. Therefore, we instructed the U.S. Customs Service to discontinue the suspension of liquidation on the subject merchandise entered on or after April 4, 1992, but to continue the suspension of liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise entered between December 6, 1991 and April 3, 1992. We will reinstate suspension of liquidation under section 703(d) of the Act, if the International Trade Commission (ITC) issues a final affirmative injury determination, and will require a cash deposit equal to 21.61 percent *ad valorem* for all entries of magnesium produced and exported by Norsk Hydro Canada Inc., and all other manufacturers, producers and exporters in Canada of pure and alloy magnesium, except for Timminco which, because its estimated net subsidy is zero, is exempt from the suspension of liquidation.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to these investigations. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, these proceedings will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing Customs officers to assess countervailing duties on entries of pure magnesium and alloy magnesium from Canada entered, or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

This determination is published pursuant to Section 705(d) of the Act (19 U.S.C. 1671d(d)).

Dated: July 6, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-16382 Filed 7-10-92; 8:45 a.m.]

BILLING CODE 3510-DS-M

[C-122-816]

Countervailing Duty Order: Certain Softwood Lumber Products From Canada

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to producers or exporters of certain softwood lumber products from Canada. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of certain softwood lumber products from Canada found by the Department to be subsidized are materially injuring a U.S. industry.

As a result of the affirmative determinations of the Department and the ITC, pursuant to section 705 (a) and (b) of the Tariff Act of 1930, as amended (19 U.S.C. 1671d (a) and (b) (the Act), all unliquidated entries of certain softwood lumber products, which were entered, or withdrawn from warehouse, for consumption, on or after March 12, 1992, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register** (57 FR 8800) will be liable for the assessment of countervailing duties. Furthermore, a cash deposit of the

estimated countervailing duties must be made on all entries or withdrawals from warehouse, of certain softwood lumber products from Canada, for consumption, made on or after the date of publication of this countervailing duty order in the **Federal Register.**

EFFECTIVE DATE: July 13, 1992.

FOR FURTHER INFORMATION CONTACT: Norbert Gannon or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–2786.

SUPPLEMENTARY INFORMATION: The products covered by this order are certain softwood lumber products. These lumber products include: (1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters; (2) coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbitted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed; (3) other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbitted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded of finger-jointed; (4) coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbitted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed. Such products are currently provided for under subheadings 4407.1000, 4409.1010, 4409.1090, 4409.1020, respectively, of the Harmonized Tariff Schedule (HTS). Although HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this order remains dispositive.

In accordance with section 705(a) of the Act (19 U.S.C. 1671d(a), on May 15, 1992, the Department made its final determination that producers or exporters of certain softwood lumber products from Canada receive benefits which constitute subsidies within the meaning of the countervailing duty law (56 FR 7678). On July 6, 1992, in accordance with section 705(d) of the Act, the ITC notified the Department of its determination that such subsidized imports from Canada are materially injuring a U.S. industry.

Therefore, in accordance with sections 706 and 751 of the Act (19 U.S.C. 1671e and 1675), the Department directs U.S. Customs officers to assess, upon further advice of the administering authority pursuant to sections 706(a)(1) and 751 of the Act (19 U.S.C. 1671e(a)(1) and 1675), countervailing duties equal to the amount of the estimated net subsidy on all entries of certain softwood lumber products from Canada. These countervailing duties will be assessed on all unliquidated entries of certain softwood lumber products from Canada which were entered or withdrawn from warehouse for consumption, on or after March 12, 1992, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register.**

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equivalent to 6.51 percent *ad valorem* for all entries of softwood lumber from Canada.

This determination constitutes a countervailing duty order with respect to certain softwood lumber products from Canada pursuant to section 706 of the Act (19 U.S.C. 1671e). Interested parties may contact the Central Records Unit, room B–099, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, for copies of an updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1), the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding the review, contact Norbert Gannon or Kelly Parkhill at (202) 377–2786, Office of Countervailing Compliance.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e).

Dated: July 9, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–16506 Filed 7–10–92; 8:45 am]

BILLING CODE 3510–DS–M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review, Application No. 89–A0010.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the Air-Conditioning & Refrigeration Institute ("ARI") on May 10, 1991. Notice of issuance of the Certificate was published in the **Federal Register** on May 21, 1991 (56 FR 23284).

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

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

Description of Amended Certificate

Export Trade Certificate of Review No. 89–00010, was issued to the Air-Conditioning & Refrigeration Institute on May 10, 1991. Notice of issuance of the certificate was published in the **Federal Register** on May 21, 1991 (56 FR 23284).

ARI's Export Trade Certificate of Review has been amended to:

1. Add the following companies as "Members" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2 (1)): Alco Controls Division, Emerson Electric Company; Bristol Compressors, Inc.; Climate Master, Inc., A Subsidiary of LSB Industries; Eaton Corporation, Automotive & Appliance Controls Operation; Edwards Engineering Corporation; E.I. du Pont de Nemours & Company, Fluorochemicals Division; EVAPCO, Inc.; FHP Manufacturing Company, division of Harrow Products, Inc.; Heat Exchangers, Inc.; Manitowoc Equipment Works, Division of Manitowoc Co., Inc.; Mile High Equipment Company; Mortex Products, Inc.; Parker Refrigeration Components Group, Parker-Hannifin

Corporation; Paul Mueller Company; Scotsman Ice Systems; Servend International, Inc.; Superior Coils, Inc.; and Tecumseh Products Company;

2. Delete the following companies as a "Member" of the Certificate: Artesian Building Systems, Inc.; A.D. Auriema Inc.; Copeland Corporation; Halsey Taylor, Scotsman Industries, Sundstrand Heat Transfer, Inc., Sundstrand Corp.; and Win-Tron Electronics Ltd.;

3. Change the listing of the company name of the following current "Members" as follows: Change Kysor-Warren to Kysor/Warren; Lau Industries to Lau; Marvair Company to Crispaire; Sterling Radiator Division, Reed National Corp. to Sterling Radiator, A Division of Mestek, Inc.; Titus Products, Division of Phillips Industries, Inc. to TITUS; Turbotec Products, Inc. to Turbotec Products Inc.; and Phillips Industries, Inc. to Tomkins Industries, Inc.; and

4. Add (a) Refrigerant Recovery/Recycling Equipment; (b) Thermal Storage Equipment; and (c) Ground Source Closed-Loop Heat Pumps (ARI Standard 330) as products to be covered by the Certificate.

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

Dated: July 7, 1992.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 92-16313 Filed 7-10-92; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Financial Assistance for Research and Development Projects to Provide Information for the Full and Wise Use and Enhancement of Fishery Resources in the Gulf of Mexico and off the U.S. South Atlantic Coastal States

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

ACTION: Notice requesting comments on the fiscal year (FY) 1993 Marine Fisheries Initiative (MARFIN) proposed Program Emphasis Areas.

SUMMARY: For FY 1993, funds are expected to be available to assist persons in carrying out research projects that optimize the use of U.S. Gulf of Mexico and south Atlantic (North Carolina to Florida) fisheries involving the U.S. fishing industry (recreational and commercial), including fishery biology, resource assessment, socioeconomic assessment, management and conservation, selective harvesting methods, and fish handling and processing. Emphasis is on research that will enhance social and economic benefits from living marine resources. NMFS issues this notice to solicit public comments on proposed program emphasis areas for the FY 1993 Financial Assistance Program. This is not a solicitation for proposals.

DATES: Comments on the proposed areas of program emphasis for the FY 1993 MARFIN solicitation will be accepted from July 13, 1992 through August 12, 1992.

ADDRESSES: Send comments to: Regional Director, Attn: D. Pritchard, Southeast Regional Office, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Mr. David L. Pritchard, 813-893-3720.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Fish and Wildlife Act of 1956, at 16 U.S.C. 753a, authorizes the Secretary of Commerce (Secretary) to conduct research to enhance U.S. fisheries. Funding is expected to be available in FY 1993 for financial assistance under the MARFIN program to manage and enhance the use of fishery resources in the Gulf of Mexico and in the south Atlantic Ocean off the south Atlantic states of North Carolina, South Carolina, Georgia and Florida. U.S. fisheries [1] include any fishery that is or may be engaged in by U.S. citizens. The phrase "fishing industry" includes both the commercial and recreational sectors of U.S. fisheries. This program is described in the Catalog of Federal Domestic Assistance under program number 11.433 Marine Fisheries Initiative.

A Notice of Availability of Financial Assistance for fiscal year 1993 MARFIN program is expected to be published in the **Federal Register** after public comments have been received on the proposed areas of emphasis in this notice.

[1] For purposes of this notice, a fishery is defined as one or more stocks of fish, including tuna and shellfish that are identified as a unit based on geographic, scientific, technical, recreational and economic characteristics, and any and all phases of fishing for such stocks. Examples of a fishery are Gulf of Mexico shrimp, groundfish, menhaden, south Atlantic snapper-grouper, etc.

II. Proposed Areas of Emphasis for the FY 1993 MARFIN Program

Research needs identified in fishery management plans and amendments prepared by the Gulf and South Atlantic Fishery Management Councils (Councils) and the Gulf and Atlantic States Marine Fisheries Commissions (Commissions) are included by reference. Areas of special emphasis include:

A. Shrimp Trawler Bycatch

Studies are needed to contribute to the regional shrimp trawler bycatch program being conducted by NMFS in cooperation with state fishery management agencies, commercial and recreational fishing organizations and interests, environmental organizations, universities, the Councils, and the Commissions. In particular, the studies should address:

1. Data collections and analyses to expand and update current bycatch estimates temporally and spatially, including offshore, nearshore, and inshore waters. Emphasis should be on inshore and nearshore waters (less than 10 fathoms (18.3 m)).

2. Assessments of the status and condition of fish stocks significantly impacted by shrimp trawler bycatch, with emphasis given to overfished species under the jurisdiction of the Councils.

3. Identification, development, and evaluation of gear, nongear, and tactical fishing options to reduce bycatch.

4. Social and economic assessments of the impact of bycatch and of bycatch reduction options on coastal communities and industries.

5. Economic studies of the dynamic effects of bycatch on the bycatch fisheries; e.g., mackerel and reef fish.

6. Improved methods for communicating with and improving technology and information transfer to the shrimp industry.

B. Highly Migratory Pelagic Fisheries

1. Longline Fishery, Including Bycatch

A number of pelagic longline fisheries exist in the Gulf and south Atlantic. Most target highly migratory species, such as tunas, billfish, some sharks, and swordfish. These fisheries have evolved rapidly over the last decade, with increases in fishing effort and changes in fishing gear and tactics. These changes need to be characterized and their effects quantified. High priority areas include:

a. Characterization of specific longline fisheries, including targeted species, bycatch catch per unit effort, and

biological parameters (e.g., sex, and reproductive state) by gear type, area, and season.

b. Evaluation of vessel log data for monitoring the fisheries.

c. Development and evaluation of gear and fishing tactics to minimize the bycatch of undersized and unwanted species, including sea turtles and marine mammals.

d. Assessment of the impact of longline bycatch on related fisheries, including biological, social, and economic factors and effects.

2. Sharks

Little is known about shark resources in the Gulf and south Atlantic. A Secretarial Fishery Management Plan (FMP) for sharks has been developed that identifies a number of research needs. In general, these needs can be grouped as:

a. Characterization of the directed and bycatch commercial and recreational fisheries from existing and new data. Emphasis should be on species, size, and sex composition and catch per unit effort by season, area, and gear type.

b. Collection and analysis of basic biological data on movements, habitats, growth rates, mortality rates, age composition, and reproduction.

c. Determination of baseline cost and returns for commercial fisheries that take and retain sharks, and estimations of demand curves for shark products and recreational shark fisheries.

d. Development of species profiles and stock assessments for sharks taken in significant quantities by commercial and recreational directed and bycatch fisheries. Assessments can be species-specific or for species groups, as long as the latter do not differ substantially from the groups identified in the Secretarial Shark FMP.

e. Identification of coastal sharks using laboratory (tissue analysis) methods, and preservation of tissue samples for mercury analysis.

C. Reef Fish

Many species within the reef fish complex are showing signs of being overfished, either by directed or bycatch fisheries. The ecology of reef fish makes them especially vulnerable to overfishing because they tend to concentrate over specific types of habitats that are patchily distributed. The patchy distribution of the resource can make traditional fishery statistics misleading, because catch per unit effort can remain relatively high as fishermen move from one area to another, yet overall abundance of the resource can be declining sharply. Priority research areas include:

1. Collection of basic biological data for species in commercially and recreationally important fisheries, with emphasis on stock and species identification, age and growth, early life history, the source of recruits (especially amberjack and vermilion snapper in the Gulf of Mexico) and reproductive biology. The behavior of age-0 and age-1 red snapper is another important research need. Also important is the effect of reproductive mode and sex change (protogynous hermaphroditism) on population size and characteristics, with reference to sizes of fish exploited in the fisheries and the significance to proper management.

2. Identification and quantification of natural and human-induced mortality (such as the loss of undersized fishes caught in deep water).

3. Mapping and quantification of reef fish habitat, primarily from existing biological and physical data. Special attention should be directed to determine the habitat and limiting factors for red snapper in the Gulf of Mexico.

4. Identification and characterization of spawning aggregations by species, areas, and seasons.

5. Stock assessments to establish the status of major recreational and commercial species. Especially needed are innovative methods for stock assessments on aggregate species, including the impact of fishing on genetic structure.

6. Research in direct support of management techniques, including catch-and-release mortality, marine fishery reserves, gear and fishing tactic modifications to minimize bycatch, balancing traditional fisheries use with alternate uses (e.g., eco-tourism and sport diving), and economic and social profiles and studies to evaluate impacts of management options. Also needed are studies to determine effects of fishing closures and quotas on alternative commercial and recreational fisheries.

7. Research to evaluate the use of reef fish marine reserves as an alternative or supplement to current fishery management measures and practices, especially in the south Atlantic.

8. Use of available data to describe the socioeconomic behavior of recreational fishermen (e.g., effects of switching species and bag limits on recreational trips).

Additional explanation of research needs for Gulf reef fish is available from a MARFIN-supported plan for cooperative reef fish research in the Gulf of Mexico.

D. Coastal Herrings

Preliminary studies indicate that substantial stocks of coastal herrings occur in the Gulf and south Atlantic. Most of the available data come from fishery-independent surveys conducted by NMFS and state fishery management agencies. Because of the size of these stocks, their importance as prey, and in some instances as predator species, their potential for development as commercial and recreational fisheries needs to be understood. General research needs include:

1. Collection, collation, and analysis of available fishery-independent and fishery-dependent data from state and Federal surveys, with emphasis on species and size composition, seasonal distribution patterns, biomass, and environmental relationships. Emphasis should be given to controversial species such as Spanish sardine.

2. Description and quantification of predator-prey relationships between coastal herring species and those such as the mackerels, tunas, swordfish, billfish, sharks, bluefish, and others in high demand by commercial and recreational fisheries.

E. Coastal Migratory Pelagic Fisheries

The demand for many of the species in this complex by commercial and recreational fisheries has led to overfishing for some, such as Gulf king and Spanish mackerel, and Atlantic Spanish mackerel. Additionally, some are transboundary with Mexico and other countries and ultimately will demand international management attention. Current high priorities incude:

1. Development of recruitment indices for king and Spanish mackerel, cobia, dolphin, and bluefish, primarily from fishery-independent data sources, although indices of year-class success using occurrence in bycatch is also important.

2. Improved catch statistics for all species in Mexican waters, with special emphasis on king macherel. This includes length frequency and life history information.

3. Information on populations of coastal pelagics overwintering off North Carolina, South Carolina, and Georgia, especially population size, age, food, and movements.

4. Collection of basic biostatistics for coastal migratory pelagic species (e.g., cobia and dolphin) to develop age-length keys and maturation schedules for stock assessments, where significant gaps in the database exist.

5. Demand and supply functions for recreational and commercial fisheries

for king mackerel in the Gulf of Mexico and for Spanish mackerel in the south Atlantic. Emphasis can be on changes in marginal values of producer and consumer surplus, since the studies would be used in allocation frameworks where total values are not necessarily required.

F. Groundfish and Estuarine Fishes (Weakfish, Menhaden, Spot, Croaker, and Red Drum)

Substantial stocks of groundfish and estuarine species occur in the Gulf and south Atlantic. Most of the database comes from studies conducted by NMFS and state fishery management agencies. Because of the historic and current size of these fish stocks, their importance as predator and prey species, and their current or potential use as commercial and recreational fisheries, more information on their biology and conservation is needed. General research needs include:

1. Measurement of general levels of sport fishing effort and associated economic and biological parameters (including other factors regarding retained and released catch) for red drum in both the Gulf of Mexico and the south Atlantic.
2. Definitions of the stocks of weakfish in the south Atlantic.
3. Information on the immigration and escapement of red drum from state waters into the exclusive economic zone in the Gulf of Mexico.
4. Stock identification, including determination of migratory patterns through tagging studies, monitoring long-term changes in abundance, growth rates and age structure, and determination of inshore versus offshore components of the fishery.
5. Monitoring of juvenile populations and population indices to determine year-class strength.
6. Catch and effort statistics from recreational and commercial fisheries, including size and age structure of the catch, to develop production models.
7. Biological and economic analyses of the optimum utilization of long-term fluctuating populations.
8. Quantification of the bycatch in the commercial menhaden purse seine fishery, and the coastal herring purse seine and beach seine fisheries.

G. General

There are many areas of research that need to be addressed for improved understanding and management of fishery resources. These include methods for data collection, management, analysis, and for better conservation management. Examples of high priority research topics include:

1. Development and refinement of social and economic models of fisheries. Models should focus on effects of management alternatives such as quotas, moratoria, fishery reserves, bag limits, size limits, gear restrictions, and limited area and seasonal closures.
2. Assessment of the changes in recreational and commercial values that have resulted from past management actions for red drum, shrimp, mackerels, and reef fish.
3. Development and evaluation of controlled-access approaches (e.g., limited entry) for species under Federal management. Of special interest are studies that would address fisheries where both state and Federal jurisdictions are involved, such as the Gulf shrimp fishery. Studies of systems for mackerel and reef fish will have the highest priority since the Councils are considering controlled-access approaches to the management of these species. Studies should consider existing management strategies and how these strategies might be benefitted or adversely impacted by controlling access. Additionally, they should address how a controlled-access program should be introduced into affected fisheries.
4. Development of improved methods and procedures for technology transfer and education of constituency groups concerning fishery management and conservation programs. Of special importance are programs concerned with controlled access and introductions of conservation gear and fishing practice modifications.
5. Development of new modeling and analytical approaches to understanding basic processes in fishery productivity and energy transfer that can be applied to specific fishery resource problems.
6. Development of baseline socio-demographic information on federally managed south Atlantic and Gulf of Mexico fisheries.

Authority: 16 U.S.C. 753a.

Dated: July 8, 1992.

Nancy Foster,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-16373 Filed 7-10-92; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Modification No. 1 to Permit No. 739 (P474).

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Public Display Permit No. 739 issued to Mount Desert Oceanarium, P.O. Box 696, Southwest Harbor, Maine 04679 (P474) on May 13, 1991 (56 FR 23684) is modified as follows:

Section A. and Special Conditions B.3 and 6 are revised to read that the permit holder may obtain seasonal care and custody of harbor seals from New England Aquarium as well as Mystic Marinelife Aquarium.

All other conditions currently contained in the permit remain in effect.

Documents submitted in connection with the above modification are available for review by appointment in the following offices:

Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Room 7330, SSMC1, Silver Spring, Maryland 20910, (301) 427-2289; and

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930, (508) 281-9300.

Dated: July 6, 1992.

Charles Karnella,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-16288 Filed 7-10-92; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Receipt of Application for Permit (P511).

SUMMARY: Notice is hereby given that Dr. Michael D. Scott, Inter-American Tropical Tuna Commission, c/o Scripps Institution of Oceanography, La Jolla, CA 92037, has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

The applicant requests authority to harass, capture, tag with radio- and roto-tags and release, the following animals: 10,895, spotted dolphin (*Stenella attenuata*) (45 radio-tagged/50 roto-tagged); 7,270 spinner dolphin (*S. longirostris*) (20 radio-tagged/50 roto tagged; 355 striped dolphin (*S. coeruleoalba*) (5 radio-tagged/50 roto-tagged); 2,860 common dolphin (*Delphinus delphis*) (10 radio-tagged/50 roto-tagged); 355 bottlenose dolphin (*Tursiops truncatus*) (5 radio-tagged/50 roto-tagged); 355 rough-toothed dolphin

(*Steno bredanensis*) (5 radio-tagged/50 roto-tagged); and 355 Risso's dolphin (*Grampus griseus*) (5 radio-tagged/50 roto-tagged). The primary species of interest are the spotted, spinner, and common dolphins. Because mixed-species herds of dolphin are common in the eastern tropical Pacific (ETP), the other species listed may be captured and tagged on an opportunistic basis.

The research is designed to study the relationship between these species and yellowfin tuna; the applicant plans to simultaneously radio-track spotted dolphin and sonic-track yellowfin tuna from the same aggregation. The applicant will focus on (1) whether the dolphin-tuna bond breaks at particular times or circumstances (of particular interest is the hypothesis that the tuna do not associate with dolphin at night); (2) when the tuna and dolphin are apart, where the tuna go and are, therefore, likely to be vulnerable to fishing at these times; (3) when they are together, how are they oriented spatially (e.g., do they consistently remain close to the dolphin or do they range back and forth within some critical distance?). The information on movements and behavior, will help to establish whether the tuna/dolphin bond is food-based or not. The long-term objective of this research is to understand the dynamics of the tuna/dolphin association, so that fishermen may be able to exploit the tuna at times when the association has broken naturally or break the association artificially. In either case, the applicant indicates that the research could lead to new fishing methods that would eliminate the encirclement and mortality of dolphins.

ADDRESSES: Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7234, Silver Spring, Maryland 20910, within 30 days of the publication of this notice.

Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review, by appointment, in the Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Suite 7324, Silver Spring, MD 20910 (301/713-2289); and Director, Southwest Region, National Marine Fisheries Service, 501 W. Ocean Blvd., Long Beach, CA 90802-4213 (310/980-4015).

Dated: July 2, 1992.

Charles Karnella,

Acting Director, Office of Protected Resources.

[FR Doc. 92-16289 Filed 7-10-92; 8:45 am]

BILLING CODE 3510-22-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 session on 30 and 31 July, 1992, at the Institute for defense Analyses, Alexandria, Virginia.

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 break into sub-groups for the purpose of working sessions. Discussions will involve issues raised during the various briefings received at prior Task Force meetings.

For further information, contact Lieutenant Colonel John Fair at (703) 695-1535.

Dated: July 8, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-16333 Filed 7-10-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Privacy Act of 1974; Amend a System of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Amend a system of records.

SUMMARY: The Department of the Air Force proposes to amend one existing system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amended system will be effective August 12, 1992, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Access Programs Manager, SAF/AAIA, The Pentagon, Washington, DC 20330-1000.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Gibson (703) 697-3491 or DSN: 227-3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force record systems notices subject to the Privacy Act of 1974 (5 U.S.C. 552a) as amended, have been published in the **Federal Register** as follows:

50 FR 22332 May 29, 1985 (DOD Compilation, changes follow)
50 FR 24672 Jun. 12, 1985
50 FR 25737 Jun. 21, 1985
50 FR 46477 Nov. 8, 1985
50 FR 50337 Dec. 10, 1985
51 FR 4531 Feb. 5, 1986
51 FR 7317 Mar. 5, 1986
51 FR 16735 May 6, 1986
51 FR 18927 May 23, 1986
51 FR 41382 Nov. 14, 1986
51 FR 44332 Dec. 9, 1986
52 FR 11845 Apr. 13, 1987
53 FR 24354 Jun. 28, 1988
53 FR 45800 Nov. 14, 1988
53 FR 50072 Dec. 13, 1988
53 FR 51301 Dec. 21, 1988
54 FR 10034 Mar. 9, 1989
54 FR 43450 Oct. 25, 1989
54 FR 47550 Nov. 15, 1989
55 FR 21770 May 29, 1990
55 FR 21900 May 30, 1990 (Updated Address Directory)
55 FR 27868 Jul. 6, 1990
55 FR 28427 Jul. 11, 1990
55 FR 34310 Aug. 22, 1990
55 FR 38126 Sep. 17, 1990
55 FR 42625 Oct. 22, 1990
55 FR 52072 Dec. 19, 1990
56 FR 1990 Jan. 18, 1991
56 FR 5804 Feb. 13, 1991
56 FR 12713 Mar. 27, 1991
56 FR 23054 May 20, 1991
56 FR 23876 May 24, 1991
56 FR 26800 Jun. 11, 1991
56 FR 31394 Jul. 10, 1991 (Updated Index Guide)
56 FR 32181 Jul. 15, 1991
56 FR 63718 Dec. 5, 1991
57 FR 1907 Jan. 16, 1992

The amended system is not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which requires the submission of an altered system report. The specific changes to the system of records being amended are set forth below, followed by the system of records notice published in its entirety.

Dated: July 7, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F030 AF MP A

SYSTEM NAME:

Personnel Data System (PDS), (54 FR 47551, November 15, 1989).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete "Air Force Accounting and Finance Center" and add "Defense Finance Accounting System (DFAS)" throughout entry.

Delete paragraph 8(o) and replace with "Retired Personnel Data System (RPDS) is made up of four files - Retired Officer Management File and Retired Airman Management File containing records on members in retired status and the Retired Officer and Airman Loss Files containing records on former retirees who have been lost from rolls, usually through death. The RPDS is used to produce address listings for the Retired Newsletter and Policy letter, statistical reports for budgeting, to manage the Advancement Program, the Temporary Disability Retired List, Age 59 rosters, mobilization rosters and orders for ARPC, General Officer roster, and statistical digest data for management analysis functions. Data is extracted from the master files upon retirement from Active Duty or Reserve or obtained from member by ARPC via survey or from address changes submitted to the Defense Finance Accounting System (DFAS). Data includes name, SSN, grade data, service data, education data, retirement data, address, home and business phone numbers, state of medical license, expiration date of medical license."

* * * * *

PURPOSE(S):

Delete "Air Force Accounting and Finance Center (AFAFC)" and replace with "Defense Finance Accounting System (DFAS)" throughout entry.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS(ES):

Add to end of entry "Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

NOTIFICATION PROCEDURES:

Delete the word "written" in first sentence, and to end of entry "Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

RECORD ACCESS PROCEDURES:

Delete the word "written" in first sentence, and add to end of entry "Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

* * * * *

F030 AF MP A

SYSTEM NAME:

Personnel Data System (PDS).

SYSTEM LOCATION:

Headquarters United States Air Force (HQ USAF), Washington DC 20330–1000. Headquarters Air Force Military Personnel Center (HQ AFMPC), Randolph Air Force Base, TX 78150–6001. Air Reserve Personnel Center (ARPC), Denver, CO 80280–5000. Headquarters of major commands and separate operating agencies and Consolidated Base Personnel Offices (CBPOs), Central Civilian Personnel Offices (CCPOs), Consolidated Reserve Personnel Offices (CRPOs), and activity or squadron orderly rooms. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel; Air Force Reserve and Air National Guard personnel; Air Force Academy cadets; Air Force civilian employees; certain surviving dependents of deceased members of the Air Force and predecessor organizations; potential Air Force enlistees; candidates for commission enrolled in college level Air Force Reserve Officer Training Corps (AFROTC) programs; deceased members of the Air Force and predecessor organizations; separated members of the Air Force, the Air National Guard (ANG) and United States Air Force Reserve (USAFR); ANG and USAFR technicians; prospective, pending, current, and former Air Force civilian employees, except Air National Guard technicians; current and former civilian employees from other governmental agencies that are serviced at CCPOs may be included at the option of servicing CCPO; Department of Defense (DOD) contractors and foreign military personnel on liaison or support duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

The principal digital record maintained at each PDS operating level is the Master Personnel File, which contains the following categories of information:

1. Accession data pertaining to an individual's entry into the Air Force (place of enlistment source of commission, home of record, date of enlistment, place from which ordered to enter active duty (EAD)).

2. Education and training data, describing the level and type of education and training, civilian or military (academic education level, major academic specialty, professional specialty courses completed, professional military education received).

3. Utilization data used in assigning and reassigning the individual, determining skill qualifications, awarding Air Force Specialty Codes (AFSC), determining duty location and job assignment, screening/selecting individual for overseas assignment, performing strength accounting processes, etc. (Primary Air Force Specialty Code, Duty and Control Air Force Specialty Code, personnel accounting symbol, duty location, up to 24 previous duty assignments, aeronautical rating, date departed last duty station, short tour return date, reserve section, current/last overseas tour).

4. Evaluation Data on members of the Air Force during their career (Officer Effectiveness Report dates and ratings, Enlisted Performance Report dates and ratings, results of various qualifications tests, and "Unfavorable Information" indicator).

5. Promotion Data including promotion history, current grade and/or selection for promotion (current grade, date of rank and effective date; up to 10 previous grades, dates of rank and effective dates; projected temporary grade, key "service dates").

6. Compensation data although PDS does not deal directly with paying Air Force members, military pay is largely predicated on personnel data maintained in PDS and provided to Defense Finance Accounting System (DFAS) as described in ROUTINE USES below (pay date, Aviation Service Code, sex, grade, proficiency pay status).

7. Sustentation data--information dealing with programs provided or actions taken to improve the life, personal growth and morale of Air Force members (awards and decorations, marital status, number of dependents, religious denomination of member and spouse, race relations education).

8. Separation and retirements data, which identifies an individual's eligibility for and reason for separation (date of separation, mandatory retirement date, projected or actual separation program designator and

character of discharge). At the central processing site (AFMPC), other subsidiary files or processes are operated which are integral parts of PDS:

(a) Procurement Management Information System (PROMIS) is an automated system designed to enable the USAF to exercise effective management and control of the procurement personnel required to meet the total scheduled manpower requirements necessary to accomplish the Air Force mission. The system provides the recruiter with job requirement data such as necessary test scores, AFSC, sex, date of enlistment; and the recruiter enters personal data on the applicant--Social Security Number (SSN), name, date of birth, etc.--to reserve the job for him or her.

(b) Career Airman Reenlistment Reservation System (CAREERS) is a selective reenlistment process that manages and controls the numbers by skill of first-term airmen that can enter the career force to meet established objectives for accomplishing the Air Force mission. A centralized data bank contains the actual number, by quarter, for each AFSC that can be allowed to reenlist during that period. The individual requests reenlistment by stating his eligibility (AFSC, grade, active military service time, etc). If a vacancy exists, a reservation--by name, SSN, etc--will be made and issued to the CBPO processing the reenlistment.

(c) Airman Accessions provides the process to capture a new enlistee's initial personal data (entire personnel record) to establish a personnel data record and gain it to the Master Personnel File of the Air Force. The initial record data is captured through the established interface with the Processing and Classification of Enlistees System (PACE) at Basic Military Training, Lackland Air Force Base, for non-prior service; for prior service enlistees the basic data (name, SSN, date of enlistment, grade, etc.) is input directly by USAF Recruiting Service and updated and completed by the initial gaining CBPO.

(d) Officer Accessions is the process whereby each of the various Air Force sources of commissioning (AF Academy, AFROTC, Officer Training School, etc) project their graduates in advance allowing management to select by skill, academic specialty, etc--which and how many will be called to active duty when, by entering into the record an initial assignment and projected entry onto active duty date. On that date the individual's record is accessed to the active Master Personnel File of the Air Force.

(e) Technical Training Management Information System (TRAMIS) is a system dealing with the technical training activities controlled by Air Training Command. The purpose of the system is to integrate the training program, quota control and student accounting into the personnel data system. TRAMIS consists of numerous files which constitute "quota banks" of available training spaces, in specific courses, projected for future use based on estimated training requirements. Files include such data as: Course identification numbers, class start and graduation dates, length of training, weapon system identification, training priority designators, responsible training centers, trainee names, SSN (and other pertinent personnel data) on individuals scheduled to attend classes.

(f) Training Pipeline Management Information System (TRAPMIS) is an automated quota allocating system which deals with specialized combat aircrew training and aircrew survival training. Its files constitute a "quota bank" against which training requirements are matched and satisfied, and through which trainees are scheduled in "pipeline" fashion to accommodate the individual's scheduled geographical movement from school to school to end assignment. Files contain data concerning the courses monitored as well as names, SSNs and other pertinent personnel data on members being trained.

(g) Air Force Institute of Technology (AFIT) Quota Bank File reflects program quotas by academic specialty for each fiscal year (current plus two future fiscal years, plus the past fiscal year programs for historical purposes). Also, this file reflects the total number of quotas for each academic specialty. Officer assignment transactions process against the AFIT Quota Bank File to reflect the fill of AFIT Quotas. Examples of data maintained are: Academic specialty, program level, fiscal year, name of incumbent selected, projected, filling AFIT quota.

(h) Job File is derived from the Authorization Record and is accessible by Position Number. Resource managers can use the Job File to validate authorizations by Position Number for assignment actions and also to make job offers to individual officers. Internal suspensing within the Job File occurs based upon Resource Managers update transactions. Data in the file includes: Position number, duty AFSC, functional account code, program element, location, and name of incumbent.

(i) Casualty subsystem is composed of transactions which may be input at Headquarters Air Force and/or CBPOs to report death or serious illness of members from all components. A special file is maintained in the system to record information on individuals who have died. Basic identification data and unique data such as country of occurrence, date of incident, casualty group, aircraft involved in the incident and military status are recorded and maintained in this file.

(j) Awards/Decorations are recorded and maintained on all component personnel in the headquarters Air Force master files. All approved decorations are input at CBPOs whereas disapproved decorations are input at Major Command/Headquarters Air Force (MAJCOM/HAF). A decorations statistical file is built at AFMPC which reflects an aggregation of approvals/disapprovals by category of decoration. This file does not contain any individually identifiable data. All individually identifiable data on decorations is maintained in the Master Personnel File. Such information as the type of decoration, awarding authority, special order number and date of award are identified in an individual's record. Several occurrences for all decorations are stored; however only specific data on the last decoration of a particular type is maintained.

(k) Point Credit Accounting and Reporting System (PCARS). This system is an Air National Guard/Air Force Reserve unique supported by PDS. Its basic purpose is to maintain and account for retirement/retention points accrued as a result of participating in drills/training. The system stores basic personal identification data which is associated with a calendar of points, earned by participation in the Reserve program. Each year an individual's record is closed and point totals are accumulated in history, and a point earning statement is provided the individual and various records custodians.

(l) Human Reliability/Personnel Reliability File: This file is maintained at Headquarters Air Force in support of Air Force Regulation 35–99. It is not part of the Master Personnel Files but a free standing file which is updated by transactions from CBPOs. The file was established to specifically identify individuals who have become permanently disqualified under the provisions of the above regulation. A record is maintained on each disqualified individual which includes basic identification data, service component, Personnel/Human Reliability status and date, and reason for disqualification.

(m) Variable Incentive Pay (VIP) File for medical officers: Contains about 125 character record on all Air Force physicians and is specifically used to identify whether the individual is participating in the Continuation Pay or Variable Incentive Pay programs. Update to this file is provided by the Surgeon (AFMPC), changes to the Master Personnel File. Besides basic identification data an individual's record, includes source of appointment, graduate medical location status, amount of VIP or Continuation Pay and the dates of authorization and the dates and reason for separation.

(n) Weighted Airman Promotion System (WAPS):

(1) The Test Scoring and Reporting Subsystem (TSRS) provides for: Identifying at the CBPO individuals eligible for testing; providing output to the Base Test Control Officer and the CBPO to control, monitor, and operate WAPS testing functions; editing and scoring WAPS test answer cards at AFMPC; providing output for maintaining historical and analytical files at AFMPC and the Human Resources Laboratory (HRL) and includes the central identification of AFMPC of individuals eligible for testing.

(2) The Personnel Data Reporting Subsystem (PDRS) provides for: Identifying promotion eligibles at AFMPC; verifying these eligibles and selected promotion data; merging test and weighted promotion data at AFMPC to effect promotion scoring, assigning the promotion objective and aligning selectees in promotion priority sequence; maintaining projects on promotion selectees at AFMPC, MAJCOM, and the CBPO; updating these projections monthly; creating output products to monitor the flow of data in the system; maintaining promotion historical and analytical files and reports at AFMPC.

(3) Basically, identification data along with time in grade, test scores, decoration information, time in service, and airman performance report history is used to support this program.

(o) Retired Personnel Data System (RPDS) is made up of four files - Retired Officer Management File and Retired Airman Management File containing records on members in retired status and the Retired Officer and Airman Loss Files containing records on former retirees who have been lost from rolls, usually through death. The RPDS is used to produce address listings for the Retired Newsletter and Policy letter, statistical reports for budgeting, to manage the Advancement Program, the Temporary Disability Retired List, Age 59 rosters, mobilization rosters and orders for ARPC, General Officer roster, and statistical digest data for management analysis functions. Data is extracted from the master files upon retirement from Active Duty or Reserve or obtained from member by ARPC via survey or from address changes submitted to the Defense Finance Accounting System (DFAS). Data includes name, SSN, grade data, service data, education data, retirement data, address, home and business phone numbers, state of medical license, expiration date of medical license.

(p) Separated Officer File contains historical information on officers who leave the Air Force via separation, retirement, or death. Copies are sent to HRL and Washington offices for research purposes. The data comprises the Master Personnel File in its entirety and is captured 30 to 60 days after separation from the Air Force.

(q) Airman Gain/Loss File includes data extracted from the Airman Master File when accession and separation (gains and losses) occur. This file, like the Separated Officer File, is used for historical reports regarding strength changes. Data includes name, SSN, and other data that reflects strength, i.e., promotions, reassignment data, specialty codes, etc.

(r) Officer and Airman Separation Subsystem is used to process, track, approve, disapprove and project separations from the Air Force and transfers between components of the Air Force. This subsystem uses the Active, Guard, and Reserve Master Personnel Files. Data includes that specifically related to separations, e.g., date of separation, separation program designator, waivers, etc.

(s) The Retirements Subsystem is used to process and track applications for an approval/disapproval and projections of retirements. This subsystem uses the Master Files for active duty and Reserve officers and airmen. Data specifically related to retirements includes application data, date of separation, waiver codes, disapproval reason codes, separation program designator, Title 10 U.S.C. section, etc.

(t) Retired Orders Log is a computer produced retirement orders routine. Orders are automatically produced when approval, verification of service dates, and physical clearance have been entered in system. The orders log contains data found in administrative orders for retirement, including name, SSN, grade, order number, effective dates, etc. The log is used to control assignment of order number, and as a cross-reference between orders, revocations and amendments.

(u) General Officer Subsystem of PDS contains data extracted from the Master Personnel File and language qualification data and assignment history data maintained by the Assistant for General Officer Matters. A record is maintained on each general officer and general officer selectee. The general officer files are updated monthly and are used to produce products used in the selection/identification of general officers for applicable assignments.

(v) Officer Structure Simulation Model (OSSM) provides officer force descriptions in various formats for existing, predictive or manipulated structures. It functions as a planning tool against which policy options can be applied so as to determine the impact of such policy decisions. The OSSM input records contain individual identifiable data from the Master Personnel Record, but all output is statistical.

(w) Widow's File is maintained on magnetic tape and updated by the office of primary responsibility. When required, address labels and listings are produced by employing selected PDS utility programs. The address labels are used to forward the Retired Newsletter to widows of active duty and retired personnel. The listings are used for management control of the program. Contained in the file are the name, address, and SSN of the widow. Additionally, the deceased sponsor's name, SSN, date of death, and status at time of death are maintained.

(x) Historical Files are files with a retention period of 365 days or more. They consist of copies of active master files, and are used primarily for aggregation and analysis of statistical data, although individual records may be accessed to meet ad hoc requirements.

(y) Miscellaneous files, records, and processes are a number of work files, inactive files with a less-than–365–day retention period, intermediate records, and processes relating to statistical compilations, computer operation, quality control and problem diagnosis. Although they may contain individual-identifying data, they do so only as a function of system operation, and are not used in making decisions about people.

(z) Civilian employment information including authorization for position, personnel data, suspense information; position control information; projected information and historical information; civilian education and training data; performance appraisal, ratings, evaluations of potential; civilian historical files covering job experience, training and transactions; civilian

awards information, merit promotion plan work files; career programs files for such functional areas as procurement, logistics, civilian personnel, etc., civilian separation and retirement data for reports and to determine eligibility; adverse and disciplinary data for statistical analysis and employee assistance; stand-along files, as for complaints, enrollee programs; extract files from which to produce statistical reports in hard copy, or for immediate access display on remote computer terminals; miscellaneous files, as described in item (y) above.

(aa) Aviator Continuation Pay: This file is used to identify where the officer is participating in the Continuation Pay Program. Update to this file is provided by HQ AFMPC/DPMAT, DFAS,and directly from changes to the Master Personnel File. Identification data on an individual record includes amount of continuation pay, active duty service computation, and bonus eligibility date.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 U.S.C. 265, policies and regulations: Participation of reserve officers in preparation and administration; 269, Ready reserve: Placement in; transfer from; 275, Personnel records; 278, Dissemination of information; 279, Training Reports; 31, Enlistments; 564, Warrant officers: Effect of second failure of promotion; 593, Commissioned Officers: Appointment, how made; term; 651, Members: Required service; 671, Members not to be assigned outside US before completing training; 673, Ready reserve; (47, Uniform Code of Military Justice, Section 835, Article 35, Service of Charges; Section 837, Article 37, Unlawfully influencing action of court; Section 885, Article 85, Desertion; Section 886, Article 86, Absence without leave; Section 887, Article 87, Missing movement); 972, Enlisted members: Required to make up time lost; 1005, Commissioned officers:Retention until completion of required service; 1163, Reserve components: Members; limitations on separation; 1164, Warrant officers; separation for age; 1166, Regular warrant officers: elimination for unfitness or unsatisfactory performance; 61, Retirement or Separation for Physical disability; 63, Retirement for Age; 1263—Age 62: Warrant officers; 65, Retirement for Length of Service; 1293, Twenty years or more: Warrant officers; 1305, Thirty years or more: Regular warrant officers; 67, Retired pay; 1331, Computation of years of service in determining entitlement to retired pay; 1332, Age and service requirements; 1333, Computation of years of service in computing retired pay; 79, Correction of Military Records; 165, Accountability and responsibility, 2771, Final settlement of accounts: Deceased members; 8013, Secretary of the Air Force: Powers and duties; delegation by; 805, The Air Staff, Sections 8032, General duties; and 8033, Reserve components of Air Force; policies and regulations for government of: Functions of National Guard Bureau with respect to Air National Guard; 831, Strength, Section 8224, Air National Guard of the United Status; 833, Enlistments; 835, Appointments in the Regular Air Force, 8284, Commissioned officers; Appointment, how made; 8285, Commissioned officers: Original appointment; qualifications; 8296, Promotion lists: Promotion-list officer defined; determination of place upon transfer or promotion; 8297, Selection boards; 8303, commissioned officers; Effect of failure of promotion to captain, major, or lieutenant colonel; 837, Appointments as Reserve Officers; 8360, Commissioned officers: Promotion service; 8362, Commissioned officers: Selection boards; 8363, Commissioned officers; Selection boards; general procedures; 8366, Commissioned officers; Promotion to captain, major, or lieutenant colonel; 8376, Commissioned officers: Promotion when serving in temporary grade higher than reserve grade; 839, Temporary Appointments, 8442, Commissioned officers; regular and reserve components: Appointment in higher grade; 8447, Appointments in commissioned grade: How made; how terminated; 841, Active Duty, 8496, Air National Guard of United States: Commissioned officers; duty in National Guard Bureau; 853, Rights and benefits, Section 8691, Flying officer rating: qualification; 857, Decorations and Awards; 859, Separation, 8786, Officer considered for removal: Voluntary retirement or honorable discharge; severance benefits; 8796, Officers considered for removal: Retirement or discharge; Separation or Transfer to Retired Reserve, 8846, Deferred Officers; 8848, 28 years: Reserve first lieutenants, captains, majors, and lieutenant colonels; 8851, Thirty years or five years in grade: Reserve colonels and brigadier generals; 8852, Thirty-five years or five years in grade: Reserve major generals; 8853, Computation of years of service; 865, Retirement for Age; 8883, Age 60; regular commissioned officers below major general; 8884, Age 60: Regular major generals whose retirement has been deferred; 8885, Age 62: Regular major generals; 8886, Regular major generals whose retirement has been deferred; 867, Retirement for Length of Service; 8911, Twenty years or more; regular or reserve commissioned officers; 8913, Twenty years or more: Deferred officers not recommended for promotion; 8914, Twenty to thirty years: Regular enlisted members; 8915, Twenty-five years: Female majors except those designated under section 8067(a)-(d) or (g)-(i) of this title; 8918, Thirty years or more: Regular commissioned officers; 8921, Thirty years or five years in grade: Promotion-list colonels; 8922, Thirty years or five years in grade: Regular brigadier generals; 8923, Thirty-five years or five years in grade: Regular major generals; 8924, Forty years or more: Air Force officers; 901, Training generally; 9301, Members of Air Force: Detail as students, observers and investigators at education institutions, industrial plants, and hospitals; and 9302, Enlisted members of Air Force: Schools; 903, United States Air Force Academy; 9342, Cadet: Appointment; numbers, territorial distribution; 9344, Selection of persons from Canada and American Republics; 9345, Selection of Filipinos; 1, Organization, 102, General policy; and 104, units; Location; organization; command; 3, Personnel, 307, Federal recognition of officers; Examination, certification of eligibility; 7, Services, supplies, etc., 709, Caretakers and clerks; 3, Basic Pay, 308, Special pay: Reenlistment bonus; 313, Special pay: Medical officers who execute active duty agreements; 7, Allowances, 407, Travel and transportation allowances: Dislocation allowance; 10; Air Force Manual 30–3, Vol I-V, Mechanized Personnel Procedures, Air Force Manual 30–130, Base Level Military Personnel System, and Air Force Manual 300–4, Standard Data Elements and Codes; and Executive Order 9397.

PURPOSE(S):

The Air Force operates a centralized personnel management system in an environment that is widely dispersed geographically and encompasses a population that is diverse in terms of qualifications, experience, military status and needs.

There are three major centers of Air Force personnel management: HQ USAF Washington, DC, where most major policy and long-range planning/programming decisions are made; the Air Force Military Personnel Center at Randolph Air Force Base, TX, which performs most personnel operations-type functions for the active duty components of the force; and the Air Reserve Personnel Center at Denver, CO, which performs certain operational functions for the Reserve components of the force. Offices at major command headquarters, State Adjutant Generals, and Air Force bases perform operational

tasks pertaining to the population for which they are responsible. The structure of the Air Force and its personnel management system, the composition of the force, and the Air Force's stated objective of treating people as individuals, i.e., giving due consideration to their desires, needs and goals, demand a dynamic data system that is capable of supporting the varying needs of the personnel managers at each echelon and operating locations. It is to this purpose that the data in the Personnel Data System is collected, maintained, and used.

Uses within the Air Force Personnel Community:

1. HQ USAF, Washington, DC: Deputy Chief of Staff, Personnel and his immediate staff; Director of Personnel Plans; Director of Personnel Programs; Assistant for General officer Matters; Assistant for Colonel Assignments; Reserve Personnel Division; Air National Guard Personnel Division; and The Surgeon General, the Chief of Air Force Chaplains and the Staff Judge Advocate, each of which perform certain personnel functions within their area of responsibility. Data from the central data base at the AFMPC is furnished Washington area agencies by retrieval from the computer at Randolph via remote access devices and by provision of recurring products containing required management information, including computer tape files which are used as input to unique systems with which PDS interfaces. Although most of the data is used by policy makers to develop long-term plans and programs and track progress toward established goals, some individual data is provided/retrieved to support actions taken on certain categories of persons managed by offices in the headquarters, e.g. General Officers, Colonels, Air National Guard personnel, etc.

2. Air Force Military Personnel Center (AFMPC), Randolph Air Force Base, TX: Personnel managers at AFMPC use the data in PDS to make decisions on individual actions to be taken in areas such as personnel procurement, education and training, classification, assignment, career development, evaluation, promotion, compensation, casualty and personal affairs, separation and retirement.

3. Air Reserve Personnel Center (ARPC), Denver, CO: Personnel managers at ARPC perform many of the same functions for the Reserve components of the Air Force as the managers at AFMPC perform for the active duty force. As with the Washington area, ARPC obtains data from the central data base at AFMPC by retrieval through remote terminals and recurring output products containing information necessary to their management processes.

4. Major Command Headquarters: Major command headquarters personnel operation are supported by the standard content of PDS records provided them by AFMPC. In addition, there is provided in the PDS record an "add-on area" which the commands are authorized to use for the storage of data which will assist them in fulfilling unique personnel management requirements generated by their mission, structure, geographical location, etc. The standard functions performed fall generally under the same classifications as those in AFMPC, e.g., assignment, classification, separation, etc. Nonstandard usages include provisions of unique aircrew data, production of specially-tailored name listing, control of theater oriented training, etc. Some commands use PDS data--both standard and add-on as input to unique command systems, which are separately described in the **Federal Register.**

5. Consolidated Base Personnel Offices (CBPO): CBPOs, which represent the base-level aspect of PDS, are the prime point of system-to-people interface. Supplied with a standard data base and system, CBPOs provide personnel management support to commanders and supervisors on a daily basis. Acting on receipt of data from higher headquarters, primarily by means of transactions processed through PDS, they notify people of selection for reassignment, promotion, approval/disapproval of requests for separation and retirement, and similar personnel actions. When certain events occur to an individual at the local level, e.g., volunteer for overseas duty, reduction in grade, change in marital status, application for retirement, etc., the CBPO enters transactions into the vertical system to transmit the requisite information to other management levels and update the automated records resident at those levels. CBPOs too are allotted an "add-on" area in the computer record which they use to support local management unique requirements such as local training scheduling, unique locator listing urinalysis testing scheduling, etc.

Uses within the Air Force--external to the Personnel Community.

1. HQ USAF/AFMPC Interfaces: Automated interfaces exist between the PDS central site files and the following systems of other functions:

a. The Flight Records Data System (FRDS) maintained by the Air Force Safety Agency (AFSA) at Norton Air Force Base, CA.

b. Certain personnel identification data on rated officers is transferred monthly to the FRDS. This data flow creates the basic identifying data in the FRDS, insures compatibility with the PDS, and precludes duplicative data collection and input generation by the AFSA.

c. Update of the personnel data to the FRDS generates return flow of flying hour data which is used at AFMPC for rated resource distribution management.

d. The Master Military Pay Account (MMPA), is the Joint Uniform Military Pay System (JUMPS) centralized pay file maintained by DFAS at Denver, CO. The PDS transfers certain pay related data as changes occur to update the MMPA, e.g., promotions, accessions, separations/retirements, name, SSN, grade. These data provide criteria for DFAS to determine specific pay entitlements.

e. DFAS maintains a separate pay system for Air National Guard and Air Force Reserve personnel called the Air Reserve Pay and Allowances System (ARPAS).

(1) PDS outputs certain pay related data to ARPAS as changes occur, e.g., retirements/separations, promotions, name, SSN, grade. These data form the criteria for DFAS to determine specific Reserve pay entitlements.

(2) ARPAS outputs data which affect accumulated point credits for Air National Guard/Reserve participation to AFMPC for update of the PCARS, a component of PDS. PCARS also receives monthly input from HQ Air University which updates point credits as a result of completing an Extension Courses Institute correspondence program.

f. DFAS provides data on (VIP) for Medical Officers which is used to update a special control file within PDS and produce necessary reports for management of the VIP program.

g. Air Training Command operates a system called PACE (Processing and Classification of Enlistees) at Lackland Air Force Base, TX. From that system data is fed to AFMPC to initially establish the PDS record on an Air Force enlistee.

h. On a monthly basis, copies of the PDS Master Personnel File are provided to the Human Resources Laboratory at Brooks Air Force Base, TX, where they are used as a statistical data base for research purposes.

i. On a quarterly basis, AFMPC provides the USAF School of Aerospace Medicine with data concerning name, SSN, and changes in base and command of assignment of flying personnel. The

data reflects significant medical problems in the flying population.

j. A complete printout of PDS data pertaining to an individual is included in his Master Personnel File when it is forwarded to National Personnel Records Center.

k. PDS data is provided to the Contingency Planning Support Capability (CPSC) at five major command headquarters: Tactical Air Command, Military Airlift Command, Air Force Communications Command, United States Air Forces Europe, and Pacific Air Forces. A record identifiable by individual's name and SSN provides contingency and/or manning assistance temporary duty (TDY) being performed by the individual. Record is destroyed upon completion of the TDY. Statistical records (gross statistics by skill and unit) are also generated for CPSC from PDS providing force availability estimates. CPSC is described separately in the **Federal Register.**

2. Consolidated Base Personnel Offices (CBPO) Interfaces: Certain interfaces have been established at base level to pass data from one functional system to another. The particular mode of interface depends on the needs of the receiving function and the capabilities of the system to produce the necessary data:

a. The Flight Management Data System (FMDS) receives an automated flow of selected personal data on flying personnel as changes occur. This data consists primarily of assignment data and service dates which the base flight manager uses to determine appropriate category of aviation duty which is reflected by designation of an Aviation Service Code. The FMDS outputs aviation service data as changes occur to the BLMPS. These data subsequently flow to the PDS central site files at AFMPC so it is available for resource management decisions.

b. The Medial Administration Management System (MAMS), currently being developed and tested, will receive flow of selected assignment data as changes occur for personnel assigned to medical activities. MAMS will use these data to align assigned personnel with various cost accounting work centers within the medical activity and thus be able to track manpower expenditure by subactivities.

c. The Automated Vehicle Operator Record (AVOR) is being developed to support motor vehicle operator management. Approximately 115 characters of vehicle operator data will be incorporated into the BLMPS data base during FY76 for both military and civilian personnel authorized to operate government motor vehicles and selected personnel data items (basic identification data) will be authorized for access by the vehicle operator managers.

d. Monthly, a magnetic tape is extracted from BLMPS containing selected assignment data on all assigned personnel. This tape is transferred to the base Accounting and Finance Office for input into the Accounting Operations System. This system uses these data to derive aggregate base manpower cost data.

e. A procedure is designed into BLMPS to output selected background data in predefined printed format for personnel being administered military justice. This output is initiated upon notification by the base legal office. The data is forwarded to the major command where it is input into the Automated Military Justice Analysis and Management System (AMJAMS).

f. The BLMPS output (on an event-oriented basis) pay-affecting transactions such as certain promotions, accessions, and assignments/reassignments, to DFAS, where the data is entered into the JUMPS.

Uses external to the Air Force, but within DOD.

1. To The Office Of The Secretary Of Defense (OSD): Individual information is provided to offices in OSD on a recurring basis to support top-level management requirements within the Department of Defense. Examples are the DOD Recruiter File to the Assistant Secretary for Manpower and Reserve Affairs (M&RA), a magnetic tape extract of military personnel records (RCS: DDM(SA)1221) to M&RA, input to the Reserve Component Common Personnel Data System to M&RA, and the Post Career Data File to M&RA.

2. To other Defense Agencies: PDS supports other components of DOD by provision of individual data in support of programs operated by those agencies. Examples are the Selected Officer List to Defense Intelligence Agency for use in monitoring a classified training program and the Defense System Management School (DSMS) Track Record System to DSMS for use in evaluating the performance of graduates of that institution. An extract file on Air National Guard Technicians is provided the National Guard Computer Center.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Other Government/Quasi-Government Agencies: Information used in analyzing officer/airman retention is provided RAND Corporation. Data on prior service personnel with military service obligations is forwarded to the National Security Agency. Lists of officers selected for promotion and/or appointment in the Regular Air Force are sent to the Office of the President and/or the Congress of the United States for review and confirmation. Certain other personnel information is provided these and other government agencies upon request when such data is required in the performance of official duties. Selected personnel data is provided foreign governments, United States governmental agencies, and other Uniformed Services on USAF personnel assigned or attached to them for duty. Examples: the government of Canada, Federal Aviation Administration, US Army, Navy, etc.

Litigation/Miscellaneous: Lists of individuals selected for promotion or appointment, who are being reassigned, who die, or who are retiring are provided to unofficial publications such as the Air Force Times, along with other information of interest to the general Air Force public. Information from PDS support a world-wide locator system which responds to queries as to the location of individuals in the Air Force. Locator information pertinent to personnel on active duty may be furnished to a recognized welfare agency such as the American Red Cross or the Air Force Aid Society. For civilian personnel--to provide automated system support to Air Force officials at all levels from that part of the Office of Personnel Management required personnel management and records keeping system that pertains to evaluation, authorization and position control, position management, staffing skills inventory, career management, training, retirement, employee services, rights and benefits, merit promotion, demotions, reductions in force, complaints resolution, labor management relations, and the suspensions and processing of personnel actions; to provide for transmission of such records between employing activities within the Department of Defense--to provide individual records and reports to OPM; to provide information required by OPM for the transfer between federal activities; to provide reports of military reserve status to other armed services for contingency planning--to obtain statistical data on the work force to fulfill internal and external report requirements and to provide Air Force offices with information needed to plan for and evaluate manpower, budget and civilian personnel programs--to provide minority group designator codes to the Office of Personnel Management's

automated data file--to provide the Office of the Assistant Secretary of Defense, Manpower and Reserve Affairs, with data to access the effectiveness of the program for employment of women in executive level positions--to obtain listings of employees by function or area for locator and inventory purposes by Air Force offices--to assess the effect or probable impact of personnel program changes by simulations and modeling exercises--to obtain employee duty locations and other information releasable under OPM rules and the Freedom of Information Act to respond to request from Air Force offices, other Federal agencies and the public--to provide individual records to other components of the Department of Defense in the conduct of their official personnel management program responsibilities--to provide records to OPM for file reconciliation and maintenance purposes--and to provide information to employee unions as required by negotiated contracts.

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Maintained in visible file binders/cabinets, card files, on computer magnetic tapes, disks or computer paper printouts or microfiche.

RETRIEVABILITY:

Retrieved by name or Social Security Number (SSN). The primary individual record identifier in PDS is SSN. Some files are sequenced and retrieved by other identifiers; for instance, the assignment action record is identified by an assignment action number. Additionally, at each echelon there exists computer programs to permit extraction of data from the system by constructing an inquiry containing parameters against which to match and select records. As an example, an inquiry can be written to select all Captains who are F–15 pilots, married, stationed at Randolph AFB, who possess a master's degree in Business Administration; then display name, SSN, number of dependents and duty location. There is the added capability of selecting an individual's record or certain preformatted information by SSN on an immediate basis using a teletype or cathode ray tube display device. High-speed line printers located in the Washington DC area, at major command headquarters, and ARPC permit the transfer of volume products to and for the use of personnel managers at those locations.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in the performance of their official duties where authorized, and properly screened and cleared for need-to-know, and by commanders of medical centers and hospitals. Records are stored in security file containers/cabinets, safes, vaults and locked cabinets, safes, vaults or rooms. Records are protected by guards. Records are controlled by personnel screening visitor registers and computer system software.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Preceding retention statement applies to Analog output products of the PDS. Data stored digitally within system is retained only for the period required to satisfy recurring processing requirements and/or historical requirements. Files with a retention period of 364 days or less are automatically released at the end of their specified retention period. "Permanent history" files are retained for 10 years. Files 365 or more days old are defined as "historical files" and are not automatically released. Retention periods for categories of PDS files are as follows: If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next daily, then the retention will be not greater than 10 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next daily, which is also used for processing of weekly runs, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next weekly, which is also used for processing of monthly runs, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is weekly, and the created magnetic tape file will be used for processing of next weekly, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is weekly, and the created magnetic tape file will be used for processing of next weekly, which is also used for processing of monthly runs, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of quarterly runs, then the retention will be not greater than 90 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of semi-annual run, the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is monthly, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, then the retention will be not greater than 90 days. If cycle in which program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of semi-annual run, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is annual, and the created magnetic tape file will be used for processing of next annual, then the retention will be not greater than 365

days. If cycle in which a program or series of programs creating output is annual, and the created magnetic tape file will be used for processing of next annual, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If the program or series of programs creating output is a one time run, and the file will be used for processing as required, then the retention will be lowest possible retention commensurate to job completion. If the program or series of programs creating output is compile card image or SOLT tapes, and the created magnetic tape file will be used for processing as required run, then the retention will be not greater than 90 days maximum. If cycle in which a program or series of programs creating output is as required runs, and the created magnetic tape file will be used for processing as required, the retention will be lowest possible commensurate to job completion. If the program or series of programs creating output is test files, and the created magnetic tape file will be used for processing as required, then the retention will be not greater than 30 days. If the program or series of programs creating output is print/punch backup and the created magnetic tape file will be used for processing as required, then the retention will be not greater than 10 days. In addition, for civilian personnel at base level (CCPO), master personnel files for prospective employees are transferred to the active file upon appointment of the employee or in the event the employee is not appointed and will no longer be considered a candidate for appointment, are destroyed by degaussing-master personnel files for active employees are transferred to the separated employee history file where they are retained for three years subsequent to separation and then destroyed by degaussing. The notification of personnel action--Standard Form 450--is disposed of as directed by OPM--work files and records such as the employee career brief, position survey work sheet, retention register work sheet, alphabetic and Social Security Number locator files, and personnel and position control register are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning--work sheets pertaining to qualification and retention registers are disposed of as directed by the Office of Personnel Management--transitory files such as pending files, and recovery files are destroyed after use by degaussing--files and records retrieved through general retrieval systems are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning. Those records at AF Manpower and Personnel Center for the end of each fiscal year quarter are retained for five years before destroying by deletion--the separated employee file retains employee information at time of separation for five years after which the employee's record is destroyed by degaussing. System manager(s) and address: Deputy Chief of Staff, Personnel, Headquarters United States Air Force, Washington, DC 20330–1000. Subordinate system managers are:

a. Director of Personnel Data Systems, Assistant Deputy Chief of Staff for Personnel, Headquarters Air Force Military Personnel Center (HQ AFMPC), Randolph Air Force Base, TX 78150–6001. He is responsible for overall PDS design, maintenance and operation, and is designated the Automated Data Processing system manager for all Air Force personnel data systems.

b. The Director of Personnel Data Systems at each major command headquarters for systems operated at that level.

c. The Chief, CBPO, at Air Force installations for systems operated at that level.

d. The Civilian Personnel Officer at Air Force installations for civilian systems operated at that level. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the system manager of the operating level with which they are concerned.

Persons submitting such a request, either personally or in writing, must provide SSN, name, and military status (active, ANG/USAFR, retired, etc.) ANG members not on extended active duty may submit such requests to the appropriate State Adjutant General or the Chief of the servicing ANG CBPO. USAFR personnel not on extended active duty may submit such requests to ARPC, Denver, CO 80280–5000, or, if unit assigned, to the Chief of the serving CBPO or Consolidated Reserve Personnel Office. Personal visits to obtain notification may be made to the Military Records Review Room, Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150–6001; The Military Records Room, Air Reserve Personnel Center, Denver CO 80280; The Office of the Director, National Personnel Records Center (NPRC), 111 Winnebago St., St. Louis, MO 63118; the office of the Director of Personnel Data Systems at the appropriate major command headquarters; or the office of the Chief of his servicing CBPO. Identification will be based on presentation of DD Form 2AF, Military Identification Card. Air Force civilian employees must provide SSN, full name, previous names, if any, last date and location of Air Force civilian employment, if not currently employed by the Air Force-- current employees should submit such requests to the CCPO--former employees of the Air Force should submit such requests to the CCPO for the last Air Force installation at which they were employed. Authorizations for a person other than the data subject to have access to an individual's records must be based on a notarized statement signed by the data subject.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the subordinate system manager at AFMPC, ARPC, NPRC, Major Command or CBPO/CRPO/CCPO. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CONTESTING RECORDS PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35, Air Force Privacy Act Program, 32 CFR part 806b, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, medical institutions, automated system interfaces, police and investigating officers, the bureau of motor vehicles, a state or local government and source documents such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEMS:

None.

[FR Doc. 92–16335 Filed 7–10–92; 8:45 am]

BILLING CODE 3810–01–F

Department of the Army

Office of the Secretary of the Army; Environmental Assessment to Assess the Impacts of the Realignment of the Joint Readiness Training Center and the 199th Separate Motorized Brigade to Fort Polk, LA

Dated: July 7, 1992.

AGENCY: Department of Defense, United States Army.

ACTION: Notice of availability.

SUMMARY: Public Law 101–510, the Defense Base Closure and Realignment Act of 1990, mandates the realignment of the Joint Readiness Training Center and the 199th Separate Motorized Brigade to Fort Polk, Louisiana. The Army is required by law to analyze the environmental and socioeconomic impacts of this realignment. An Environmental Assessment has been prepared to do that analysis.

The Enviromental Assessment has resulted in a Finding of No Significant Impact. It was determined that the proposed action would not have significant environmental impacts. There are significant socioeconomic impacts related to the population decrease at Fort Polk as a result of this realignment. There will be a loss of about 6,800 jobs and a loss of $125.8 million in annual income from the Fort Polk regional area of influence. The Army has approved, subject to environmental documentation, additional stationing which will reduce the socioeconomic impacts. The additional stationing will reduce the loss of jobs to about 4,900 and loss of income to about $77.8 million. Community assistance is available from the Department of Defense Office of Economic Adjustment.

FOR FURTHER INFORMATION CONTACT: For more information, or to obtain copies of the Environmental Assessment, contact the U.S. Army Corps of Engineers, Memphis District, ATTN: CELMM–PD–F, B–202, Clifford Davis Federal Building, Memphis, TN 38103–1894, or call (901) 544–3460.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety & Occupational Health), OASA(I,L&E).

[FR Doc. 92–16295 Filed 7–10–92; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary of the Army

Notice of Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act Public Law 92–463, announcement is made of the following Committee Meeting:

Name of Committee: Department of Defense 50th Anniversary of World War II Advisory Committee (DoDAC), a sub-committee of the Department of the Army Historical Advisory Committee

Date of Meeting: July 13, 1992.

Place: National Defense University, Fort Lesley J. Mc Nair, 4th and P Streets SW., Washington DC 20319–6000

Time: 9 am to 3:30 pm

Proposed Agenda: Provide an overview of the Department of Defense Plan to commemorate the 50th Anniversary of World War II, (1991–1995), for new committee members. Summarize commemorative events and programs that have been conducted or initiated since the previous DoDAC meeting. Review service and interservice plans for CY 92 commemorative events and programs. Plan for future programs and commemorative events, educational programs and commemorative community programs.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, contact Lieutenant Colonel Roger D. King, HQDA (SACC), Pentagon, room 3E524, Washington DC 20310–0107, or telephone (703) 692–2095.

Roger D. King

Lieutenant Colonel, GS Chief, European Division.

[FR Doc. 92–16577 Filed 7–10–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Office of Administrative Law Judges; Intent to Compromise a Claim, American Printing House for the Blind

AGENCY: Department of Education.

ACTION: Notice of intent to compromise a claim under the General Education Provisions Act (GEPA).

SUMMARY: The Department intends to compromise a claim against the American Printing House for the Blind now pending before the Office of Administrative Law Judges, Docket No. 89–29–0. This notice is filed pursuant to section 452(j) of GEPA (20 U.S.C. 1234a(j)) and 34 CFR 81.26.

DATES: Interested persons may comment on the proposed action by submitting written data, views, or arguments on or before August 27, 1992.

ADDRESSES: All comments concerning this notice should be addressed to Lucinda A. Stewart, Esq., Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., room 4099, FOB–6, Washington, DC 20202–2110.

FOR FURTHER INFORMATION CONTACT: Lucinda A. Stewart, Esq. Telephone: (202) 401–2666. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300 between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The claim in question arose from an audit of the financial affairs and operations of the American Printing House for the Blind (APHB) for the fiscal years 1983–1987 (i.e., July 1, 1982 to June 30, 1987). The audit was performed by the Department of Education's Office of Inspector General (OIG). The auditors questioned the allowability of certain expenditures under "An Act to Promote Education of the Blind" passed by Congress sin 1879 and codified in 20 U.S.C. 101 *et seq.*

This statute authorizes an annual appropriation for APHB to manufacture and distribute educational materials adapted for blind and visually impaired students who are below college age. These materials include textbooks in braille and large-type print, as well as braille typewriters and microcomputer software and hardware. The materials are distributed to State departments of education, residential schools for the blind, and rehabilitation agencies and organizations based upon the relative numbers of eligible students or clients enrolled in their respective programs. Specifically, as described in the annual reports APHB submits to the Department, each recipient agency or institution receives an annual quota allocation based upon the "per pupil" registration for that fiscal year and can order materials and products free-of-charge up to the level of this dollar allocation or credit. The total number of materials and products provided is determined by the size of the appropriation and the actual unit production costs incurred by APHB in creating these products.

The statute provides that the price put upon each article so manufactured or furnished shall only be its actual cost and that no part of the appropriation shall be expended in the erection or leasing of buildings. 20 U.S.C. 102(2) and (3). Based upon these provisions, the auditors took exception to APHB's inclusion of depreciation on its buildings

and building improvements in its calculation of actual production costs, which had the effect of reducing the number of products ultimately distributed to the recipients.

Based upon this OIG finding, the Assistant Secretary for Special Education and Rehabilitative Services (OSERS) concluded that APHB had overcharged its quota recipients by $312,900 for the subsidized products and, in a March 23, 1989, program determination letter, notified APHB that it would have to either return this amount to the Federal Government or restore the disallowed amount to the recipients on a proportional basis.

By letter dated April 21, 1989, APHB sought review of the disallowance, and on August 25, 1989, the United States Department of Education Office of Administrative Law Judges (OALJ) accepted jurisdiction of the appeal. In the proceeding before the OALJ, OSERS determined that, based on the applicable statute of limitations in 20 U.S.C. 1234(k), it was necessary to lower the amount of the claim to $210,894.60, because the Department was barred from recovering funds spent by APHB prior to March 1984.

On May 8, 1991, the OALJ determined that APHB's inclusion of building depreciation expense violated the statute, but reserved for future determination the second factual and legal issue raised by APHB in its appeal; namely, whether APHB should be permitted to offset the disallowance with losses it allegedly sustained in Federal quota sales during the period covered by the disallowance. APHB maintained that the recipients were not, in fact, harmed by the inclusion of depreciation expense because APHB sold the subsidized products for less than the cost of production.

The Department intends to compromise the full amount of the $210,894.60 claim for $100,000, which APHB has agreed to disburse as additional credits to the recipients, on a prorata basis, over a two-year period beginning on October 1, 1992.

The Department believes this amount represents a fair compromise. In compliance with the May 8, 1991 OALJ order, APHB has corrected the practice that resulted in the disallowance decision. Over the next two-year period, APHB has further agreed to provide $100,000 worth of additional credits to the affected agencies and institutions, over and above their annual quota distributions—credits that will be made from non-Federal sources. Given the fact that blind and visually impaired individuals will receive substantial tangible benefits in the form of additional books and other educational products for the next two years and the risk and costs of litigating the complex evidentiary and legal matters raised by APHB in its second appeal issue, the Department believes that continuation of the adversarial proceeding is not practical or in the public interest.

The public is invited to comment on the Department's intent to compromise this claim. Additional information may be obtained by writing to Lucinda A. Stewart at the address given at the beginning of this notice.

Program Authority: 20 U.S.C. 1234a(f).

Dated: July 7, 1992.

William D. Hansen,

Acting Assistant Secretary for Office of Management and Budget/Chief Financial Officer.

[FR Doc. 92-16301 Filed 7-10-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Placement and Administration

Naval Petroleum Reserves; California; Crude Oil Sale

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent.

SUMMARY: DOE announces that consideration is being given to revising its solicitation for the sale of crude oil from the Naval Petroleum Reserves in California (NPRC), Kern County, California. The possible revisions being considered would incorporate a "Right of First Refusal" if bids fail to meet the Statutory Minimum Price.

DATES: Persons interested in the opportunity to provide comments conerning the revisions to the solicitation for the sale of NPRC crude oil should submit their comments on or before July 28, 1992.

ADDRESSES: Additional information may be received from and comments should be addressed to: Ms. Jacqueline Kniskern, U.S. Department of Energy, Office of Placement and Administration, PR-322.1, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2830.

Thomas S. Keefe,

Director, Program Support Division, Office of Placement and Administration.

[FR Doc. 92-16383 Filed 7-10-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RS92-21-000]

National Fuel Gas Supply Corp.; Prefiling Conference

July 6, 1992.

Take notice that a prefiling conference will be convened in this proceeding on July 21, 1992, continuing through July 22, 1992, if necessary, at 10 a.m., in Washington, DC at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC. If it becomes necessary to change the location of the conference, a future notice will state a new location.

The purpose of the conference is to address National Fuel Gas Supply Corporation's summary of its proposal to comply with Order No. 636. The pipeline expects to serve the summary on all parties in this proceeding by July 7, 1992.

All interested parties are invited to attend. However, attendance at the conference will not confer party status. For additional information, interested parties may call Donald Williams at (202) 208-0743.

Lois D. Cashell,

Secretary.

[FR Doc. 92-16294 Filed 7-10-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4152-8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before August 12, 1992. To obtain a copy of this ICR, contact Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Application for NPDES Discharge permit and the Sewage Sludge Management Permit (ICR 0226.09).

Abstract: ICR 0226.09 requests renewal of OMB clearance for all reporting requirements imposed upon facilities applying for the permit to discharge wastewater and facilities disposing of or applying sewage sludge.

EPA administers the National Pollutant Discharge Elimination System (NPDES) under section 402 of the Clean Water Act (CWA), which authorizes the Agency to issue permits for the discharge of pollutants into waters of the U.S. Under section 405 of the CWA, the Agency may also issue permits for the use and disposal of sewage sludge.

Applicants for NPDES or Sewage Sludge permits are typically publicly or privately-owned treatment works, commercial dischargers, storm water dischargers, and others. Generally, to apply for a permit, the applicants must submit information concerning their facilities, discharges, treatment systems, sewage sludge use and disposal practices, pollutant sampling data and other information. Under section 308 of the CWA, EPA may also request supplemental information to meet the purposes of the CWA.

The application and supplemental data allow EPA to establish appropriate permit conditions, to issue permits and to assess compliance with the permits. EPA stores the information in national databases which are used by permit writers in setting conditions for individual permits.

Burden Statement: The average reporting burden associated with NPDES and Sewage Sludge permits is 11.76 hours per response. This total includes time for searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. The average annual recordkeeping burden is 1.74 hours per record keeper.

Respondents: Facilities discharging wastewater; facilities disposing of or applying sewage sludge.

Etimated No. of Respondents: 96,135.

Estimated Total Annual Burden on Respondents: 1,130,866 hours.

Frequency of Collection: Every five years, on occasion.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460,

and

Matt Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: July 6, 1992.

David Schwarz,

Acting Director.

[FR Doc. 92–16259 Filed 7–10–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4153–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.),* this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 12, 1992

FOR FURTHER INFORMATION OR A COPY OF THIS ICR, CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: National Emission Standards for Hazardous Air Pollutants: Radionuclides (EPA ICR #1100.06; OMB #2060–0191). This ICR request renewal of the existing clearance.

Abstract: The EPA requires various sources which emit radionuclides to test for radionuclide emissions, to submit an annual report and to maintain test records for five years. The information elements in the annual report include: facility identification and location; a list of radioactive materials and a description of the processing which the materials undergo; a list of points where radioactive materials are released to the atmosphere; a description of emission controls at each point of release; the distance to the nearest school, residence, business or office and nearest farm producing vegetables, milk and meat; descriptions of the released radionuclides and methods for determining releases; stack, building and user-supplied input parameters and a description of construction and modifications. The Agency will use this information for compliance determination.

Burden Statement: The public reporting burden for this collection of information is estimated vary between 29 and 288 hours per response with an average of 150 hours 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.

Respondents: Federal facilities, elemental phosphorous plants, Nuclear Regulatory Commission licensees, phosphogypsum stack owners, underground uranium mine owners, and uranium mill tailings piles owners.

Estimated Number of Respondents: 221.

Estimated Total Annual Burden on Respondents: 63,348 hours.

Frequency of Collection: Annually.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y, 401 M Street, SW., Washington, DC 20460.

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503

Dated: July 2, 1992.

Paul Lapsley Director,

Regulatory Management Division.

[FR Doc. 92–16368 Filed 7–10–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4153–3]

Industrial Pollution Prevention Project Focus Group of the Technology Innovation and Economics Committee, National Advisory Council for Environmental Policy and Technology (NACEPT); Meeting

Under Public Law 92–463 (The Federal Advisory Committee Act), EPA gives notice of a meeting of the Industrial Pollution Prevention Project Focus Group of the Technology Innovation and Economics (TIE) Committee. The TIE Committee is a standing committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), an advisory committee to the Administrator of the EPA. The meeting will convene at 8:30 a.m. on July 14, 1992, and end at 12 noon on July 15. It will be located in Mount Vernon Rooms A and B of the Madison Hotel at 1177 15th Street, NW., Washington, DC 20005.

The Industrial Pollution Prevention Project Focus Group is examining methods by which pollution prevention can be encouraged, particularly through effluent guidelines. The Focus Group is investigating the possibility that among the most important barriers to the implementation of pollution prevention concepts and programs are disincentives inadvertently built into standard setting processes, including the effluent guidelines, and into associated permit and compliance programs. The Focus Group, which includes individuals from industry, academia, environmental groups, all levels of government, and other interested parties, is developing recommendations for EPA about the incorporation of pollution prevention into EPA's Office of Water effluent guidelines process and about EPA's efforts to spread the pollution prevention ethic.

The Focus Group is an "Ongoing Forum" for the Industrial Pollution Prevention Project. At the meeting, the Focus Group will discuss ideas originally presented at its March 1992 meeting about how to encourage pollution prevention through the effluent guidelines system. The effluent guidelines system includes regulations, permitting and compliance practices, and information transfer programs. The objective of this discussion will be to formulate possible recommendations to EPA.

We regret any inconvenience caused due to the late publication of this notice. Unfortunately, this "emergency publication" is required as a result of some difficulty in making hotel arrangements and some recent policy changes possibly affecting the Committee and its associated Focus Groups.

The July 14–15 meeting will be open to the public. Written comments submitted by July 10 will be received and considered by the Focus Group. Additional information about the meeting will be available July 6, 1992, and may be obtained from Jim Lund, EPA (WH–551), 401 M Street, SW., Washington, DC 20460 (202–260–7811); David R. Berg or Morris Altschuler, EPA (A–101–F6), 401 M Street, SW., Washington, DC 20460 (202–260–9153); or by written request sent either by fax at 202–260–6882 or by mail at the second address.

Dated: July 7, 1992.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 92–16369 Filed 7–10–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4153–4]

Science Advisory Board Executive Committee

July 27–28, 1992.

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Science Advisory Board's (SAB's) Executive Committee, will conduct a meeting on Monday and Tuesday, July 27–28, 1992. The meeting will be held at the Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. It will begin at 8:30 a.m. on the 27th in room 542 East Tower. After 12 noon the Committee will reconvene in the Administrator's Conference Room and conduct the remainder of its deliberations there, adjourning no later than 1 p.m. on July 28th.

At this meeting, the Executive Committee plans to review reports from its Committees on the following topics: Drinking water research program; Bioremediation research; Alaska bioremediation oil spill project; Ecological risk; Gasoline vapors in homes; Volatile exposures to volatile chemicals associated with showering; Bioremediation research; Research strategies; Radiogenic cancer risk; and Drinking water and naturally occurring radioactive materials.

In addition, selected EC members have been authorized to vet Committee reports on the following topics: Modeling of movement of viral material; Chlorine dioxide disinfection of drinking water; Ozonation and byproducts in disinfection of drinking water; Chlorine and chloramine disinfection of drinking water, Cryptosporidium in drinking water; Disinfection byproducts; Research program for ecotoxic effects of "dioxins"; Habitat assessment; and Formaldehyde.

Discussion of several of the following items will round out the agenda as time permits: Role of the SAB; Implementation of recommendations of the Expert Panel report on the Role of Science at EPA; Relationship with the Environmental Finances Advisory Board (EFAB); Update on Ecological Monitoring and Assessment Program (EMAP); Planning for the Annual Membership meeting; Tentative FY93 projects and membership considerations; Briefing on the role of contracts at EPA laboratories; and Briefing on Rio Environmental Summit.

The meeting is open to the public. Any member of the public wishing further information concerning the meeting or who wishes to submit comments should contact Dr. Donald G. Barnes, Designated Federal Official for the Executive Committee (A–101), U.S. Environmental Protection Agency, Washington, DC 20460, at (202) 260–4126 or by Fax at (202) 260–9232. Limited, unreserved seating will be available at the meeting.

Dated: July 2, 1992.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 92–16370 Filed 7–10–92; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–140186; FRL–4076–9]

Access to Confidential Business Information by ABT Associates, Incorporated

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, ABT Associates (ABT), of Cambridge, Massachusetts and Bethesda, Maryland, for access to information which has been submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than July 23, 1992.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under contract number 68–D0–0020, contractor ABT of 55 Wheeler St., Cambridge, MA and 4800 Montgomery Lane, Suite 500, Bethesda, MD, will assist the Office of Pollution Prevention and Toxics (OPPT) in performing economic analyses of pulp and paper sludge under section 6 of the Toxic Substances Control Act.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–D0–0020, ABT will require access to CBI submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of TSCA to perform successfully the duties specified under the contract. ABT personnel will be given access to information submitted to EPA under sections 4, 5, 6, 8, 9, and 2l of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the **Federal Register** of January 11, 1991 (56

FR 1185), ABT was authorized for access to CBI submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of TSCA.

EPA is issuing this notice to allow ABT access to TSCA CBI under contract number 68–D0–0020 at its Bethesda, MD facility. EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 8, 9, and 21 of TSCA that EPA may provide ABT access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and at the contractor's Bethesda, MD facility only.

ABT will be authorized access to TSCA CBI at its facility under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. Before access to TSCA CBI is authorized at ABT's site, EPA will approve ABT's security certification statement, perform the required inspection of its facility, and ensure that the facility is in compliance with the manual. Upon completing review of the CBI materials, ABT will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until September 30, 1993.

ABT personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: July 2, 1992.

Linda A. Travers,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92–16371 Filed 7–10–92; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–947–DR]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

EFFECTIVE DATE: July 2, 1992.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA–947–DR), dated July 2, 1992, and related determinations.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 2, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of California, resulting from earthquakes and continuing aftershocks commencing on June 28, 1992, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. A. Roy Kite of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster: San Bernardino County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Wallace E. Stickney,

Director.

[FR Doc. 92–16324 Filed 7–10–92; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–947–DR]

California; Amendment to Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA–947–DR), dated July 2, 1992, and related determinations.

EFFECTIVE DATE: July 2, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of California, dated July 2, 1992, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 2, 1992: Riverside County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 92–16325 Filed 7–10–92; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–949–DR]

Texas; Notice of Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

EFFECTIVE DATE: July 2, 1992.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–949–DR), dated July 2, 1992, and related determinations.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 2, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Texas, resulting from severe thunderstorms and tornadoes on June 27, 1992, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Alton S. Ray, Jr. of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster: The counties of Carson and Hutchinson for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Wallace E. Stickney,

Director.

[FR Doc. 92–16326 Filed 7–10–92; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Port Authority of New York and New Jersey; et seq.

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.6 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 021–000861–006.

Title:

Port Authority of New York and New Jersey/Universal Maritime Service Corp. Terminal Agreement.

Parties:

The Port Authority of New York and New Jersey ("Port Authority")

Universal Maritime Service Corp. ("Universal")

Synopsis: The subject modification extends the term of the lease arrangement between the Port Authority and Universal at the Red Hook Container Terminal through October 31, 1992.

Agreement No.: 224–003930–007.

Title: Port Authority of New York & New Jersey/Universal Maritime Service Corp., Terminal Lease Agreement.

Parties:

The Port of New York & New Jersey ("Port Authority")

Universal Maritime Service Corp. ("UMS")

Synopsis: The Agreement provides for the continuation of the rental modifications set forth in Supplement No. 8 to Lease No. BP–500 (Agreement No. 224–003930–006) through October 31, 1992 between the Port Authority and UMS.

Dated: July 7, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–16291 Filed 7–10–92; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

J.L.G. Forwarding, 12104 S. Lakeshore Drive, Clermont, FL 34711, Jeri L. Hayhurst, Sole Proprietor

Falcon Transportation and Forwarding Corporation, 129 Hanse Avenue, Freeport, NY 11520. Officers: Anthony F. Scorsese, President; James P. O'Connell, Secretary; Michael Belusci, Treasurer

Vil International, Inc., 150 Pacific Avenue, Jersey City, New Jersey 07304. Officers: Jeffrey M. Leben, President; Allen Clifford, Vice President

Global Trading Enterprises Inc., 14626 Kendal Lakes Blvd., Miami, FL 33183. Officers: Elizabeth Pena, President; Marco Guim, Vice President; Mario S. Cuervo, M.D., Chairman of the Board

International Shipping Corporation, 8870 N.W. 24th Terrace, Miami, FL 33172. Officers: Ottomar Krueger, President; Judy Caceres, Vice President

Seven Seas Express Company, 4706 New York Avenue, La Crescenta, CA 91214. George I. Ko, Sole Proprietor

Martin Strauss Airfreight Corp., 147–31 176th Street, Jamaica, NY 11434. Officers: Michele Moslow, President/Stockholder; Brian Solomon, Secretary; Libby Strauss, Treasurer/Stockholder; Wilhelm Walter Kuhnle, Vice President; Martin Strauss, Director

South American Freight International Inc., 6110 N.W. 74th Avenue, Miami, FL 33166. Officers: Marilu Perez, President; Maria A. Bermudez, Vice President/Secretary

BAG International, 1560 S.W. 137 Place, Miami, FL 33184. Brenda M. Alvarado, Sole Proprietor

Export Professional Group, Inc., #5 Acacia Street, Reparto Monte Rey, Pueblo Viejo, San Juan, Puerto Rico 00920. Officers: Abimael Cruz Rivera, President; Ivan Cruz Rivera, Secretary; Ruben Cruz Rivera, Treasurer

By the Federal Maritime Commission.

Dated: July 7, 1992

Joseph C. Polking,

Secretary.

[FR Doc. 92–16290 Filed 7–10–92; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Verle Burgason, 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 August 3, 1992.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Verle Burgason, Ames, Iowa, to acquire an additional 1,410 shares of voting stock, for a total of 1,443.33 shares (46.892 percent), and Jo Ann Burgason, Ames, Iowa, to acquire an additional 705 shares of voting stock, for a total of 721.37 shares (23.446 percent), of Wabeno Bancorporation, Inc., Venice, Florida, and thereby indirectly acquire State Bank of Wabeno, Wabeno, Wisconsin.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Frank and Rosaline Kiang, Oakland, California; to acquire an additional 15.31 percent, for a total of 40.64 percent, of the voting shares of Met Financial Corporation, Oakland, California, and thereby indirectly acquire Metropolitan National Bank, Oakland, California.

Board of Governors of the Federal Reserve System, July 7, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–16305 Filed 7–10–92; 8:45 am]

BILLING CODE 6210–01–F

John Horace Day, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 92-13840) published at page 25037 of the issue for Friday, June 12, 1992.

Under the Federal Reserve Bank of Atlanta, the entry for John Horace Day and Susan Beasley Day is revised to read as follows:

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. John Horace Day and Susan Beasley Day, both of Orlando, Florida, to retain 6.84 percent and to acquire an additional 6.90 percent, and E.G.P., Inc., Orlando, Florida, to retain 2.18 percent, for a total of 29.99 percent, of the voting shares of Orange Banking Corporation, Orlando, Florida, and thereby indirectly acquire Orange Bank, Orlando, Florida.

Comments on this application must be received by July 31, 1992.

Board of Governors of the Federal Reserve System, July 7, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–16309 Filed 7–10–92; 8:45 am]

BILLING CODE 6210–01–F

NationsBank Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 6, 1992.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. NationsBank Corporation, Charlotte, North Carolina; to engage *de novo* through its subsidiary, AMRESCO Services, Inc., Dallas, Texas, in providing data processing services of a financial, banking or economic nature primarily to affiliated and unaffiliated persons managing or servicing distressed assets for the FDIC, RTC, financial institutions, and other persons owning assets of a similar character, and to provide data processing services of a financial, banking or economic nature in support of the operations of certain affiliated and unaffiliated persons owning, holding or managing financial assets, for example, supporting the electronic banking services offered by financial institutions, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Independent Southern Bancshares, Inc., Brownsville, Tennessee; to engage *de novo* in providing investment or financial advice, pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 7, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–16308 Filed 7–10–92; 8:45 am]

BILLING CODE 6210–01–F

Chesley Pruet; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 92-12546) published at page 22770 of the issue for Friday, May 29, 1992.

Under the Federal Reserve Bank of Dallas, the entry for Chesley Pruet is revised to read as follows:

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Chesley Pruet, El Dorado, Arkansas; to retain 24.85 percent and to acquire an additional 5.63 percent, for a total of 30.48 percent, of the voting shares of Continental National Bancshares, Inc., El Paso, Texas, and thereby indirectly acquire Continental National Bank, El Paso, Texas.

Comments on this application must be received by July 31, 1992.

Board of Governors of the Federal Reserve System, July 7, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-16307 Filed 7-10-92; 8:45 am]

BILLING CODE 6210-01-F

U.K. Bancorporation, Inc., 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 August 6, 1992.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. U.K. Bancorporation, Inc., Falmouth, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of United Kentucky Bank of Pendleton County, Falmouth, Kentucky, a *de novo* bank in formation.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1 North Bank Corporation, Hale, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers and Merchants Bank of Hale, Hale, Michigan.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Union Planters Corporation, Memphis, Tennessee; to acquire 100 percent of the voting shares of Bank of Commerce, Woodbury, Tennessee.

Board of Governors of the Federal Reserve System, July 7, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-16310 Filed 7-10-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the "Schedule of Certified Interest Rates with Range of Maturities." This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register.**

The Secretary of the Treasury has certified a rate of 14¼% for the quarter ended June 30, 1992. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: July 7, 1992.

Dennis J. Fischer,

Deputy Assistant Secretary, Finance.

[FR Doc. 92-16342 Filed 7-10-92; 8:45 am]

BILLING CODE 4150-04-M

Indian Health Service

Health Professions Recruitment Program for Indians

AGENCY: Indian Health Service, IHS.

ACTION: Notice of competitive grant applications for the Health Professions Recruitment Program for Indians.

SUMMARY: The Indian Health Service (IHS) announces that competitive grant applications are now being accepted for the Health Professions Recruitment Program for Indians established by section 102 of the Indian Health Care Improvement Act of 1976 (25 U.S.C. 1612), as amended by Public Law 100-713. There will be only one funding cycle during fiscal year (FY) 1992. This program is described at section 93.970 in the Catalog of Federal Domestic Assistance and is governed by regulations at 42 CFR 36.310 *et seq.* Costs will be determined in accordance with OMB Circulars A-21, A-87, and A-122 (cost principles for different types of applicant organizations); and subpart Q of 45 CFR part 74 or 45 CFR part 92 (as applicable).

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led activity for setting priority areas. This program announcement is related to the priority area of Educational and Community-based programs. 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) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

DATES: An original and two copies of the completed grant application must be submitted, with all required documents, to the Grants Management Branch by close of business on August 31, 1992. Close of business means 5 p.m. Eastern daylight time.

Applications shall be considered as meeting the deadline if they are either: (1) Received by the Grants Management Branch on or before the deadline; or (2) postmarked on or before the deadline and received in time to be reviewed along with all other timely applications. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing.

Applications received after the announced closing date will be returned to the applicant and will not be considered for funding.

FOR FURTHER INFORMATION CONTACT: For program information, contact Wesley J. Picciotti, Chief, Scholarship Branch, Division of Health Professions Recruitment and Training, Indian Health Service, 12300 Twinbrook Parkway, suite 100, Rockville, Maryland 20852, (301) 443-6197. For grants information, contact M. Kay Carpentier, Grants Management Officer, Grants Management Branch, Division of Acquisition and Grants Operations, Indian Health Service, 12300 Twinbrook Parkway, suite 605, Rockville, Maryland

20852, (301) 443–5204. (The telephone numbers are not toll-free numbers).

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program purpose and objectives, eligibility requirements, funding availability and period of support, and application procedures for the Health Professions Recruitment Program for Indians for FY 1992.

A. General Program Purpose

To increase the number of American Indians and Alaska Natives entering the health professions and to assure an adequate supply of health professionals to Indians, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health care to Indian people.

B. Eligibility and Preference

The following organizations are eligible with preference given in the order of priority to:

1. Indian tribes,
2. Tribal organizations,
3. Urban Indian organizations and other Indian health organizations; and
4. Public and other nonprofit private health or educational entities.

C. Program Objectives

1. To identify Indians with a potential for education or training in Public Health (Masters level) and other health professions, and to encourage and assist them to enroll in such programs.

2. To deliver the necessary student support systems to help to ensure that students who are recruited successfully complete their academic training. Support services may include providing career counseling and academic advice; assisting students to identify academic deficiencies and to develop plans to correct those deficiencies; assisting students to locate financial aid; monitoring students to identify possible problems; assisting with the determination of need for and location of tutorial services; and other related activities which will help to retain students in school.

3. To publicize existing sources of financial aid available to Indian students interested in enrolling in or enrolled in an accredited Masters of Public Health program or accredited health professions program.

Each proposal must respond to all three objectives.

D. Required Affiliation

If the applicant is an Indian tribe, tribal organization, urban organization or other Indian health organization, or a public or nonprofit private health organization, the applicant must submit a letter of support from at least one accredited school of public health or health professions program, depending on the type of program for which it proposes to recruit. This letter must document linkage with that educational organization.

When the target population of a proposed project includes a particular Indian tribe or tribes, an official document, i.e., a letter of support or tribal resolution, must be submitted indicating that the tribe or tribes will cooperate with the applicant.

E. Fund Availability and Period of Support

In order to meet the needs of IHS for Indians in the health professions, approximately $250,000 is available in FY 1992 to fund projects for recruitment of Indian students into accredited Masters of Public Health (MPH) programs and other accredited health professions programs. The average funding level for projects in FY 1991 was $81,000. The anticipated start date for selected projects will be September 30, 1992. Projects will be awarded for a budget term of 12 months, with a maximum project period of up to three years. Funding for succeeding years will be based on the FY 1992 level, continuing need for the projects, satisfactory performance, and the availability of appropriations in those years.

F. Type of Program Activities Considered for Support

Grant programs developed to locate and recruit students with potential for (1) Masters of Public Health or (2) other health professions degree programs, and to provide support services to Indian students who are recruited.

G. Application Process

1. An IHS Recruitment Grant Application Kit may be obtained from the Grants Management Branch, Division of Acquisition and Grants Operations, Indian Health Service, 12300 Twinbrook Parkway, Suite 605, Rockville, Maryland 20852, Telephone (301) 443–5204. This Kit includes Standard Form PHS 5161–1 (Rev. 3/89); Standard Forms 424, 424A, and 424B (Rev. 4/88); Application Receipt Card—PHS 3038 (Rev. 9/81); instructions for preparing the program narrative; and IHS application check list.

2. The application must be signed and submitted by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award.

3. Each application will be reviewed at the Grants Management Branch for completeness, accuracy, and eligibility. All acceptable applications will be subject to a competitive review and evaluation. This program is not subject to Executive Order 12372.

4. If an application is disapproved or if funds are not available to support all approved applications, the affected applicants will be so notified by September 25, 1992.

H. Criteria for Review and Evaluation

1. In accordance with 42 CFR part 36, subpart J, § 36.313, Evaluation and Grant Awards, applications will be evaluated against the following criteria (with clarification added).

- The potential effectiveness of the proposed project in carrying out the purposes of Section 102, with special emphasis on the objectives and methodology portion of the application.
- The demonstrated capability of the applicant to successfully conduct the project, including organizational and scholarly commitment to the recruitment, education, and retention of Indian students.
- The accessibility of the applicant to target Indian communities or tribes, including evidence of past or potential cooperation between the applicant and such communities or tribes. Evidence must be an official document in such form as is prescribed by the tribal governing body to which recruitment efforts will be directed, i.e., tribal resolution and letters of support. In addition, applications from non-educational institutions must show an affiliation with one (or more) accredited MPH school(s) or health professions program to include letter(s) of support.
- The relationship of project objectives to Indian Health manpower's deficiencies, indicating the number of potential Indian students to be contacted and recruited as well as potential cost per student recruited. Those projects that have the potential to serve a greater number of Indians will be given first consideration.
- The soundness of the fiscal plan for assuring effective utilization of grant funds.
- The completeness of the application.

2. The project period for any proposal may not exceed three years. Continuation of a project is contingent upon satisfactory performance of the grantee, the continuing need for manpower resources in this specialty, and the availability of funds. Applications must include information for the entire anticipated project period.

Dated: June 5, 1992.

Michel E. Lincoln,

Deputy Director.

[FR Doc. 92-16312 Filed 7-10-92; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-92-3471]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. 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, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not 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 following information:

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submissions will be required;

(7) An estimate of the total 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 30, 1992.

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

Proposal: Schedule of Pooled Project Mortgage.

Office: Government National Mortgage Association.

Description of the Need for the Information and its Proposed Use: Form HUD-1172 provides a means of identifying specific project mortgages in the pool and assures that all required mortgage documents have been delivered to a document custodian. This information is necessary to assure GNMA's interest in the pooled mortgage in event of a default.

Form Number: HUD-11721.

Respondents:

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-11721	36		9		.1		32

Total Estimated Burden Hours: 32.

Status: Extension.

Contact: Charles Clark, HUD, (202) 708-2234, Brenda Countee, HUD, (202) 708-2234, Jennifer Main, OMB, (202) 395-6880.

Dated: June 30, 1992.

Proposal: Schedule of Pooled Loans—Manufactured Home Loans Issuer Certification of Pool Composition—Manufactured Home Loans.

Office: Government National Mortgage Association.

Description of the Need for the Information and its Proposed Use: The information collected provides a means of identifying specific manufactured home loans in the pool and assure that all the required loans and related documents have been delivered to a document custodian. In addition this information is necessary to assure GNMA's interest in the pooled loans in the event of a default, provide information on interest rates, terms, and constraints for manufactured home loan pools.

Form Number: HUD-11725 and HUD-11739.

Respondents: Businesses or Other For-Profit.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-11725 and HUD-1739	12		17		.25		51

Total Estimated Burden Hours: 51.

Status: Extension.

Contact: Charles Clark, HUD, (202) 708-2234, Brenda Countee, HUD, (202) 708-2234, Jennifer Main, OMB, (202) 395-6880.

Dated: June 30, 1992.

Proposal: Preference in the Provision for Families who are Occupying Substandard Housing, Involuntarily Displaced or Paying More than 50 percent of Family Income for Rent.

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: The information collected is used by Public Housing Authorities (PHAs) to determine whether prospective tenants are eligible for preference in obtaining housing because they are occupying substandard housing, involuntarily displaced, or paying more than 50 percent of their family income for rent. HUD will use the information to determine if PHAs are properly administering the programs.

Form Number: None.

Respondents: Individuals or Households, State or Local Governments and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Public Housing Authorities Inform Applicants of Federal Preference	3,300		1		3.3		10,890
Develop Procedures Applicants Qualification	330		1		12		3,960
Documents	130,000		1		1		130,000
Verify Eligibility	3,300		39		1		128,700
Government Agencies Private Landlords Certify Basis for Preference Determination	10,000		13		.25		32,500
Meeting Criteria	3,300		3.9		1		12,870

Total Estimated Burden Hours: 318,920.

Status: Reinstatement.

Contact: Edward C. Whipple, HUD, (202) 708–1015, Jennifer Main, OMB, (202) 395–6880.

Dated: June 30, 1992.

Proposal: Annual Contributions for Operating Subsidies—Performance Funding System; Determination of Operating Subsidy (FR–1775).

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: The information is used by Public Housing Authorities/Indian Housing Authorities (PHAs/IHAs) for inclusion in budget submissions which are reviewed and approved by Field Offices as the basis for obligating operating subsidies. The information is necessary in order to calculate the eligibility for operating subsidies under the Performance Funding System.

Form Number: HUD–52728A, 52728B, 52728C.

Respondents: State or Local Governments.

Frequency of Submission: Annually and on Occasion, Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–52728A,B, and C	2,400		1		2.25		5,400
Recordkeeping	2,400		1		1		2,400

Total Estimated Burden Hours: 7,800.

Status: Reinstatement.

Contact: John T. Comerford, HUD, (202) 708–1872, Jennifer Main, OMB, (202) 395–6880.

Dated: June 30, 1992.

[FR Doc. 92–16293 Filed 7–10–92; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–92–3444; FR–3142–N–02]

NOFA for the Indian Housing Development and Indian Housing Family Self-Sufficiency Programs for Fiscal Year 1992; Corrections

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA) for the Indian Housing Development and Indian Housing Family Self-Sufficiency Programs, Fiscal Year 1992; Corrections.

SUMMARY: The purpose of this notice is to make certain corrections to the Department's Notice of Funding Availability for the Indian Housing Development and Indian Housing Family Self-Sufficiency Programs (Fiscal Year 1992) published in the **Federal Register** (57 FR 26730) on June 15, 1992.

FOR FURTHER INFORMATION CONTACT: Applicants may contact the appropriate Indian FO for further information. Refer to Appendix 1 in the June 15, 1992 NOFA for a complete list of FOs and telephone numbers.

SUPPLEMENTARY INFORMATION: Accordingly, the following corrections are made to FR Document 92–13908, published in the **Federal Register** on June 15, 1992 (57 FR 26730) to read as follows:

1. On page 26731, in the second column, paragraph I.D.1.a is corrected to read as follows:

"a. Applications due from IHA's on or before July 30, 1992, 3:15 p.m., Field Office local time."

2. On page 26734, in the first column, the second sentence in paragraph II.E.2.c. is corrected to read as follows:

"c. * * * The number of calendar days from January 1, 1992 to the date of the last Program Reservation for an IHA shall be divided by the longest time, in number of calendar days, since the last Program Reservation for any IHA. * * *"

3. On page 26734, in the third column, paragraph II.F.2.c. is corrected as follows:

"c. Projects under construction with a cost increase needed to cover HUD-approved off-site sewer and water component."

4. On page 26737, in the first column, under the heading, "Appendix 1. Listing of Indian Field Offices", in item 4. for Region IX—Phoenix, the telephone number is corrected to read "(602) 379–4156" instead of "(603) 379–4156".

Dated: July 6, 1992.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 92–16292 Filed 7–10–92; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO-320-09-4211-02]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the information and collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at phone number listed below. Comments and suggestions on the requirements should be made to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004-0107), Washington, DC 20503, telephone number 202-395-7340.

Title: 43 CFR 2800 and 2880, Rights-of-Way.

OMB Approval Number: (1004-0107)

Abstract: This information, supplied by an applicant for a right-of-way, is needed for the authorized officer to determine whether or not a right-of-way may be granted, establish terms and conditions of the grant, and administer the grant when made.

Bureau Form Number: None.

Frequency: Once when an application is filed.

Description of Respondents: Applicants needing a right-of-way on Federal Lands.

Estimated Completion Time: 16.8 hours.

Annual Responses: 1,000.

Annual Burden Hours: 16,800.

Bureau Clearance Officer (Alternate): Gerri Jenkins 202-653-6105.

Dated: May 6, 1992.

Michael Penfold,

Assistant Director, Land and Renewable Resources.

[FR Doc. 92-16285 Filed 7-10-92; 8:45 am]

BILLING CODE 4310-84-M

[ES-910-02-4830-01-241A]

Change of Address; Eastern States

SUMMARY: The Department of Interior's Bureau of Land Management, Eastern States is moving. Effective August 10, 1992 our new address will be: Bureau of Land Management, Eastern States, 7450 Boston Boulevard, Springfield, VA 22153, Phone: (703) 440-1600.

FOR FURTHER INFORMATION CONTACT: Terry Lewis, Chief, Office of External Affairs, (703) 461-1369.

Dated: July 2, 1992.

Denise Meridith,

State Director.

[FR Doc. 92-16365 Filed 7-10-92; 8:45 am]

BILLING CODE 4310-GJ-M

[OR-013-02-4410-13: GP2-308]

Lakeview District Multiple Use Advisory Council; Meetings

AGENCY: Bureau of Land Management, Lakeview District, Interior.

ACTION: Notice of meeting.

SUMMARY: The Lakeview District Multiple Use Advisory Council is holding a meeting on Tuesday, August 11, 1992 at 10 a.m. at the Aspen Ridge Resort south of Bly, Oregon. The agenda for the meeting includes discussions of the preferred alternative for the Klamath Falls Resource Management Plan and a proposed plan to equalize the ratio of public/private land ownership in Lake County following potential future acquisitions.

The public is invited to attend the meeting. If you would like to attend, please contact the Lakeview District Office by Friday, August 7.

DATES: Tuesday, August 11, 1992, 10 a.m. to 3 p.m.

FOR FURTHER INFORMATION CONTACT: Renee Snyder, Public Affairs Officer, 1000 South Ninth Street, Lakeview, OR 97630, (503) 947-6110.

Bob Bolton,

Acting District Manager.

[FR Doc. 92-16287 Filed 7-10-92; 8:45 am]

BILLING CODE 4310-33-M

[ID-040-02-4320-10-ADVB]

Salmon District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATES: The meeting will be held Tuesday, August 4, and Wednesday, August 5, 1992, starting at 10 a.m. each day.

ADDRESSES: The meeting on August 4 will begin at the public library in Leadore, Idaho, for a brief business meeting, followed by a tour of the Lemhi Resource Area. On August 5, the meeting will begin at the Salmon District Office, Salmon, Idaho, with a tour of the Challis Resource Area to follow.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Public Law 92-463. The meeting is open to the public; public comments will be accepted from 10 to 10:30 a.m. on August 4. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467 by August 3, 1992. The agenda items include election of officers, update on the Challis Resource Management Plan (RMP) and Wild and Scenic River study, the status of Lemhi grazing agreements, the status of the Salmon Summit implementation, range improvements, and any other issues dealing with grazing management in the Salmon District. Summary minutes of the meeting will be kept in the Salmon District Office and will be available for public inspection and reproduction during regular business hours (7:45 a.m. to 4:15 p.m.) within 30 days following the meeting. Notification of oral statements and requests for summary minutes should be sent to Roy Jackson, District Manager, Bureau of Land Management, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467, phone (208) 756-5400.

Dated: June 19, 1992.

Roy S. Jackson,

District Manager.

[FR Doc. 92-16321 Filed 7-10-92; 8:45 am]

BILLING CODE 4310-GG-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32091]

Southern Pacific Transportation Co.; Trackage Rights Exemption; Peninsula Corridor Joint Powers Board

Peninsula Corridor Joint Powers Board (JPB) has agreed to grant trackage rights to Southern Pacific Transportation Company (SP) over 4.7 miles of JPB's lines, between Santa Clara Junction (milepost 44.0) and Tamien, CA (milepost 48.70). The trackage rights are to be on an interim basis, for a period of 90 days, and were to become effective on or after July 1, 1992.

This grant of trackage rights is one of a series of transactions[1] that will

[1] Verified notices have been filed and approved in Finance Docket No. 31980, *Peninsula Corridor Joint Powers Board and San Mateo County Transit*

Continued

facilitate freight, intercity passenger, and commuter service between Santa Clara Junction and Tamien, CA, during the transfer of commuter operations from SP to Amtrak. This notice is related to a notice filed in Finance Docket No. 32094, *Peninsula Corridor Joint Powers Board—Trackage Rights Exemption—Southern Pacific Transportation Company*, in which SP is granting JPB trackage rights over SP lines, on an interim basis for a period of 90 days. SP also anticipates filing, in Finance Docket No. 31984, a verified notice to exempt its grant of certain other trackage rights to JPB.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Gary A. Laakso, Southern Pacific Transportation Company, Southern Pacific Building, One Market Plaza, room 846, San Francisco, CA 94105.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry.*, Inc.—Lease and Operate, 360 I.C.C. 653 (1980), and as clarified in *Wilmington Term. R.R.—Pur. & Lease—CSX Transp. Inc.*, 6 I.C.C. 2d 799 (1990), *aff'd sub nom. Railway Labor Executives' Ass'n* v. *ICC*, 930 F.2d 511 (6th Cir. 1991).

Dated: July 2, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–16320 Filed 7–10–92; 8:45 am]

BILLING CODE 7035–01–M

District—Acquisition Exemption—Southern Pacific Transportation Company (not printed), served January 17, 1992, to exempt JPB's and Samtrans' acquisition of certain SP main lines; in Finance Docket No. 31983, *Southern Pacific Transportation Company—Trackage Rights Exemption—Peninsula Corridor Joint Powers Board and San Mateo County Transit District* (not printed), served January 17, 1992, to exempt JPB's and Samtrans' grant back to SP of trackage rights over certain main line that they are acquiring from SP; and in Finance Docket No. 31985, *Peninsula Corridor Joint Powers Board—Trackage Rights Exemption—Southern Pacific Transportation Company* (not printed), served January 17, 1992, to exempt SP's related grants of certain trackage rights to JPB.

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Lui on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514–4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Nonimmigrant Checkout Letter.

(2) Form G–146. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form is used in making inquiry of a person in the U.S. or abroad concerning the whereabouts of aliens and/or departure information wanted by the Immigration and Naturalization Service when initial investigation to locate the alien or verify his/her departure has been unsuccessful.

(5) 20,000 annual responses at .166 hours per response.

(6) 3,320 annual burden hours.

(7) Not applicable under 3504(h).

(1) Medical Examination of Aliens Seeking Adjustment of Status.

(2) Form I–693. Immigration and Naturalization Service.

(3) One time only.

(4) Individuals or households. Applicants for permanent resident status must establish that they are admissable to the U.S. To be admissable, they must be free of mental defect, disease, or disability, as determined by a designated physician. This form is given by the applicant to the designated physician to allow the doctor to record the results of the examination. The form is then included in the applicants application package.

(5) 350,000 annual responses at 1.5 hours per response.

(6) 525,000 annual burden hours.

(7) Not applicable under 3504(h).

(1) Petition for Alien Fiance(e).

(2) I–129F. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. By filing the I–129F, a citizen of the United States may facilitate the entry of his/her finace(e) into the United States so that a marriage between the citizen and the alien fiance(e) may be concluded.

(5) 20,000 annual responses at .5 hours per response.

(6) 10,000 annual burden hours.

(7) Not applicable under 3504(h).

Revision of a Currently Approved Collection

(1) Application for Certificate of Citizenship In Behalf of an Adopted Child.

(2) N–643. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This application is to be filed by a U.S. citizen parent or parents in behalf of an adopted alien child to become a U.S. citizen and receive a Certificate of Citizenship.

(5) 20,000 annual responses at .5 hours per response.

(6) 10,000 annual burden hours.

(7) Not applicable under 3504(h).

(1) Freedom of Information/Privacy Act Request.

(2) Form G–639. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form is used by persons requesting a search of INS records under the Freedom of Information Act or Privacy Act.

(5) 25,000 annual responses at .25 hours per response.

(6) 6,250 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: July 7, 1992.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 92-16303 Filed 7-10-92; 8:45 am]

BILLING CODE 441-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-26,764]

Ashland Exploration Co., Ashland, KY; Revocation and Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

The Department noticed, as a result of a reconsideration investigation on another case, that the workers at Ashland Exploration Company were mistakenly certified for trade adjustment assistance.

Accordingly, its recommended that the Department revoke the certification which was inadvertently issued to workers of Ashland Exploration Company in Ashland, Kentucky and issue a notice of negative determination.

Pursuant to section 223 of the Trade Act of 1974 as amended by the Omnibus Trade and Competitiveness Act of 1988, the Department, on April 9, 1992, issued a notice of negative determination regarding eligibility to apply for worker adjustment assistance. This notice was published in the **Federal Register** on April 27, 1992 (57 FR 15331).

On May 6, 1992 the Department certified on reopening a number of the oil and gas service companies which had earlier been denied. These companies perform exploration and drilling activities for unaffiliated firms in the oil and gas industry. Ashland Exploration Company was inadvertently included with the oil and gas service companies to be certified. This notice was published in the **Federal Register** on May 22, 1992 (57 FR 21828).

The investigation findings show that Ashland Exploration is not an oil and gas service company doing business with unaffiliated firms in the oil and gas industry but is engaged in crude oil and natural gas production and explores for its own account. Ashland Exploration is a wholly owned subsidiary of Ashland Oil, Inc.

Any worker or group of workers aggrieved by the Negative Determination may file for administrative reconsideration under § 90.18 of the Departmental regulations. All applications must be in writing and filed no later than 30 days after publication of this notice in the **Federal Register**. Applications are to be filed with the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, Washington, DC 20210.

Conclusion

After review of the investigation finding, I conclude that the subject worker group was mistakenly certified. Accordingly the certification is hereby revoked and the worker group is denied certification.

Signed at Washington, DC, this 30th day of June 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 92-16272 Filed 7-10-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,622]

Cincinnati Milacron Heald Corp., Worcester, MA; Negative Determination Regarding Application for Reconsideration

By an application dated May 20, 1992, the ATF Davidson Worker Assistance Center requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on March 4, 1992 and was published in the **Federal Register** on March 25, 1992 (57 FR 10385).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Its stated that the Department did not perform a thorough investigation since horizontal boring machines were excluded from the investigation.

Horizontal boring machines were excluded from the investigation because they were produced in Worcester in the 1970s with the last such machine being shipped out in 1980. This past production is outside the scope of the present investigation.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers.

The Department's survey of major customers of Cincinnati Milacron Heald Corporation in Worcester showed that the major customers did not shift their purchases of surface grinders from Worcester to foreign manufacturers in the survey period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 30th day of June 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 92-16271 Filed 7-10-92; 8:45 am]

BILLING CODE 4510-30-M

Bureau of Labor Statistics

Proposal To Provide Establishment Practices and Employee Benefits Information From Occupational Compensation Surveys

AGENCY: Bureau of Labor Statistics, Labor.

ACTION: Request for comments on proposed new data.

SUMMARY: The Department of Labor, through the Bureau of Labor Statistics, currently collects and publishes extensive data on employee compensation. Among the Department's compensation surveys is the Occupational Compensation Survey Program (OCSP), which provides locality data on occupational earnings and employee benefits. The OCSP is a combination of two former programs,

the Area Wage Survey Program and the White-Collar Pay Survey Program. Consolidating the two programs has created an ideal opportunity to reexamine the data elements collected to determine how the needs of users can best be met. Considerable research has been done on the occupational earnings data collected, and research is now being undertaken regarding the establishment benefits information collected.

The Department is seeking comments at this time regarding the establishment practices and employee benefits information that should be collected and published to best meet the needs of users. Comments are being sought at this time so that interested parties may be involved at the outset of the development of the program.

DATES: Comments are due by October 1, 1992.

ADDRESSES: Send comments to Kenneth J. Hoffmann, Project Director, Occupational Compensation Survey Program, Bureau of Labor Statistics, 441 G St. NW, Washington, DC 20212.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Hoffman, Project Director, Occupational Compensation Survey Program, Bureau of Labor Statistics, telephone 202–523–1536; or Philip M. Doyle, Project Director, Occupational Compensation Survey Program, Bureau of Labor Statistics. Telephone 202–523–1309.

SUPPLEMENTARY INFORMATION: The Bureau of Labor Statistics has combined the Area Wage Survey Program and the National White-Collar Pay Survey to form the Occupational Compensation Survey Program. The OCSP will publish occupational earnings data for approximately 200 areas on an annual or biennial basis to meet the needs of the President's Pay Agent for administering the Federal Employees Pay Comparability Act of 1990, the Labor Department's Employment Standards Administration for administering the Service Contract Act, and other public and private users. National and regional estimates will also be produced.

To obtain a better picture of compensation, the Bureau will also collect information on benefits and establishment practices for broad occupational groups ("white-collar" and "blue-collar and service workers") every two to four years. In recognition of the needs of many users for a coordinated set of national and locality data on pay and benefits, the locality data from the OCSP will be as comparable as possible with the national data provided by the Bureau's Employee Benefit Survey and the Employment Cost Index.

The Bureau has been collecting locality data on shift differentials, work schedules, and union contract coverage. Information has also been collected on the incidence of paid sick leave, life insurance, accidental death and dismemberment insurance, sickness and accident insurance, long term disability insurance, paid jury duty, funeral leave, military leave, cost of living allowances, severance pay, supplemental unemployment benefits, and retirement benefits. Provision and incidence information has been collected on holiday, vacation, and personal leave; and information has been collected on the incidence, funding, and participation rate for health plans.

Because of the major effort required to expand the occupational earnings information collected, the Bureau is temporarily limiting its data collection to information on holiday and vacation provisions and incidence and funding of health, insurance, and retirement plans.

The Bureau will like your comments on the establishment practices and employee benefits that should be included in our compensation surveys; on whether information should be collected on incidence, provisions, employee usage, or cost; what occupational groups the data should relate to; and how often such information should be collected. Commenters are encouraged to provide specific comments on the above topics.

Signed at Washington, DC, this 2nd day of July, 1992.

George L. Stelluto,

Associate Commissioner for Compensation and Working Conditions, Bureau of Labor Statistics.

[FR Doc. 92–16273 Filed 7–10–92; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Challenge IV Section) to the National Council on the Arts will be held on July 28–29, 1992 from 9:15 a.m–5 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on July 28–29 from 9:15 a.m.–10 a.m. The topics will be opening remarks and general discussion.

The remaining portions of this meeting on July 28–29 from 10 a.m.–5 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodation due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: July 8, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–16380 Filed 7–10–92; 8:45 am]

BILLING CODE 7537–01–M

Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Utilization of Museum Resources Panel B: Catalogue Section) to the National Council on the Arts will be held on August 3–4, 1992 from 9:15 a.m.–5:30 p.m. in room 716 at the Nancy Hanks Center, 110 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on August 3 from 9:15 a.m.–10 a.m. The topics will be opening remarks and general discussion.

The remaining portions of this meeting on August 3 from 10 a.m.–5:30 p.m. and August 4 from 9:15 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: July 8, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–16381 Filed 7–10–92; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Information, Robotics and Intelligent Systems Division; Workshop

The National Science Foundation (NSF) will hold a two-day workshop on Electronic Libraries on July 20–21, 8:30 a.m. to 5:30 p.m. and July 21, 1992, 8:30 a.m. to 3 p.m. at NSF's Conference and Training Center in room 500A at 1110 Vermont Avenue, NW., Washington, DC, 20550.

Electronic Libraries is a generic term used to capture the various concepts of a future knowledge network, based on the National Research and Education Network (NREN) expected to be in place in the mid 1990's. It will involve the store, distribution, and access of a variety of information and knowledge sources, tools, and materials—text, image, sound, software, scientific databases, special instruments, etc. for the enhancement of human endeavors. The goal for this workshop is threefold. First, to determine what is being done and available—experiments, research projects, resources generated, and so on. Second, to discuss new research and emerging issues in the area of electronic libraries. Lastly, the workshop will provide a forum for the community to discuss the roles that NSF can and should play to advance the field.

Invited participants will include individuals from the computer, information and library sciences who are leaders in the field from academia, industry, and government. Although the workshop will not operate as an advisory committee, the public is invited to attend. To attend the workshop or for additional information, contact Dr. Y. T. Chien, Division Director, Information, Robotics and Intelligent Systems, National Science Foundation. Telephone: (202) 357–9572.

Dated: July 6, 1992.

Y.T. Chien,

Division Director, Information, Robotics and Intelligent Systems.

[FR Doc. 92–16311 Filed 7–10–92; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

EPRI Workshop on Application of NDE for RPV Integrity

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of NRC Participation in EPRI Workshop.

SUMMARY: The Nuclear Regulatory Commission staff will attend and participate in the Workshop on Application of Non-Destructive Examination (NDE) for Reactor Pressure Vessel (RPV) Integrity being sponsored by the Electric Power Research Institute (EPRI).

DATES: July 16, 1992 8:15 a.m.

ADDRESSES: EPRI NDE Center, 1300 Harris Boulevard, Charlotte, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. M.E. Mayfield, Materials Engineering Branch, Division of Engineering, Office of Nuclear Regulatory Research, Washington, DC 20555 (Telephone: (301) 492–3844), or Mr. T. J. Griesbach, Electric Power Research Institute, 3412 Hillview Avenue, Palo Alto, CA 94303 (Telephone: (415) 855–2345).

SUPPLEMENTARY INFORMATION: Staff and contractors for both the USNRC and EPRI will participate in a workshop being hosted by the EPRI NDE Center, addressing the application of Non-Destructive Examination results in Reactor Pressure Vessel integrity analyses. The workshop will include technical presentations describing recent work on developing flaw distributions, and an open discussion on how the flaw distribution information could be incorporated into RPV integrity analyses.

Dated at Rockville, Maryland, this 8th day of July, 1992.

For the Nuclear Regulatory Commission.

Charles Z. Serpan, Jr.,

Chief, Materials Engineering Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 92–16350 Filed 7–10–92; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Salary Council

AGENCY: Office of Personnel Management.

ACTION: Notice of Meetings.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (P.L. 92–463), notice is hereby given that the eleventh and twelfth meetings of the Federal Salary Council will be held at the times and places shown below. The agenda for these meetings will be the discussion of issues relating to the new locality-based comparability payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). The meetings will be open.

DATES: July 28, 1992, and August 11, 1992, beginning at 10:00 a.m.

ADDRESSES: Room 7B09 for the July 28th meeting and Room 1350 for the August 11th meeting, Office of Personnel Management, 1990 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth O'Donnell, Chief, Salary Systems Division, Office of Personnel Management, 1900 E Street, NW., Room 6H31, Washington, DC 20415–0001. Telephone number: (202) 606–2838.

Douglas A. Brook,

Acting Director.

[FR Doc. 92–16562 Filed 7–10–92; 8:45 am]

BILLING CODE 6325–01–M

POSTAL SERVICE

Intent To Prepare Environmental Impact Statement; Public Scoping Meeting

AGENCY: Postal Service.

ACTION: Notice of intent to prepare an environmental impact statement and to hold a public scoping meeting.

SUMMARY: The U.S. Postal Service intends to prepare an Environmental Impact Statement and to hold a Public Scoping Meeting, to address all potential environmental issues that might be generated by the reuse and expansion of the Brooklyn General Post Office Building as a facility for the Federal Courts and related agencies serving the Eastern District of New York in downtown Brooklyn. The building is on a 1.9 acre parcel and contains approximately 593,000 square feet. It is located at 271 Cadman Plaza East, across the street from the existing Emanuel Celler Federal Building and Courthouse. The Brooklyn General Post Office Building is listed on the National and State Registers of Historic Places.

SUPPLEMENTARY INFORMATION: Under the proposal, the Brooklyn General Post Office Building would be expanded to approximately 1,150,000 gross square feet, and would provide space for Federal Courts, the U.S. Attorney, the U.S. Marshalls Service, and various support functions. A portion of the ground floor would continue to house a retail postal facility. The proposed project is being undertaken to service the dual needs of the United States Postal Service, which seeks an appropriate reuse for the General Post Office Building, now that its mail-processing functions have been relocated to a new facility in the Spring Creek area of Brooklyn, and the General Services Administration, which needs to accommodate the projected space requirements of the Federal Courts and related agencies.

The Environmental Impact Statement will evaluate alternative designs for reusing the General Post Office Building as a federal court facility, as well as the "No Build" alternative. The Environmental Impact Statement will also discuss other alternatives considered but rejected during project planning because they did not adequately meet project purposes and needs. The Environmental Impact Statement will assess impacts on the affected environment.

The Environmental Impact Statement will be prepared in accordance with the National Environmental Policy Act and its implementing regulations and procedures. The draft document will be released for public review and comment upon its completion.

To ensure that the full range of issues and alternatives relating to the proposed project are addressed, comments and suggestions are being solicited. To facilitate the receipt of comments, a Public Scoping Meeting will be held on July 28, 1992, from 2 p.m. to 4 p.m. and from 7 p.m. to 9 p.m. at the following location: Auditorium, Polytechnic University, Dibner Library/CATT Building, 5 Metrotech Center, Brooklyn, NY 11201.

At that time, the public and interested federal, state, county and municipal governments will have an opportunity to provide oral and written comments concerning the proposed project.

Comments on the project or the scope of work to be undertaken for the Environmental Impact Statement may also be submitted by no later than August 10, 1992, to: Mr. Charles Vidich, Program Manager, Environmental Engineering, United States Postal Service, Six Griffin Road North, Windsor, CT 06006-0310.

FOR FURTHER INFORMATION CONTACT: Charles Vidich (203) 285-7254.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.#

[FR Doc. 92-16345 Filed 7-10-92; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30897; File No. SR-NASD-90-69]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Limitation of Asset-Based Sales Charges as Imposed by Investment Companies

July 7, 1992.

I. Introduction and Background

The National Association of Securities Dealers, Inc. ("NASD") submitted on December 28, 1990, a proposed rule change pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 ("Act") and rule 19b-4 [2] thereunder to amend article III, section 26 of the Rules of Fair Practice to subject asset-based sales charges imposed in connection with mutual fund shares to a maximum sales charge. Notice of the proposed rule change appeared in the **Federal Register** on April 19, 1991.[3] The Commission received 24 comment letters.[4] This order approves SR-NASD-90-69 as proposed, effective one year from the date of this order.

In 1970, Congress amended section 22(b) of the investment Company Act of 1940 ("1940 Act") to expand the NASD's authority to prohibit NASD members from offering or selling to the public mutual fund shares that include an excessive sales load.[5] To that end, in 1975 the NASD proposed and, with Commission approval, adopted amendments to article III, section 26 of the Rules of Fair Practice to impose a limitation on the sales charge permitted as a front-end sales load on shares offered and sold by its members.[6]

Under the "maximum sales charge rule" in the existing Rules of Fair Practice, no member may offer or sell shares of any open-end investment company or any "single payment" investment plan issued by a unit investment trust registered under the 1940 Act if the public offering price includes a sales charge which is excessive. Under existing rules, the maximum front-end sales charge may not exceed 8.5 percent of the offering price of mutual fund shares. The maximum amount is scaled down in steps to 6.25 percent if investors are not offered one of three additional services or benefits: dividend reinvestment at net asset value, quantity discounts, or rights of accumulation.

II. Rationale for the Proposed Changes to the Maximum Sales Charge Rule

At the time the maximum sales charge rule was adopted, the primary method

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] See Securities Exchange Act Release No. 29070 (April 12, 1991); 56 FR 16137 (April 19, 1991).

[4] See *infra* notes, 19, 23, and 26, listing, respectively, commenters who provided specific comments on the proposal, but expressed no general opinion in favor or against it, those in favor of the proposal and those opposing the proposal.

[5] Section 22(B) provides that the NASD shall adopt rules which "prohibit its members from purchasing, in connection with a primary distribution of redeemable securities of which any registered investment company is the issuer, any such security from the issuer or from any principal underwriter except at a price equal to the price at which such security is then offered to the public less a commission, discount, or spread which is computed in conformity with a method or methods, and within such limitations as to the relation thereof to said public offering prices, as such rules may prescribe in order that the price at which such security is offered or sold to the public shall not include an excessive sales load but shall allow for reasonable compensation for sales personnel, broker-dealers, and underwriter, and for reasonable sales loads to investors." 15 U.S.C. 80a-22(b).

[6] Securities Exchange Act Release No. 11725, Investment Company Act Release No. 8980 (October 10, 1975), 8 SEC Docket 66.

used by mutual funds to finance sales related expenses was a front-end sales charge deducted from the offering price of mutual fund shares. Consequently, the rule was drafted specifically to address front-end sales charges. Since the adoption of the rule in 1975, the mutual fund industry has devised other methods of assessing sales related charges. These methods include "asset-based sales charges" [7] and "deferred sales charges," which include "contingent deferred sales charges," or "CDSLs." Contingent deferred sales charges are "contingent" since they are paid only on redemptions that occur within a specified period after purchase and may be expressed as a percentage of either the original purchase price or, more typically, the redemption proceeds.

The NASD has applied the existing maximum sales charge rule to contingent deferred sales charges even though such charges do not fit within the literal definition of sales load contained in section 2(a)(35) of the 1940 Act.[8] The rule has not been applied to asset-based sales charges, however. Such payments are the only type of mutual fund sales compensation that currently is not subject to NASD regulation. With the advent of these new methods of assessing sales charges on mutual funds, the NASD believed the Rules of Fair Practice should be amended specifically to encompass all sales charges. The NASD desired to take steps to assure a level playing field among all members selling mutual fund shares. Moreover, it believed additional amendments were necessary to prevent circumvention of the existing maximum sales charge rule because it had become possible for funds to use 12b–1 plans, either separately or in combination with initial or deferred sales loads, to charge investors more for distribution than could have been charged as an initial sales load under the existing maximum sales charge rule.[9]

[7] In 1980, the Commission adopted rule 12b-1 under the 1940 Act which allows mutual funds to use their assets to finance sales related expenses. See Investment Company Act Release No. 11414 (October 28, 1980), 45 FR 73898 (November 7, 1980).

[8] In section 2(a)(35) of the 1940 Act, "sales load" is related to the offering price of a mutual fund. It is defined as the difference between the offering price and that part of the offering price that is retained for investment, less any charges that are not for sales or promotional activities. 15 U.S.C. 80a–2(a)(35). The NASD interpreted this definition to apply to contingent deferred sales charges and therefore informed its members that it was a misrepresentation to assert that a fund with a contingent deferred sales load was a "no load fund." See NASD Notice to Members 89–35, April 1989.

[9] The Commission noted this problem of circumvention when proposing amendments to rule 12b–1 to require funds, in determining whether to implement or continue a 12b–1 plan, to consider whether total distribution charges exceed, or are reasonably likely to exceed the maximum front-end sales load permitted under the NASD's Rules of Fair Practice and under what circumstances, over the life of the investment, total distribution charges could exceed, the maximum sales load limits in the NASD Rules. See Investment Company Act Release No. 16431 (June 13, 1988), 53 FR 23258 (June 21, 1988).

III. Description of the Proposal

The proposed rule change amends Sections (b) and (d) of article III, section 26 of the Rules of Fair Practice. Section (b) provides definitions applicable to transactions within section 26, and section (d) outlines the maximum sales charge provisions for the offer and sale of mutual fund shares by NASD members.

A. Amendments to Article III, Section 26(b)

Section 26(b) has been amended to define the term "sales charge(s)" to include all charges and fees, described in the prospectus that are used to finance sales related expenses. Included in the definition are front-end, deferred and asset-based sales charges. The NASD believes the amendments to the definitional section of section 26 will effectively capture all sales charges for sales-related expenses, no matter how they are imposed, and subject them to the NASD's maximum sales charge rule.

Further, the NASD wished to clearly distinguish sales charges from service fees for the purposes of the maximum sales charge rule to ensure that members would be able to apply the appropriate caps. Accordingly, subsection (b)(8)(C) was amended to define asset-based sales charges to specifically exclude service fees and section (b)(9) has been amended to define the term "service fees." It states that service fees shall mean payments by an investment company for personal service and/or the maintenance of shareholder accounts.[10]

[10] Two commenters requested that the proposed definition of service fees be amended specifically to exclude transfer agent, maintenance, and custodian fees. See letters from Scudder Steven & Clark, and T. Rowe Price Associates, Inc., *infra* notes 19 and 23.

The NASD did not believe it would be appropriate to amend the proposal as such because it intends to distinguish service fees from other fees as a payment for personal services provided to the customer. As interpreted by the NASD, the service fee does not include recordkeeping charges, accounting expenses, transfer costs, or custodian fees. However, payment for personal services, such as a registered representative providing information on investments, is intended by the NASD to be included. Nevertheless, the NASD has represented that it will inform members of fees excluded from the service fee definition in a "Question and Answer" release following approval of this order.

B. Amendments to Article III, Section 26(d)

Section 26(d) embodies the maximum sales charge rule. Under the current rule, NASD members are prohibited from offering or selling shares of an open-end investment company "if the public offering price includes a sales charge which is excessive." The NASD has amended this section to reflect the fact that it will apply to all types of sales charges whether they are front-end, deferred or asset-based. Accordingly, section 26(d) has been amended to prohibit members from offering or selling mutual fund shares if "sales charges described in the prospectus are excessive." In its application, the maximum sales charge rule does not directly govern the mutual fund itself in setting fees, but the NASD member who underwrites and distributes the fund's shares to investors. Charges shall be deemed excessive if they do not conform to the provisions of section 26(d).

Section 26(d)(1) addresses funds that do not have an asset-based sales charge and, for the most part, reiterates the previous rule with minor changes to expand the rule's provisions to include deferred sales charges.

The proposal adds subsections (d)(1)(E) and (d)(1)(F), which are intended to establish the principle that if charges are made for services, or if services are not offered but charges are incurred, an appropriate reduction will be made from the maximum permitted sales charge. Subsection (d)(1)(E) would prohibit an NASD member from offering or selling shares in a mutual fund that has an aggregate sales charge of more than 7.25 percent of the offering price if the fund also has a service fee.

Subsection (d)(1)(F) would permit a fund without an asset-based sales charge that reinvests dividends at the offering price to have a service fee provided that: (1) The aggregate front-end and/or deferred sales charges do not exceed 6.25 percent of the offering price and (2) the fund offers quantity discounts and rights of accumulation.

Section 26(d)(2) is new and expands the rule to govern the sale of mutual funds shares with asset-based sales charges. Subsection (d)(2)(A) establishes a maximum asset-based sales charge of 6.25 percent of new gross sales,[11] plus

[11] New gross sales means the proceeds from the sale of fund shares, excluding the following: sales from the reinvestment of distributions and exchanges of shares between investment companies in a single complex, between classes of shares of an investment company with multiple classes of shares or between series shares of a series investment company.

an interest rate equal to the prime rate plus one percent per annum of the total charges—asset-based, front-end, and deferred—levied by a mutual fund that pays a service fee.[12]

Under subsection (d)(2)(B), a mutual fund with asset-based sales charges, but not service fee, would be subject to a cap of 7.25 percent of the total new gross sales, rather than 6.25 percent, plus an interest rate equal to the prime rate plus one percent, per annum.[13]

Subsection (d)(2)(C) would permit a mutual fund that has had an asset-based sales charge in the past to apply the appropriate cap of 6.25 percent or 7.25 percent retroactively to new gross sales from the time it first adopted and asset-based sales charge until the proposed amendments are implemented.

Further, under subsection (d)(2)(D), mutual funds are permitted to keep records of exchanges between mutual funds in the same complex, between classes of shares of mutual funds with multiple classes, and between series shares of series mutual funds. Such mutual funds may increase the maximum aggregate sales charges permitted under the previous sections by including such exchanges as new gross sales, provided the maximum aggregate sales charges of the mutual fund, class, or series of the redeeming mutual fund are reduced by the amount of the increase.[14]

Finally, subsection (d)(2)(E) prohibits NASD members from offering or selling the shares of a mutual fund that has an asset-based sales charge in excess of .75 percent of its average annual net assets.

Section 26(d)(3) is also new. It would prohibit any NASD member or associated person from describing a fund orally or in writing as a no-load fund if the fund has a front-end, deferred, or asset-based sales charge, except for funds with only combined asset-based sales charges and service fees of no more than 0.25 percent of average annual net assets. The NASD added this *de minimis* exception in response to the Investment Company Institute ("ICI") who argued that funds with rule 12b–1 fees of 0.25 percent or less resemble traditional no-load funds (funds with no front-end or deferred loads and no rule 12b–1 fees) much more than load funds (funds with front-end or deferred loads or larger rule 12b–1 fees).[15] The ICI contended that without the exception it would be difficult for investors to distinguish between funds that use relatively small rule 12b–1 fees to finance advertising and other sales promotion activities and funds that use larger rule 12b–1 fees as alternatives to front-end sales loads.[16]

Section (d)(4) has been added to address issues raised by the different accounting approaches used to calculate the maximum sales charge. Because the proposed rule change contemplates a minimum standard of fund-level accounting rather than individual shareholder accounting, it is possible that long-term shareholders in a mutual fund that has an asset-based sales charge may pay more in total sales than they would have paid if the mutual fund did not have an asset-based sales charge. In light of this possibility, section (d)(4) prohibits a member from offering or selling shares of such mutual funds if the fund does not disclose this information near the fee table at the front of the prospectus.

The final amendments are in section (d)(5), which prohibits NASD members and their associated persons from offering or selling the shares of a mutual fund if it pays a service fee in excess of .25 of 1% of its average annual net assets. With regard to the service fee limitations, one commenter noted that the language of the rule change does not specifically limit fees paid by an "underwriter" to the actual party providing services to the customer.[17] In responding to the comment, the NASD pointed out that as a matter of NASD jurisdiction, fees paid directly to a member by an investment company may be, and are, limited. Thus where the "underwriter" uses another member to actually provide the service to the customer, the rule change will limit the investment company's fees to the "underwriter," and the fees paid by the "underwriter" to the member provider may not exceed the limitations set forth in the rule.

IV. Summary of Comments

The Commission received 24 comment letters on the proposed rule change. The NASD responded to the issues raised by the commenters in a letter dated September 12, 1991 ("NASD response letter.")[18] To the extent that they have not been addressed in the preceding sections of this order, commenters' views and the NASD's responses are discussed below.

Nine of the comment letters received by the Commission offered specific comments on the proposal but did not, however, state if the commenter generally favored or opposed the proposal.[19] Most of these comments

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[12] The reduction from 8.5 percent, the maximum permitted under the maximum sales charge rule, to 6.25 occurs because asset-based sales charges do not provide quantity discounts or rights of accumulation and because a service fee, not subject to the cap, is paid.

[13] One commenter noted that the term "plus interest charges on *such amount*" used in subsections (d)(2)(A), (d)(2)(B) and (d)(2)(C) would require that interest be calculated on the gross cap rather than the remaining balance, and furthermore, noted that there is no standard mandating the frequency at which the remaining balance be determined. *infra* note 23. The NASD intended that interest be calculated on the remaining balance and not the gross cap. See *infra* note 18, in which the NASD represents that it will clarify this issue in a "Question and Answer" release following approval of this order.

[14] One commenter requested clarification as to (i) whether exchanges are treated as new sales or if the number of years in which sales charges were previously paid are taken into consideration; (ii) whether the current market value or the original cost is used; and (iii) what transpires if the "from" fund cap is already at zero. See letter from Colonial Management Associates, Inc., *infra* note 23.

In response, the NASD noted that exchanges are treated as new sales of the fund into which monies are transferred; the current market value of the new fund is used to determine cost and all associated charges; and if the "from" fund is at zero, the new fund sets up new maximums and the old caps would no longer be applicable. See *infra* note 18, in which the NASD represents that it will clarify this issue in a "Question and Answer" release following approval of this order.

[15] Traditionally, no-load funds have marketed their shares directly, primarily through advertising, and do not charge sales loads. Any distribution expenses have been paid by the funds' investment advisers or principal underwriters out of their profits. Load funds typically are distributed by broker-dealers; investors pay sales loads to cover brokers' commissions and other sales expenses.

[16] Letter to Lynn Nellius, Secretary NASD, from the Investment Company Institute (May 31, 1990) at 11. Currently, funds that have rule 12b–1 plans, but do not impose either front-end or deferred loads, may be described as no-load. See Investment Company Act Release No. 11645 (Feb. 25, 1981), 22 SEC Docket 238, 252–54 (order permitting the Vanguard Group to call its funds no-load although they made small distribution payments, *e.g.*, 0.02% out of fund assets, because the funds were found to be the functional equivalent of traditional no-load funds). The Commission stated it would re-examine this position in the future in light of the impact of Rule 12b–1, however. In 1988, the Commission proposed prohibiting funds with Rule 12b–1 plans from being described as no-load. Inv. Co. act Rel. No. 16431, *supra* note 9. No final action has been taken with respect to this proposal.

[17] See letter from Colonial Management Associates, Inc., *infra* note 23.

[18] See letter from John A. Taylor, Vice President Investment Companies/Variable Contracts, NASD to Katherine A. England, Esq., Branch Chief, Over-the-Counter Regulation, Division of Market Regulation, SEC, dated September 12, 1991. Also, in response to comments received, the Commission has requested and the NASD has represented that it will issue a formal "Question and Answer" release following SEC approval of the proposal to be filed with the Commission pursuant to 19(b)(3)(A) of the Act. While addressed in this order, the NASD has represented that it will also clarify in the "Question and Answer" release issues raised by commenters regarding service fees, the appropriate amount for calculating interest charges for purposes of the rule, and exchange transactions. See *supra* notes 10, 13 and 14.

[19] See letters to Jonathan G. Katz, Secretary, SEC from Barbara J. Bouchey, Lincoln Investment Planing Inc., dated May 6, 1991; Sullivan &

Continued

addressed the *de minimis* exception to the sales charge definition proposed for adoption and are therefore considered below in connection with comments received in response to the Commission's solicitation of comment on that issue.

One commenter raised issues not otherwise raised by those in favor of the proposal, those opposing the proposal, or those commenting on the *de minimis* exception. Specifically, this commenter questioned (1) the NASD's authority to regulate "Pure No-Load Funds" pursuant to article III, section 26 of the Rules of Fair Practice and (2) the NASD's jurisdiction to regulate service fees.[20] As this commenter has noted, funds that do not charge asset-based fees but do however charge service fees will be subject to NASD regulation under the proposed rule. In responding to this commenter, the NASD asserted its jurisdictional authority to regulate fees received by its members pursuant to section 22(b) of the 1940 Act [21] and section 15A(b)(6) of the Act.[22]

The Commission received eight comment letters that were generally in favor of the proposed rule change.[23] These commenters believed the NASD should regulate asset-based sales charges; they believed the proposal appropriately recognized that rule 12b–1 fees, alone or in combination with contingent deferred sales charges, generally serve as the functional equivalent of traditional front-end sales charges and should therefore be subject to NASD regulation. Moreover, those in favor of the proposal believed it constituted a step forward in this area, providing significant protections for investors while allowing flexibility in fund distribution systems. Some commenters who supported the proposal requested modifications of various sections as discussed below.

One commenter who was otherwise in favor of the proposed rule change suggested that the small one-time asset-based sales charges on very large purchases should not trigger a change in the fund's classification resulting in a substantial decrease in the maximum sales charge permitted.[24] The NASD believes it is difficult to exclude the "one-time charges" from the parameters of the rule as the fund's own disclosure documents describe these fees as asset-based sales charges. Both the Commission and the NASD have taken the position that providing such relief would not be compatible with the proposed rule.

Another commenter generally in favor of the proposed rule change suggested allowing an asset-based distribution charge with an annual maximum of .75%–1.0% which is not limited with a cap.[25] Here again, the NASD and the Commission are of the opinion that such a modification would undermine the intent of the rule, inasmuch as an overall cap, which is equivalent regardless of the type of sales charge assessed, is the essence of the proposed rule change.

The Commission received comment letters from seven commenters who expressed complete opposition to all aspects of the proposed rule change. [26] Most of these commenters who expressed opposition to the proposed rule change maintained that the proposed rule should not be approved because they believe fees are already adequately disclosed in the prospectus and that potential shareholders need only examine the mutual fund fee table, required in every fund prospectus, to determine if the costs of the fund are fair and reasonable.[27] Similarly, these commenters asserted that shareholders seeking alternatives to funds with sales charges and 12b–1 fees have a variety of no-load funds from which to choose. The NASD believes and the Commission agrees that disclosure alone is insufficient to achieve market uniformity and investor protection in this context. While disclosure is the cornerstone of the securities laws, the Commission believes the NASD's proposal would further the objectives of market uniformity and investor protection.

Further, those opposing the rule change objected to the fee capping aspect of this proposal, arguing that the government does not require the same disclosure and fee caps for other products such as bank certificates of deposit and insurance products. Approval of the proposal, thus, would place the mutual fund community at a competitive disadvantage.[28] In response to this argument, the NASD has stated that it does not believe the proposed rule change imposes any burden on the ability of investment companies to compete for investor's dollars not necessary or appropriate in the furtherance of the purposes of the Act. In addition, the Commission notes that the alternative investment products to which commenters have compared mutual fund shares are subject to an entirely different regulatory scheme, and some differences in the nature of regulation may be warranted.

In the same vein, commenters expressed opposition to the proposed rule change because they believed that the proposed rule would not give NASD members reasonable compensation for the skills and services provided to mutual fund shareholders. More specifically, three commenters opposed the imposition of the .25 percent service fee limitation entirely, arguing that this amount is inadequate compensation for brokers.[29] Having considered this argument, the NASD has informed the Commission that it believes a .25 percent annual service fee is adequate compensation for the service provided to investors as no aggregate cap is imposed on service fees and such fees may be assessed indefinitely.

Two commenters generally opposing the proposal, and one who offered specific comments but no general opinion in favor or against the proposal contended that the rule change should not be retroactively applied to investments made under the then-existing rules where fees were adequately disclosed in the prospectus and/or fee table.[30] The NASD takes

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Worcester, dated May 10, 1991; Scudder, Stevens & Clark, Inc., dated May 9, 1991; Benham Capital Management Group, dated May 15, 1991; Drinker Biddle & Reath, dated May 9, 1991; 100% No-Load Mutual Fund Council, dated May 28, 1991; Templeton Funds Management, Inc., dated July 2, 1991; The Dreyfus Corporation, dated June 27, 1991; and The Association of No-Load Mutual Fund Investors, dated June 17, 1991.

[20] See letter from Drinker, Biddle & Reath, *supra* note 19.

[21] 15 U.S.C. 80a–22(b) (1988).

[22] 15 U.S.C. 78*o*–3(b)(6) (1988).

[23] See letters to Jonathan G. Katz, Secretary, SEC from The Vanguard Group of Investment Companies, dated May 8, 1991; Lord Abbett Co., dated May 10, 1991; Investment Company Institute, dated May 10, 1991; Invesco MIM Inc., dated April 29, 1991; Colonial Management Associates, Inc., dated May 10, 1991; T. Rowe Price Associates, Inc., dated May 10, 1991; The Keystone Group, dated May 10, 1991; and Fidelity Management & Research Co., dated May 10, 1991.

[24] See letter from Lord Abbet & Co., *supra* note 23.

[25] See letter from Invesco MIM Inc., *supra* note 23.

[26] See letters to Jonathan G. Katz, Secretary, SEC from Loscalzo & Saile, dated May 9, 1991; Thomas Forst, Treasurer, Lincoln Investment Planning Inc., dated May 7, 1991; Kleinbard, Bell & Brecker, dated May 9, 1991; Manchester Advisors, dated May 6, 1991; J. Bush & Co. Incorporated, dated May 9, 1991; Charles Trzcinka, dated May 23, 1991; and L. A. Hendershot & Associates, Inc. dated May 6, 1991.

[27] See letters from Loscalzo & Saile; Manchester Advisor; L. A. Hendershot & Associates, Inc.; and Keinbard, Bell & Brecker, *supra* note 26.

[28] See letters from Manchester Advisors; Thomas Forst, Treasurer, Lincoln Investment Planning Inc.; Kleinbard, Bell and Brecker; and L. A. Hendershot & Associates, *supra* note 26.

[29] See letters from J. Bush & Co. Incorporated; Kleinbard, Bell & Brecker; and Loscalzo & Saile, *supra* note 26.

[30] See letters from Barbara J. Bouchey, Lincoln Investment Planning Inc.; Kleinbard, Bell and Brecker; and Thomas Forst, Treasurer, Lincoln Investment Planning, Inc., *supra* notes 19 and 26.

issue with this position and believes that it is advantageous for investment companies to apply the proposed rule change to investments made prior to the effective date of the proposed rule change. The proposed rule change would apply current charges to old debts, thereby allowing investment companies to recoup distribution costs which were previously paid and intended to be amortized. Without this provision, the NASD asserts that funds would have difficulty paying off their debts while remaining within the rule's limitations. In addition, the NASD has asserted that if this were not permitted funds would be forced to utilize three different net asset values: (1) Investments made before the new rule: (2) investments made under the new rule; and (3) investments made after the cap is reached.

Finally, in its notice of the proposed rule change, the Commission specifically requested comment on the no-load *de minimis* exception in section 26(d)(3) of the proposal. Commenters addressed what they believed to be the consequences of use of the "no-load" designation by funds that assess a charge on assets to finance sales activities. Four commenters who objected strongly to the *de minimis* exception argued that the no-load designation should be reserved for funds with no sales or distribution charges so as not to undercut their distinctive marketing advantage or confuse investors.[31] Two argued that 0.25 percent was not "immaterial" in that it would be the equivalent of a 2.25 percent front-end sales load for an investor that held the shares for ten years.[32]

Six commenters supported the *de minimis* exception, saying that funds with small asset-based charges were functionally similar to traditional no-load funds because they both use low-cost distribution systems. [33] One of these commenters supplied statistical data to show that funds with *de minimis* charges had expense ratios generally comparable to those of most traditional no-load funds.[34] Commenters also pointed out that the prospectus fee table, which discloses actual fees and charges, would minimize investor confusion. The NASD agreed and expressed the opinion that the industry generally supports this exception.[35]

Moreover, two commenters favoring the proposal pointed out that without a *de minimis* exception the rule could have anomalous results, since a fund with a high advisory fee but no distribution fee could be described as no-load while a fund with a *de minimis* distribution fee and a low advisory fee could not use the no-load label, even if the two funds had the same overall expense level.[36] These commenters suggested that this would give the fund without an explicit distribution fee an unfair marketing advantage.

V. Discussion

The Commission has considered all comments received and has determined that the NASD's proposed rule change should be approved. The Commission is of the opinion that the proposed rule change carries out the NASD's congressional mandate to prevent excessive sales charges on mutual funds shares. The Commission believes that the proposed rule change appropriately balances the need to ensure that the NASD's rules allow broker-dealers, sales personnel and underwriters to receive reasonable compensation, against the need to ensure that investors are charged reasonable sales loads. While disclosure of the sales loads in the fund's prospectus is critical to an informed investor, disclosure alone in this instance is insufficient to comply with the congressional mandate that the NASD adopt rules to prevent excessive sales loads. Additionally, the Commission believes the amendments will promote fairness by assuring some degree of parity between the sales and sales-promotion expenses permitted of traditional load funds and those allowable to funds that assess finance charges against their assets.

The Commission has considered the jurisdictional issues raised with respect to service fees in the comments received and finds that regulation of these fees is within the NASD's jurisdiction. The ability of the NASD, through its rules, to regulate comprehensively mutual fund fees received by members is fully consistent with the statutory mandate of section 22(b) of the 1940 Act that gives the NASD authority to prohibit excessive sales loads, and with protection of investors and the promotion of just and equitable principles of trade pursuant to section 15A(b)(6) of the Act.

Section 22(b) of the 1940 Act gives the NASD a specific grant of authority to prohibit excessive sales loads. In addition, section 15A(b)(6) of the Act requires, in pertinent part, that the Association adopt and amend its rules to promote just and equitable principles of trade, and in general to provide for the protection of investors and the public interest. The requirement that the Association's rules comport with just and equitable principles of trade encompasses the power to provide safeguards against unreasonable rates of commission or other charges.

The Association's proposal would revise its existing regulation of maximum sales charges that may be imposed by investment companies. The revision would extend the current maximum sales charge rule to include asset-based sales charges and tailor the rule's application to different sales charge compensation structures. The purpose of the revised maximum sales charge rule is to create "approximate economic equivalency" as to maximum sales charges for different types of mutual funds. Given the specific mandate of section 22(b) of the 1940 Act and the requirement of just and equitable principles of trade embodied in section 15A(b)(6) of the Act, the Commission is of the view that the NASD has authority to adopt rules that ensure overall reasonableness of sales fees received by members.

The Association's proposal would also directly limit members' underwriting and distribution of shares of investment companies that impose or pay service fees in excess of prescribed maximums. These limitations are intended to assure that service fees paid by investors are reasonable. If maximum sales loads are regulated, but service fees are not subject to any maximum limitation, it will be possible for members and investment companies to circumvent the intention of the sales fee rules by imposing or paying increased service fees. Such a result would frustrate the NASD's power to regulate sales charges pursuant to section 22(b) of the 1940 Act. In addition,

[31] See comments from the 100% No-Load Mutual Fund Council; Benham Capital Management Group; Scudder, Stevens & Clark; and Charles Trzcinka, Associate Professor of Finance at the University of Buffalo, *supra* notes 19 and 26.

[32] See comments of the 100% No-Load Mutual Fund Council (arguing that approval of the proposal "will be sending a message that 25 basis points is immaterial") and of Charles Trzcinka, *supra* notes 19 and 26.

[33] These were the Investment Company Institute, T. Rowe Price Associates, INVESCO MIM, Dreyfus Corporation, the Association of No-Load Mutual Fund Investors, and the Vanguard Group. The Association of No-Load Mutual Fund Investors qualified their support, suggesting that the limit be 0.10% and that the use of the no-load label be limited to funds with aggregate fees and expenses of no more than 1% of average annual net assets.

[34] Letter to Jonathan G. Katz, Secretary, SEC, from the Investment Company Institute, dated December 20, 1991.

[35] NASD response letter, *supra* note 18 at 2.

[36] Dreyfus Corporation and the Vanguard Group. Vanguard also contended that all funds incur sales-related expenses and pay for them directly out of disclosed rule 12b–1 fees or indirectly out of the advisory fee.

the limitations on service fees are consistent with the NASD's authority, pursuant to section 15A(b)(6), to prevent excessive compensation of members and to assure that fees paid by investors for services are reasonable. Accordingly, the Commission finds the NASD has properly exercised its authority in proposing to limit both sales loads and service fees.

The Commission believes that the maximum asset-based sales charge of .75 of 1 percent per annum of average net assets in subsection (d)(2)(E) of the proposed rule and the maximum service fee of .25 of 1 percent of a fund's average annual net assets proposed in subsection (d)(5) should be adequate to finance sales related expenses and to provide compensation for continued service to mutual fund shareholder accounts.

The Commission also has considered the scope of the prohibition on use of the no-load label and finds the NASD's proposal to include a *de minimis* exception appropriate. To a large degree, the components of financing distribution costs—sales loads, rule 12b-1 fees, advisory fees, and underwriting fees—are all inextricably linked. Given that all funds have distribution costs, tying the no-load label to the "sales charge/no sales charge" distinction may ignore the realities of distribution financing.

Making statistical comparisons, on the other hand, as to whether funds with *de minimis* 12b-1 charges ("*de minimis* fee funds") more closely resemble traditional no-load funds or traditional load funds is complicated somewhat by the evolution of the mutual fund industry. Virtually all *de minimis* fee funds are money market funds, a type of fund that did not exist until 1970. Most traditional load funds are equity funds or bond and income funds; virtually none is a money market fund. Accordingly, because expense ratios vary greatly among fund investment objectives, comparing expense ratios of *de minimis* fee funds to those of traditional load funds is difficult.

Comparing the expense ratios of *de minimis* fee funds to traditional non-load funds is possible, however, and that comparison supports the NASD's determination to include the *de minimis* exception. Data submitted by the Investment Company Institute indicates that, for all fund categories analyzed, although *de minimis* fee funds on average have higher expense ratios than funds without such charges, the difference is relatively small—between 12 and 24 basis points, depending on fund size and investment objective.

Moreover, there is a significant degree of overlap between the expense ratios of *de minimis* fee funds (funds with rule 12b-1 fees of 0.25 percent or less) and traditional no-load funds. For example, the data show that the expense ratios of *de minimis* fee funds almost all fall within the range of variation for traditional no-load funds in every fund investment objective category. Taxable and tax-free money market funds that have a traditional no-load structure have a mean expense ratio of 0.55 percent; their expense ratios range from 0.01 percent to 1.52 percent. *De minimis* fee money market funds have a mean expense ratio of 0.72 percent, with expense ratios ranging from 0.13 percent to 1.88 percent. Ninety-nine percent of all *de minimis* fee money market funds have expense ratios within the range of variation of traditional no-load money market funds.[37]

Thus, *de minimis* fee funds and traditional no-load funds are generally comparable in price. Any differences may be properly addressed by the prospectus fee table, preventing possible investor confusion. Accordingly, the Commission believes that the line drawn by the NASD is reasonable and consistent with its mandate under the Act.

It is Therefore Ordered, Pursuant to section19(b)(2) of the Act, that the proposed rule change, SR–NASD–90–69 be, and hereby is, approved. Pursuant to the NASD's request, this rule shall become effective July 7, 1993.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–16296 Filed 7–10–92; 8:45 am]

BILLING CODE 8010–01–M

[37] Similarly, 100% of all *de minimis* fee equity funds have expenses within the range of variation of traditional no-load equity funds, and 97% of all *de minimis* fee bond and income funds have expense ratios within the range of variation of traditional no-load bond and income funds. Moreover, although most of the funds in these ranges are distributed relatively close to the respective medians, the expense ratios of significant numbers of *de minimis* fee funds and traditional no-load funds overlap within the first standard deviation of each set of curves that was compared.

DEPARTMENT OF STATE

[Public Notice 1652]

Public Information Collection Requirements Submitted to OMB for Review

AGENCY: Department of State.

ACTION: The Department of State has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

SUMMARY: The Department of State is requesting extension of approval for the Nonimmigrant Visa Application form and the Application for Immigrant Visa and Alien Registration. The Nonimmigrant Visa Application is used by aliens who desire to travel to the United States in nonimmigrant status. The information provided on the form assists in identifying the applicant and in determining the applicant's eligibility for a nonimmigrant visa. The Application for Immigrant Visa and Alien Registration is needed to assist consular officers in determining whether an applicant is entitled to immigrant visa status and whether any grounds of ineligibility apply to the applicant, and provides the Immigration and Naturalization Service with information for registration of the alien after admission. The following summarizes the information collection proposals submitted to OMB:

1. Type of request—Extension.
Originating office—Bureau of Consular Affairs.
Title of information collection—Nonimmigrant Visa Application.
Frequency—On occasion.
Form No.—OF–156.
Respondents—Aliens Applying for Nonimmigrant Visas.
Estimated Number of respondents—8,000,000.
Average hours per response—1 hour.
Total estimated burden hours—8,000,000.

2. Type of request—Extension.
Originating office—Bureau of Consular Affairs.
Title of information collection—Application for Immigrant Visa and Alien Registration.
Frequency—On occasion.
Form No.—OF–230 (Parts I & II).
Respondents—Aliens Seeking Immigrant Visas.
Estimated number of respondents—600,000.
Average hours per response—24 hours.
Total estimated burden hours—14,400,000.

Section 3504(h) of Public Law 96–511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook (202) 647–3538. Comments and questions should be directed to (OMB) Lin Liu (202) 395–7340.

Dated: July 2, 1992.

Sheldon J. Krys,

Assistant Secretary for Diplomatic Security.

[FR Doc. 92-16315 Filed 7-10-92; 8:45 am]

BILLING CODE 4710-43-M

[Public Notice 1653]

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Department of State.

ACTION: The Department of State has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

SUMMARY: The Department of State is requesting approval for the Non immigrant Fiance(e) Visa Application form. The Nonimmigrant Fiance(e) Visa Application, is used by aliens who are beneficiaries of a fiance(e) petition filed by a United States citizen and approved by the United States Immigration and Naturalization Service, who intend to enter the United States to conclude a valid marriage with the petitioner. The information provided on the form assists in identifying the applicant and in determining the applicant's eligibility for a nonimmigrant fiance(e) visa. The following summarizes the information collection proposal submitted to OMB;

Type of request—Existing information collection without an OMB control number.

Originating office—Bureau of consular Affairs.

Title of information collection—Nonimmigrant Fiance(e) Visa appication.

Frequency—On occasion.

Form No—OF-156K.

Respondents—Aliens Applying for Nonimmigrant Fiance(e) Visas.

Estimated number of respondents—6,000.

Average hours per response—24 hours.

Total estimated burden hours—144,000.

Section 3504(h) of Public Law 96-511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook (202) 647-3538. Comments and questions should be directed to (OMB) Lin Liu (202) 395-7340.

Dated: July 2, 1992.

Sheldon J. Krys,

Assistant Secretary for Diplomatic Security

[FR Doc. 92-16316 Filed 7-10-92; 8:45 am]

BILLING CODE 4710-43-M

The Commission for Broadcasting to the Peoples Republic of China, Public Notice 1654

ACTION: Notice of meeting.

SUMMARY: The Commission will hold public meetings.

DATES: July 22, 1992, 9:30 a.m., to 4:45 p.m.

ADDRESSES: 1555 Wilson Boulevard, suite 604, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Marge Cook, Deputy Executive Director, 703-235-9000.

Dated: July 1, 1992.

Marjorie S. Cook,

Deputy Executive Director.

[FR Doc. 92-16286 Filed 7-10-92; 8:45 am]

BILLING CODE 4710-10-M

[Public Notice 1650]

Office of the Legal Adviser; Public Notice Correction

This notice serves to correct information in 57 FR 28897. The telephone number listed for the Office of the Assistant Legal Adviser for International Claims and Investment Disputes is incorrect. The correct telephone number is (202) 653-2412.

Dated: June 30, 1992.

Ronald J. Bettauer,

Assistant Legal Adviser for International Claims and Investment Disputes.

[FR Doc. 92-16318 Filed 7-10-92; 8:45 am]

BILLING CODE 4710-08-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee (TPSC); Initiation of a Review to Consider Designation of Albania as a Beneficiary Developing Country Under the Generalized System of Preferences (GSP); Initiation of a Review to Consider Designation of Ethiopia as a Beneficiary Developing Country Under the GSP; Solicitation of Public Comments Relating to the Designation Criteria

AGENCY: Office of the United States Trade Representative.

ACTION: Solicitation of Public Comment with respect to the eligibility of Albania and the eligibility of Ethiopia for the Generalized System of Preferences (GSP) program.

SUMMARY: The purpose of this notice is to announce the initiation of a review to consider designation of Albania and the designation of Ethiopia as beneficiary developing countries under the GSP program, and to solicit public comment relating to the designation criteria.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., room 517, Washington, DC 20506. The telephone number is (202) 395-6971. Public versions of all documents related to this review will be available for review by appointment with the USTR Public Reading Room shortly following filing deadlines. Appointments may be made from 10 a.m. to noon and 1 p.m. to 4 p.m. by calling (202) 395-6186.

SUPPLEMENTARY INFORMATION: The TPSC has initiated a review to determine if Albania and Ethiopia each meet the designation criteria of the GSP law and should be designated as beneficiaries. The GSP is provided for in the Trade Act of 1974, as amended (19 U.S.C. 2461-2465). The designation criteria are listed in sections 502(a), 502(b) and 502(c) of the Act. Interested parties are invited to submit comments regarding the eligibility of Albania and the eligibility of Ethiopia for designation as GSP beneficiaries. The designation criteria mandate determinations related to participation in commodity cartels, preferential treatment provided by beneficiaries to other developed countries, expropriation without compensation, enforcement of arbitral awards, international terrorism, and internationally recognized worker rights. Other practices taken into account include market access for goods and services, investment practices and intellectual property rights.

An original and fourteen (14) copies of comments regarding each country may be submitted, in English, to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, 600 17th Street, NW., room 517, Washington, DC 20506. Comments must be received no later than 5 p.m. on August 12, 1992.

Information and comments submitted regarding this notice will be subject to public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted "business confidential" status pursuant to 15 CFR 2003.6. If the document contains business confidential information, an original and fourteen (14) copies of a nonconfidential version of the submission along with an original and (14) copies of the confidential version must be submitted. In addition, the document containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the document.

The version which does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each and every page (either "public version" or "non-confidential").

Daniel F. Leahy,

Acting Chairman, Trade Policy Staff Committee.

[FR Doc. 92-16375 Filed 7-10-92; 8:45 am]

BILLING CODE 3190-01-M

Trade Policy Staff Committee; Generalized System of Preferences (GSP); Results of the Review of Petitions Requesting Changes in the List of Articles Eligible for Duty-Free Treatment Under the GSP in the Special GSP Review for Central and Eastern Europe

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of results of Special GSP Review for Central Eastern Europe.

SUMMARY: The purpose of this notice is to announce the disposition of the petitions accepted for review in the Special GSP Review for Central and Eastern Europe.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., room 517, Washington, DC 20506. The telephone number is (202) 395-6971.

SUPPLEMENTARY INFORMATION: This publication contains the dispositions of the petitions accepted for review in the Special GSP Review for Central and Eastern Europe (56 FR 37758 and 56 FR 65750). These petitions requested additions to the list of articles eligible for duty-free treatment under the GSP program. The GSP is provided for in the Trade Act of 1974, as amended (19 U.S.C. 2461-2465). The review was conducted pursuant to regulations codified as 15 CFR 2007. The President's decision concerning the Special GSP Review for Central and Eastern Europe have also been reflected in a proclamation (57 FR 26969) and in a recent USTR press release (the press release is available by contacting the USTR Public Affairs Office at (202) 395-3230). These changes were implemented July 2, 1992. All communications with respect to this notice should be addressed to the Director, Generalized System of Preferences, room 517, 600 17th Street, NW.

Daniel F. Leahy,

Acting Chairman, Trade Policy Staff Committee.

ANNEX I—SPECIAL GSP REVIEW FOR CENTRAL AND EASTERN EUROPE

[Petitions to add products to GSP: granted]

Case No.	HTS No.	Petitioning country	Product	1991 imports ($thousands)		Comments
				C. and E. Europe*	All GSP beneficiaries	
SCEER-1	0210.1200	Hungary	Pork Bellies	137.5	169.3	
SCEER-4	1210.1000	Czechoslovakia	Hop Cones	7,035.1	7,036.4	
SCEER-5	1602.4940	Hungary	Prepared or Preserved Pork	1,690.3	1,690.3	
SCEER-6	1602.5020	Hungary	Prepared or Preserved Beef	149.6	7,653.6	Exclude Argentina.
SCEER-9	2204.1000	Hungary	Sparkling Grape Wine	9.3	1,350.7	
SCEER-11	2204.2130	Hungary	Tokay wines	0.0	0.0	Breakout.
SCEER-12	2204.2180	Hungary	Grape Wine, >14% Alcohol	22.2	36.3	
SCEER-15	2902.9040	Czechoslovakia	1,4 Dibenzene, Anthracene	0.0	5.2	Breakout, Exclude India.
SCEER-16	2904.1004	Czechoslovakia	2-Anthracenesulfonic acid	39.5	39.5	Exclude India.
SCEER-17	2904.1008	Poland	Benzenesulfonyl chloride	0.0	914.1	Exclude India.
SCEER-18	2904.9035	Czechoslovakia	4,4'-Dinitrostilbene-2,2'disulfonic acid	0.0	0.0	Exclude India.
SCEER-19	2907.1530	Czech/Poland	2-Napthol (Beta-Napthol)	63.7	63.7	Exclude India.
SCEER-20	2907.2300	Poland	4,4'-Isopropylidenediphenol and its salts	0.0	0.0	Exclude India.
SCEER-21	2908.2008	Czechoslovakia	1-Napthol-4-sulfonic acid	0.0	0.0	Exclude India.
SCEER-22	2908.2015	Czechoslovakia	1,8-Dihydroxynapthic acid	25.3	25.3	Exclude India.
SCEER-23	2908.9024	Czechoslovakia	4,6-Dinitro-o-cresol	0.0	0.0	Exclude India.
SCEER-24	2914.4920	Czechoslovakia	Ninhydrin	0.0	0.0	Exclude India.
SCEER-25	2914.6100	Czechoslovakia	Anthraquinone	0.0	49.6	Exclude India.
SCEER-26	2915.9014	Czechoslovakia	Valproic acid	0.0	181.3	Exclude India.
SCEER-27	2916.3906	Czechoslovakia	Cinnamic acid	0.0	0.0	Exclude India.
SCEER-28	2917.1910	Hungary	Ferrous Fumarate	368.4	748.0	Exclude India.
SCEER-29	2918.2150	Poland	Salicyclic acid and its salts	7.2	14.4	Exclude India.
SCEER-30	2918.2925	Czechoslovakia	3-Hydroxy-2-napthic acid	0.0	0.0	Exclude India.
SCEER-31	2921.4215	Czech/Poland	N-Ethylaniline; and N,N-Diethyaniline	26.4	31.6	Breakout, Exclude India.
SCEER-32	2921.5920	Czechoslovakia	4,4'Diamino-2,2'-stilbenedisulfonic acid	0.0	0.0	Exclude India.
SCEER-33	2922.3014	Czechoslovakia	2-Aminoanthraquinone	0.0	0.0	Exclude India.
SCEER-34	2922.3018	Czech/Hungary	1-Aminoanthraquinone; and Ketamine hydrochloride	0.0	0.0	Breakout, Exclude India.
SCEER-35	2922.4915	Czechoslovakia	Benzocaine; and Procaine hydrochloride	0.0	608.9	Breakout, Exclude India.
SCEER-36	2922.5005	Hungary	Alpha-methyldopa	2,499.1	2,958.0	Exclude India.
SCEER-37	2924.2118	Czechoslovakia	Sym-diethyldiphenolurea	0.0	505.5	Exclude India.
SCEER-38	2925.2015	Czechoslovakia	N,N-Diphenylguanadine	0.0	31.8	Exclude India.
SCEER-39	2926.9008	Czechoslovakia	Benzonitrile	0.0	0.0	Exclude India.
SCEER-40	2926.9014	Czech/Hungary	Verapamil hydrochloride; P-chlorobenzonitrile	0.0	0.0	Breakout, Exclude India.
SCEER-41	2926.9017	Czechoslovakia	O-chlorobenzonitrile	0.0	147.3	Exclude India.
SCEER-42	2930.9024	Czechoslovakia	N-cyclohexylthiophthalimide	2.4	336.6	Exclude India.
SCEER-43	2932.2925	Czechoslovakia	4-Hydroxy coumarin	0.0	12.7	Exclude India.
SCEER-44	2933.3915	Hungary	Cyproheptadine hydrochloride	160.1	259.4	Exclude India.
SCEER-45	2933.4004	Hungary	Chloroquinoline diphosphate	0.0	0.0	Exclude India.
SCEER-46	2933.4008	Hungary	4,7'-Dichloroquinoline	0.0	0.0	Exclude India.
SCEER-47	2933.5130	Hungary	Phenobarbital	97.0	97.0	Exclude India.
SCEER-48	2933.5932	Hungary	Trimethoprim	0.0	2,342.6	Exclude India.
SCEER-49	2933.9044	Hungary	Carbadox	0.0	0.0	Exclude India.

ANNEX I—SPECIAL GSP REVIEW FOR CENTRAL AND EASTERN EUROPE—Continued

[Petitions to add products to GSP: granted]

Case No.	HTS No.	Petitioning country	Product	1991 imports ($thousands)		Comments
				C. and E. Europe*	All GSP beneficiaries	
SCEER-50	2933.9059	Hungary	Imapramine hydrochloride	0.0	640.4	Exclude India.
SCEER-51	2934.3008	Hungary	Prochloroperazine maleate; and Promethazine hydrochl	58.5	58.5	Exclude India.
SCEER-52	2934.3015	Hungary	Chloropromazine hydrochloride	370.9	370.9	Exclude India.
SCEER-53	2934.9008	Czechoslovakia	2,5-Diphenyloxazole	12.3	12.3	Exclude India.
SCEER-55	2935.0053	Hungary	Glyburide, Furosemide	15.7	1,737.5	Exclude India.
SCEER-57	2936.2600	Hungary	Vitamin B12	17.9	17.9	Exclude India.
SCEER-56	2937.9240	Hungary	Ethynodiol deconoate, D-Norgestrel, DL-Norgestrel	777.4	848.6	Exclude India.
SCEER-58	2937.9960	Hungary	Nandrolone phenpropionate	0.0	0.0	Exclude India.
SCEER-59	2937.9940	Hungary	Nandrolone deconoate; and Pipcuriunm bromide	60.0	1,948.9	Exclude India.
SCEER-61	2939.4010	Czechoslovakia	Pseudoephedrine and its salts	0.0	0.0	Exclude India.
SCEER-62, 63.	2939.4050	Czechoslovakia	Ephedrines and their salts	125.0	125.0	Exclude India.
SCEER-64	2941.4000	Hungary	Chloramphenicol & derivatives	34.7	34.7	Exclude India.
SCEER-67	3204.2010	Czechoslovakia	Fluorescent brightening agent 32	0.0	0.0	Exclude India.
SCEER-68	3204.2050	Czechoslovakia	Synthetic organic fluorescent B	0.0	597.2	Exclude India.
SCEER-69	3812.1010	Czechoslovakia	N-cyclo-2-penzene; and 2-Mercaptobenzene (MBT)	0.0	84.7	Exclude India.
SCEER-70	3812.3040	Czechoslovakia	N-1,3-Dimethylbutyl-N-phenyl-P-phenylediamine; and N-	0.0	10.2	Exclude India.
SCEER-71	3822.0050	Czechoslovakia	Laborastory reagents	0.0	706.8	Exclude India.
SCEER-73	5404.1040	Hungary	Synthetic monofilament of polypropylene, n/o 254mm le	0.0	1,237.1	Breakout Specific Dimensions.
SCEER-75	6912.0035	Hungary	Ceramicware <$38	0.0	1,530.6	
SCEER-78	6912.0048	Hungary	Ceramicware	373.9	3,970.3	
SCEER-81	7013.3130	Hungary	Glassware $3< >$5	1,292.6	1,331.1	
SCEER-82	7318.1580	Poland	Screws & Bolts	36.0	4,475.6	
SCEER-83	8112.9110	Hungary	Unwrought gallium, Gallium powder	38.7	38.7	
SCEER-85	8482.3000	Poland	Spherical roller bearings	2,660.0	2,672.1	
SCEER-86	8482.4000	Poland	Needle roller bearings	4.6	842.6	
SCEER-87	8482.5000	Poland	Cylindrical roller bearings	1,019.8	1,264.6	
SCEER-88	8482.8000	Poland	Combination bearings	90.0	269.5	
SCEER-89	9105.1910	Czechoslovakia	Alarm clocks	0.0	0.0	Exclude Brazil.
SCEER-90	9105.1940	Czechoslovakia	Alarm clocks	2.1	2.1	Exclude Brazil.
SCEER-91	9404.3080	Czechoslovakia	Sleeping bags	0.0	79.6	
SCEER-92	9609.1000	Czechoslovakia	Pencils, Crayons, leads encased	0.0	0.0	
			Total	19,323.2	52,216.6	
			Petitions to Add Products to GSP, 1991 AR**—GRANTED			
91-14	1210.2000	Yugoslavia	Hop cones	41.4	76.8	
91-31	2401.1040	Turkey	Oriental/Turkish cigarette leaf	16,570.6	22,989.3	
			Total	16,612.0	23,066.1	
			Total petitions to add products-GRANTED	35,935.2	75,282.7	

*Imports from Eligible Central and Eastern European Countries, Excluding Yugoslavia
**Petitions Submitted in Context of 1991 GSP Annual Review, to be Implemented as part of the Special GSP Review.

ANNEX II—SPECIAL GSP REVIEW FOR CENTRAL AND EASTERN EUROPE

[Petitions to add products to GSP: denied]

Case No.	HTS No.	Petitioning country	Product	1991 imports ($ thousands)		Comments
				C. & E. Europe*	All GSP Beneficiaries	
SCEER-2	0406.9030.40	Hungary	Goya cheese	2,587.3	6,056.0	
SCEER-3	0712.9075	Hungary	Dried tomatoes	1,588.6	8,773.5	
SCEER-8	2009.6000	Hungary	Grape juice, Must	0.0	14,905.3	
SCEER-10	2204.2140	Hungary	Grape Wine, <14% Alcohol, other than "Tokay" wines.	4,203.4	10,956.1	
SCEER-13	2204.2180	Hungary	Tokay wines	0.0	0.0	Subsumed under SCEER-12,Breakout
SCEER-14	2208.2050	Hungary	Grape Brandy	0.0	0.0	
SCEER-60	2939.1020	Czechoslovakia	Codeine phosphate	0.0	12.1	
SCEER-65	3204.1250	Czechoslovakia	Mordant black 11	1,010.8	3,029.4	
SCEER-66	3204.1550	Czechoslovakia	Various vat dyes	199.2	686.6	
SCEER-72	3912.2000	Hung/Czechoslov	Cellulose nitrates in primary forms	518.0	566.4	
SCEER-74	6911.1010	Hungary	Institutional Chinaware, Porcelain	779.7	4,365.8	
SCEER-76	6912.0039	Hungary	Household Ceramicware >$38	35.8	27,361.0	
SCEER-77	6912.0045	Hungary	Household Ceramicware	460.6	2,107.0	
SCEER-79	7013.2120	Czechoslovakia	Drinking glasses $.30< >$3	214.8	406.6	
SCEER-80	7013.2130	Czechoslovakia	Drinking glasses $3< >$5	417.9	917.0	

ANNEX II—SPECIAL GSP REVIEW FOR CENTRAL AND EASTERN EUROPE—Continued

[Petitions to add products to GSP: denied]

Case No.	HTS No.	Petitioning country	Product	1991 imports ($ thousands)		Comments
				C. & E. Europe*	All GSP Beneficiaries	
SCEER-84	8482.1050	Hung/Czechoslov	Ball bearings	5,696.5	13,905.1	
			Total	17,712.6	94,041.9	
			Petitions to Add Products to GSP—Withdrawn			
SCEER-7	2003.1000	Hungary	Mushrooms	773.3	45,995.9	
SCEER-54	2935.0035	Czechoslovakia	Sulfasalazine	0.0	1.4	Breakout
			Total	773.3	45,997.3	

*Imports from Eligible Central and Eastern European Countries, Excluding Yugoslavia
**Petitions Submitted in Context of 1991 GSP Annual Review, to be implemented as part of the Special GSP Review

[FR Doc. 92-16374 Filed 7-10-92; 8:45 am]
BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 92-7-7; Docket 48056]

Application of Kiwi International Air Lines, Inc. for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Kiwi International Air Lines, Inc., fit, willing, and able and award it a certificate of public convenience and necessity to engage in interstate and overseas scheduled air transportation.

DATES: Persons wishing to file objections should do so no later than July 20, 1992.

ADDRESSES: Objections and answers to objections should be filed in Docket 48056 and addressed to the Documentary Services Division (C-55, room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathy Lusby Cooperstein, Air Carrier Fitness Division (P-56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2337.

Dated: July 7, 1992.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 92-16361 Filed 7-10-92; 8:45 am]
BILLING CODE 4910-62-M

Federal Republic of Yugoslavia Aviation Sanctions; Notice

SUMMARY: The Department of Transportation has issued a final order implementing the Executive Order imposing aviation sanctions with regard to the Federal Republic of Yugoslavia (Serbia and Montenegro).

By Order 92-6-27, served June 22, 1992, the Department of Transportation imposed a number of conditions on all U.S. and foreign air carrier licenses, designed to prohibit transactions relating to transportation between the United States and the Federal Republic of Yugoslavia (Serbia and Montenegro), hereafter referred to as "Yugoslavia". Specifically, the Department prohibited U.S. and foreign air carriers (direct and indirect) and their agents from selling in the United States any transportation by air which includes a stop in Yugoslavia and from engaging in foreign air transportation to or from the United States with aircraft of Yugoslav registry. The Department also prohibited all U.S. air carriers (direct and indirect) and their agents from engaging in any transaction relating to transportation to or from Yugoslavia and prohibited all foreign air carriers (direct and indirect) and their agents from engaging in any transaction in the United States relating to transportation to or from Yugoslavia.

Dated: July 7, 1992.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 92-16362 Filed 7-10-92; 8:45 am]
BILLING CODE 4910-62-M

Coast Guard

[CGD1-92-086]

Alteration of Obstructive Bridge—Chelsea St. Chelsea River (Creek), Boston, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing; request for comment.

SUMMARY: The Chelsea Street Bridge has been the subject of numerous complaints that it is an unreasonable obstruction to navigation. On August 19, 1992, the Coast Guard will hold a public hearing to provide an opportunity for all interested persons to present data, views, and comments orally or in writing concerning the obstructive nature and possible alteration of the Chelsea St. Bridge across Chelsea River (Creek) between Chelsea and East Boston, Massachusetts.

DATES: (a) The hearing will be held on August 19, 1992, commencing at 7 p.m. (b) Written comments in conjunction with the public hearing may be submitted on or before September 9, 1992.

ADDRESSES: (a) The hearing will be held at room 801, Boston City Hall, City Hall Plaza, Boston, MA 02201. (b) Written comments may be submitted at the hearing or may be mailed to Commander (obr), First Coast Guard District, room 628, Capt. John Foster Williams Bldg., 408 Atlantic Avenue, Boston, MA 02110-3350.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668-7170.

SUPPLEMENTARY INFORMATION: The Commandant of the Coast Guard has authorized a public hearing to be held by the Commander, First Coast Guard District to receive comments regarding

the obstructive character of the Chelsea Street Bridge. The public hearing will give the bridge owner, waterway users, and other interested parties an opportunity to be heard and to offer information and comments regarding required alterations to the bridge to provide reasonably free, safe, and unobstructed passage for waterbone traffic. In addition, the public hearing will help develop additional facts pertaining to the cost of vessel allisions with the bridge, savings due to the elimination of delays to waterbone traffic, future navigational needs, the mimimum suggested horizontal and vertical clearances required to accommodate present and future navigation, the preferred location of the navigation opening, and any effect the alteration may have on the human environment.

Request for Comments

Interested persons are invited to participate in this action by attending the public hearing and/or by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give the basis for their opinion.

Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope. All comments received will be considered before final action is taken.

Public Hearing

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the purpose of the hearing and announce the procedures to be followed at the hearing. Persons planning to appear and make statements or otherwise present information are requested to notify the Contact Officer listed above by August 17, 1992. Such notification should include the approximate time required to make the presentation. Depending on the number of scheduled speakers, it may be necessary to limit the amount of time allocated to each person. Any limitation of time allocated to each speaker will be announced at the beginning of the hearing. A transcript will be made of the hearing and may be purchased by the public.

The hearing will be held: August 19, 1992, commencing at 7 p.m., room 801, Boston City Hall, City Hall Plaza, Boston, MA 02201.

Authority: 33 U.S.C. 513; 33 CFR 116.20.

Dated: July 2, 1992.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 92-16252 Filed 7-10-92; 8:45 am]

BILLING CODE 4910-14-M

[CGD 92-041]

National Boating Safety Advisory Council; Applications for Appointment

AGENCY: Coast Guard, DOT.

ACTION: Request for applicants.

SUMMARY: The U.S. Coast Guard is seeking applicants for appointment to membership on the National Boating Safety Advisory Council (NBSAC). The Council is a 21 member Federal advisory committee that advises the Coast Guard on matters related to recreational boating safety. Members for the Council are drawn equally from the following sectors of the boating community: State officials responsible for State boating safety programs; recreational boat and associated equipment manufacturers; and national recreational boating organizations and the general public. Members are appointed by the Secretary of Transportation. Applicants are considered for membership on the basis of their expertise, knowledge, and experience in boating safety. The terms of appointment are staggered so that seven vacancies occur each year. Applications are being sought for membership vacancies that will occur as follows: Two (2) representatives of State officials responsible for State boating safety programs; three (3) representatives of recreational boat and associated equipment manufacturers; and two (2) representatives of national recreational boating organizations and from the general public. To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women.

The Council normally meets twice each year at a location selected by the Coast Guard. When attending meetings of the Council, members are provided travel expenses and per diem.

DATES: Completed application forms should be received no later than September 14, 1992.

ADDRESSES: Requests for application forms, as well as the completed application forms, should be sent to Commandant (G-NAB), U.S. Coast Guard Headquarters, Washington, DC 20593-0001; telephone: (202) 267-0997.

FOR FURTHER INFORMATION CONTACT: Mr. A. J. Marmo, Executive Director, National Boating Safety Advisory Council (G-NAB), room 1202, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001; (202) 267-1077.

Dated: July 2, 1992.

W. J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 92-16245 Filed 7-10-92; 8:45 am]

BILLING CODE 4910-14-M

[CGD 92-043]

Chemical Transportation Advisory Committee (CTAC) and CTAC Subcommittee on the Revision of the Regulations for Barges Carrying Bulk Liquid Hazardous Materials Cargoes

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: A. The Chemical Transportation Advisory Committee will hold a meeting on Tuesday, August 25, 1992 in room 2415, U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593. The meeting is scheduled to begin at 9:30 a.m. and end at 4 p.m.

The agenda for the meeting follows:

1. Opening remarks,
2. U.S. Coast Guard remarks,
3. New member appointments,
4. General interest topics,
5. Issue briefs:
   - Tankerman regulations,
   - Benzene NVIC,
   - Inert Gas Systems Review,
   - Chemical Tanker Vapor Control Systems,
   - Static Discharge During Gauging,
6. Subcommittee reports:
   - Tank filling limits,
   - Fire fighting media review/foam,
   - 46 CFR part 151 update,
7. New tasks and initiative,
8. International activities update,
9. Other business,
10. Closing.

B. The Subcommittee on the Revision of the Regulations for Barges Carrying Bulk Liquid Hazardous Materials Cargoes, title 46 Code of Federal Regulations (CFR) part 151, of the Chemical Transportation Advisory Committee will meet as working groups on Monday, August 24, 1992 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593. The meetings of the working groups on Cargo Classification and Construction, Design and Equipment will be in rooms 1303 and 4315, respectively, and are scheduled to begin at 9:30 a.m. and end at 12 noon. The meetings of the working

groups on Liquefied Flammable Gases and Operations, Administrative and Inspection will be in rooms 1303 and 4315, respectively, and are scheduled to begin at 12:30 a.m. and end at 3:30 p.m. The purpose of these meetings is to continue work to fulfill the tasking of the Subcommittee which is to review 46 CFR part 151, determine areas in need of updating and revision, and make recommended changes.

Attendance at the above meetings is open to the public. Members of the public may present oral statements at the meetings. Persons wishing to present oral statements should notify the Executive Director of CTAC no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

A meeting of the SOLAS Working Group on Bulk Chemicals is to be held on the day after the CTAC meeting. CTAC meeting attendees may wish also to attend this meeting, which is in preparation for the twenty-second session of the IMO Subcommittee on Bulk Chemicals (BCH).

FOR FURTHER INFORMATION CONTACT: Commander Eldridge or Mr. Thompson, U.S. Coast Guard Headquarters (G–MTH–1), 2100 2nd Street, SW., Washington, DC 20593, (202) 267–1217.

Dated: July 6, 1992.

R. C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92–16351 Filed 7–10–92; 8:45 am]

BILLING CODE 4910–14–M

[CGD 92–040]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. I), notice hereby is given of a meeting of the National Offshore Safety Advisory Committee (NOSAC). The meeting will be held on Friday, August 28, 1992, in room 2415, at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC. The meeting is scheduled to run from 8:30 a.m. to 12 noon. Attendance is open to the public. The agenda follows:

1. Subcommittee Reports

(a) Clean Air Act Amendments,
(b) User Fees,
(c) Revisions to OCS Regulations (46 CFR subchapter N).

2. Other Issues to be Discussed

(a) OPA–90 Implementation,
(b) Status of Revisions to Lifesaving Equipment Regulations (46 CFR subchapter W),
(c) Status of Regulations for Offshore Supply Vessels (46 CFR subchapter L),
(d) Future Inspection Regulations for Crewboats,
(e) Work Place Safety Initiatives,
(f) Activity at the International Maritime Organization Affecting Offshore Operations,
(g) Resiliently Seated Valves.

With advance notice, and at the discretion of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the NOSAC Executive Director no later than the day before the meeting. Written statements or materials may be submitted for presentation to the Committee at any time; however, to ensure distribution to each Committee member, 20 copies of the written materials should be submitted to the Executive Director no later than August 7, 1992.

FOR FURTHER INFORMATION CONTACT: Commander Michael Ashdown, Executive Director, National Offshore Safety Advisory Committee (NOSAC), room 1405, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, (202) 267–2307.

Dated: July 6, 1992.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92–16246 Filed 7–10–92; 8:45 am]

BILLING CODE 4910–14–M

Federal Highway Administration

Environmental Impact Statement: Stone and Taney Counties, Missouri

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Stone and Taney Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Mullen, District Engineer, Federal Highway Administration, P.O. Box 1787, Jefferson City, MO 65102, Telephone: (314) 636–7104; Mr. H. E. Sfreddo, Division Engineer, Design, Missouri Highway and Transportation Department, P.O. Box 270, Jefferson City, MO 65102, Telephone (314) 751–2551; Mr. Kevin Keith, Project Manager, Ozark Mountain Highroad, HCR–2, Box 2950, Branson, MO, Telephone (417) 336–5701.

SUPPLEMENTARY INFORMATION: (1) The proposed highway project will be a new fully access controlled right-of-way facility on new location extending westerly a distance of four miles from the vicinity of the existing U.S. 65/Route F intersection four miles north of Branson, Missouri then south across Lake Taneycomo and southeasterly to another intersection with U.S. 65, approximately five miles south of Branson. This project will reduce extreme traffic congestion on Missouri Route 76 through a rapidly developing entertainment and recreation area in and around Branson, Missouri.

(2) The proposed 18-mile long facility will provide a 24-foot pavement in each direction separated by a variable width median. Several build alternatives will be considered within a generally one-mile wide corridor along with alternative interchange location and type studies. Other alternatives being considered are the no-build and the transportation systems management (TSM) alternative, along with consideration of localized mass transit and people mover systems.

(3) A project information office has been established in Branson located at the same address as Mr. Kevin Keith referenced above. A combined corridor and design public hearing is tentatively scheduled to be held on October 21st, 1992. Other public information meetings will be held during the planning and design of the proposed facility.

Issued on: June 30, 1992.

James M. Mullen,

District A Engineer, Division Administration, Jefferson City, Missouri.

[FR Doc. 92–16118 Filed 7–10–92; 8:45 am]

BILLING CODE 4910–22–M

Maritime Administration

Approval of Applicant as Trustee

Notice is hereby given that First Trust of California, National Association, with offices 101 California Street, San Francisco, California, has been approved as Trustee pursuant to Public Law 100–710 and 46 CFR part 221.

Dated: July 8, 1992.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 92-16363 Filed 7-10-92; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

[Docket No. 91-61; Notice 2]

Solar Electric Engineering Grant of Petition for Temporary Exemption From Five Federal Motor Vehicle Safety Standards

This notice grants the petition by Solar Electric Engineering of Santa Rosa, California, to be exempted from five Federal motor vehicle safety standards for passenger cars and trucks that it converts to electric power. The basis of the grant is that an exemption will facilitate the development and field evaluation of low-emission motor vehicles.

Notice of receipt of the petition was published on January 6, 1992, and an opportunity afforded for comment (57 FR 427).

Petitioner intends to convert 1992 model Ford Escort passenger cars, and Chevrolet S10 pickup trucks to electric power, as well as certain other unspecified passenger cars certified as conforming to the Federal motor vehicle safety standards. The Fords will be marketed under the name "Electron-One", and the Chevrolets under the name "Electron-Two." The basis of the petition was that a temporary exemption would facilitate the development and field evaluation of a low-emission motor vehicle, as provided by 49 CFR 555.6(c).

Although the vehicles to be converted are certified by their original manufacturers to conform to all applicable Federal motor vehicle safety standards, petitioner determined that the vehicles may not conform with all or part of five Federal motor vehicle safety standards after their modification. The standards and sections for which exemptions were requested are discussed more fully below.

1. Standard No. 103, *Windshield Defrosting and Defogging Systems*

2. Standard No. 105, *Hydraulic Brake Systems*

Petitioner stated that it is unsure whether performance requirements continue to be met after conversion.

3. Standard No. 201, *Occupant Protection in Interior Impact*

4. Standard No. 204, *Steering Control Rearward Displacement*

5. Standard No. 208, *Occupant Crash Protection*

None of the impact protection materials of vehicles certified to comply with Standard No. 201 are removed as part of the conversion, and the vehicles' original restraint systems conforming to Standard No. 208 remain in place. However, the petitioner was unsure whether performance differs "since the weight and mass has (sic) been altered."

According to the petitioner, an exemption would facilitate the development and field evaluation of a low-emission motor vehicle by enabling the petitioner to produce and market its vehicles. Such exemption would not unduly degrade the safety of the vehicle because of its intended use in low speed urban areas.

Further, the petitioner argues, granting the exemption would be in the public interest and consistent with the National Traffic and Motor Vehicle Safety Act because the vehicles would "reduce air pollution at street level and lessen the dependence of the United States on importation of petroleum."

One comment was received on the petition. Ford Motor Company asked the agency not to provide a "wholesale exemption from the substance of key safety standards such as FMVSS 105—Brakes (sic) and FMVSS 208—Occupant Protection (sic) * * * in the absence of clear evidence demonstrating that petitioner's vehicles conform as fully to the standards' safety objectives as is practicable for an electrically powered vehicle."

It is NHTSA's policy to provide as narrow an exemption as is practicable given the demands of safety and the fact situation applicable to the petitioner. The Administrator must find, in accordance with the statute, that an exemption would not unreasonably degrade the safety of the vehicle if it is granted. Balancing the public interest in low-emission vehicles and the public interest in safety, Congress has conceded that a measure of degradation may result from exemptions but it must not be an unreasonable degradation. However, as an assurance of a measure of protection to the public, Congress draw a limit as to the duration of such exemptions (a maximum of 2 years) and their extent (no more than 2,500 vehicles in any 12-month period that the exemption is in effect). When certified conventionally-powered vehicles are converted to electric power, NHTSA's experience has been that resultant questions of conformance appear to be more apparent than actual. Therefore, NHTSA has been able to find that temporary exemption of a converted certified vehicle does not unreasonably degrade safety. The test posited by Ford, "clear evidence" of conformance "as fully * * * as is practicable for an electrically powered vehicle", would require NHTSA to gather data from all manufacturers of electrically powered vehicles to determine what level is "practicable" with respect to each standard. In instances in which the subject of a petition is a converted vehicle, NHTSA does not believe that safety demands such a rigorous test. Different considerations may obtain where the vehicle to be exempted is new from the ground up and is produced by an entity new to the vehicle manufacturing business, but that is not the fact situation before the agency in this case.

However, with Ford's comment in mind, NHTSA has reviewed each of the five standards from which exemption has been requested. With respect to Standard No. 103 *Defrosting and Defogging Systems*, the vehicles to be converted were originally equipped with defrosting and Defogging systems. While the conversion to electric power may affect the performance of these systems, the systems will remain in place, and no exemption shall be given from S4.1, the requirement that vehicles be equipped with these systems. However, the test requirements of S4.2 and demonstration procedures of S4.3 were written for vehicles powered by internal combustion engines. Standard No. 103 incorporates by reference SAE Recommended Practices J902 and J902a, *Passenger Car Windshield Defrosting Systems*, which specify a tachometer as an item of test equipment, and a test condition for "engine speed" of 1500 rpm. In a literal sense, it is impossible for the manufacturer of an electric vehicle to test according to S4.2 and S4.3, and an exemption is therefore required from these sections. In its ANPRM on electric vehicles (56 FR 67038), NHTSA has asked for comments on appropriate modifications to the tests conditions and procedures of Standard No. 103 to allow the test requirements to be met.

Standard No. 105 *Hydraulic Brake Systems* consists primarily of service brake system performance requirements (S5.1) to be met through a series of stops and under a variety of conditions, and parking brake performance (S5.2) to be determined on a grade of 30 percent. The performance characteristics of vehicles that are converted will differ from the original vehicle because of the increased weight of the batteries. Service brake performance may also differ if the conversion adds a regenerative braking feature. But the original service and parking brake systems of these vehicles remain in

place. There would appear, therefore, to be no need for an exemption from S5.3 *Brake System Indicator Lamp,* and S5.4 *Reservoirs.*

Turning to Standard No. 201 *Occupant Protection in Interior Impact,* conformance with the interior compartment door requirements (S3.3) is demonstrated through a 30-mph frontal barrier impact, and compliance could be affected by the increased weight and mass of the vehicle. However, compliance with seat back requirements (S3.2) and interior compartment doors (S3.3) may be demonstrated through static tests, and conformance is not affected by conversion. Nor does conversion affect compliance by sun visors (S3.4) and armrests (S3.5). Therefore, NHTSA is granting an exemption only from S3.3 of Standard No. 201.

As for Standard No. 204 *Steering Control Rearward Displacement,* compliance is wholly dependent upon the results of a barrier test, the results of which may be affected by the change of weight entailed by conversions, and, if a vehicle is to be exempted, the exemption must cover the entire standard.

The final standard for which exemption has been requested is Standard No. 208 *Occupant Crash Protection.* Much of the standard is full of requirements that do not apply to the petitioner. What petitioner seeks is an exemption from the requirements that are demonstrated through a barrier impact, specifically S4.1.4.1.

The vehicle is *per se* a low-emission motor vehicle, and an exemption would facilitate its field evaluation and further development by the petitioner. Given the continuing concern over the environment, an exemption of such a vehicle is in the public interest. Because the vehicle was originally manufactured to conform, and may remain in conformance, an exemption is consistent with the objectives of the National Traffic and Motor Vehicle Safety Act.

For the foregoing reasons it is hereby found that a temporary exemption would facilitate the development and field evaluation of a low emission motor vehicle and would not unreasonably degrade the safety of such vehicle, and it is further found that such exemption would be consistent with the public interest and the objectives of the Act. Accordingly, Solar Electric Engineering is hereby granted NHTSA Temporary Exemption 92–3, expiring June 1, 1994, from the following Federal motor vehicle safety standards or portions thereof: Paragraphs S4.2 and S4.3 of 49 CFR 571.103 Motor Vehicle Safety Standard No. 103 *Windshield Defrosting and Defogging,* 49 CFR 571.105 Motor Vehicle Safety Standard No. 105 *Hydraulic Brake Systems,* except for S5.3 and S5.4; S3.3 of 49 CFR 571.201 Motor Vehicle Safety Standard No. 201 *Occupant Protection in Interior Impact,* 49 CFR 571.204 Motor Vehicle Safety Standard No. 204 *Steering Control Rearward Displacement,* and S4.1.4.1 of 49 CFR 571.208 Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection.*

Authority: 15 U.S.C. 1410; delegation of authority at 49 CFR 1.50.

Issued on July 8, 1992.

Frederick H. Grubbe,

Deputy Administrator.

[FR Doc. 92–16364 Filed 7–10–92; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: July 7, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 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.

Bureau of the Public Debt

OMB Number: 1535–0065
Form Number: PD F 1946–1
Type of Review: Extension
Title: Application for Disposition—United States Savings Bonds/Notes and/or Related Checks Owned by Decedent Whose Estate is being Settled Without Administration
Description: Used by person(s) entitled to a decedent's estate not being administered to request disposition of United States Savings Bonds/Notes and/or related checks.
Respondents: Individuals or households
Estimated Number of Respondents: 1,500
Estimated Burden Hours Per Response: 35 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 875 hours

OMB Number: 1535–0069
Form Number: PD F 5174–1, 5174–3, 5174–4, 5176–1, 5176–2, 5176–3, 5178, 5179, 5180, 5182, 5188 and 5201
Type of Review: Extension
Title: TREASURY DIRECT Forms
Description: These forms are used by individuals/entities who wish to purchase Treasury bills, notes, and bonds and to maintain a book-entry account with the Department of the Treasury. Also forms are used to support transactions dealing with TREASURY DIRECT system accounts.
Respondents: Individuals or households, Businesses or other for-profit
Estimated Number of Respondents: 214,132
Estimated Burden Hours Per Response:

Form	Time per response (minutes)
PD F 5174–1	10
PD F 5174–3	10
PD F 5174–4	10
PD F 5176–1	10
PD F 5176–2	10
PD F 5176–3	10
PD F 5178	10
PD F 5179	10
PD F 5180	10
PD F 5182	10
PD F 5188	10
PD F 5201	10

Frequency of Response: On occasion
Estimated Total Reporting Burden: 35,546 hours
Clearance Officer: Rita DeNagy (202) 874–1148, Bureau of the Public Debt, room 137, BEP Annex, 300 13th Street, SW., Washington, DC 20239–0001
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. 92–16327 Filed 7–10–92; 8:45 am]

BILLING CODE 4810–40–M

Public Information Collection Requirements Submitted to OMB for Review

Date: July 7, 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.

Internal Revenue Service

OMB Number: 1545–0786
Regulation ID Number: IL–50–86 Final
Type of Review: Extension
Title: Sanctions on Issuers and Holders of Registration-Required Obligations Not in Registered Form T.D. 8110 (Final)
Description: The Internal Revenue Service needs the information in order to ensure that purchasers of bearer obligations are not U.S. persons (other than those permitted to hold obligations under section 165(j) and to ensure that U.S. persons holding bearer obligations properly report income and gain on such obligations. The people reporting will be financial institutions holding bearer obligations.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 1,000
Estimated Burden Hours Per Respondent: 20 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 39,742 hours
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–16328 Filed 7–10–92; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

Date: July 7, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0014
Form Number: IRS Form 637
Type of Review: Extension
Title: Application for Registration (for Certain Excise Tax Transactions)
Description: This form is used to apply for excise tax registration. The registration applies to refiners or producers of gasoline and to certain manufacturers or sellers and purchasers that must register to be exempt from the excise tax on taxable articles. The data is used to determine if the applicant qualifies for the exemption. Gasoline producers are required by section 4101 to register with the Service before incurring any tax liability
Respondents: State and local governments, Business or other for-profit, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 2,000

Estimated Burden Hours Per Respondent/Recordkeeper

Recordkeeping	8 hours, 22 minutes.
Learning about the law or the form.	18 minutes.
Preparing and sending the form to the IRS.	26 minutes.

Frequency of Response. Other (One-time only)
Estimated Total Reporting/ Recordkeeping Burden: 18,240 hours
OMB Number: 1545–0187
Form Number: IRS Form 4835
Type of Review: Revision
Title: Farm Rental Income and Expenses
Description: This form is used by landowners (or sub-lessors) to report farm income based on crops or livestock produced by the tenant when the landowner (or sub-lessor) does not materially participate in the operation or management of them. This form is attached to Form 1040 and the data is used to determine whether the proper amount of rental income has been reported
Respondents: Individuals or households, Farms
Estimated Number of Respondents/ Recordkeepers: 407,719

Estimated Burden Hours Per Respondent/Recordkeeper

Recordkeeping	2 hours, 57 minutes.
Learning about the law or the form.	4 minutes.
Preparing the form	1 hour, 2 minutes.
Copying, assembling and sending the form to the IRS.	20 minutes.

Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 1,789,886, hours
OMB Number: 1545–1054
Form Number: IRS Form 8736
Type of Review: Extension
Title: Application for Automatic Extension of Time to File U.S. Return for a Partnership, REMIC, or for Certain Trusts
Description: Form 8736 is used Partnerships, REMICs, and by certain trusts to request an automatic 3-month extension of time to file Form 1065, Form 1041, or Form 1066. Form 8736 contains data needed by the IRS to determine whether or not a taxpayer qualifies for such an extension.
Respondents: Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 36,000

Estimated Burden Hours Per Respondent/Recordkeeper

Recordkeeping	3 hours, 7 minutes.
Learning about the law or the form.	24 minutes.
Preparing, copying, assembling and sending the form to the IRS.	28 minutes.

Frequency of Response. Annually
Estimated Total Reporting/ Recordkeeping Burden: 142,920 hours
OMB Number: 1545–1139
Regulation ID Number: PS–264–82 NPRM
Type of Review: Extension
Title: Adjustments to Basis of Stock and Indebtedness to Shareholders of S Corporations and Treatment of Distributions by S Corporations to Shareholders
Description: The regulations provide the procedures and the statements to be filed by S Corporations for making the election provided under Section 1368. Statements required to be filed will be used to verify that taxpayers are complying with the requirements imposed by Congress.

Respondents: Individuals or households, Businesses or other for-profit
Estimated Number of Respondents: 1
Estimated Burden Hours Per Respondent: 1
Frequency of Respons: Annually and Other (non-recurring)
Estimated Total Reporting Burden: 1 hour
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–16329 Filed 7–10–92; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

Date: July 7, 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.

Internal Revenue Service

OMB Number: 1545–0390
Form Number: IRS Form 5306
Type of Review: Revision
Title: Application for Approval of Prototype or Employer Sponsored Individual Retirement Account
Description: This application is used by employers who want to establish an individual retirement account trust to be used by their employees. The application is also used by persons who want to establish approved prototype individual retirement accounts or annuities. The data collected is used to determine if plans may be approved.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 600

Estimated Burden Hours Per Respondent/Recordkeeper

Recordkeeping	11 hours, 58 minutes.
Learning about the law or the form.	18 minutes.
Preparing, and sending the form to the IRS.	30 minutes.

Frequency of Response: On occasion
Estimated Total Reporting/ Recordkeeping Burden: 7,662 hours
Clearance Officer: Garrick Shear (202) 622–3428 Internal Revenue Service room 5571 1111 Constitution Avenue, NW. Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880 Office of Management and Budget room 3001, New Executive Office Building Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–16331 Filed 7–10–92; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

Date: July 6, 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.

Internal Revenue Service

OMB Number: 1545–0160
Form Number: IRS Form 3520–A
Type of Review: Extension
Title: Annual Return of Foreign Trust with U.S. Beneficiaries
Description: Section 6048(c) requires that foreign trusts with at least one U.S. beneficiary must file an annual information return on Form 3520–A. The form is used to report the income and deductions of the foreign trust. IRS uses Form 3520–A to determine if the U.S. owner of the trust has included the net income of the trust in its gross income.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 500

Estimated Burden Hours Per Respondent/Recordkeeper

Recordkeeping	29 hours, 25 minutes.
Learning about the law or the form.	53 minutes.
Preparing, and sending the form to the IRS.	1 hour, 25 minutes.

Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 15,860 hours
Clearance Officer: Garrick Shear (202) 622–3428 Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880 Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–16332 Filed 7–10–92 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 134
Monday, July 13, 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: Friday, July 17, 1992, 9:00 a.m.

PLACE: U.S. Commission on Civil Rights, 1121 Vermont Avenue, NW, Room 512, Washington, DC 20425.

STATUS: Open to the Public.

July 17, 1992

I. Approval of Agenda
II. Approval of Minutes of June 26 and July 1 Meeting
III. Announcements
IV. Appointments to the New Mexico, Oregon, and Virginia Advisory Committees
V. *Impact of School Desegregation in Milwaukee Public Schools on Quality Education for Minorities. * * * 16 Years Later*
VI. *The Increase of Hate Crimes in Michigan*
VII. *The Increase of Hate Crimes in Indiana*
VIII. Staff Director's Report
• Discussion of July 7, 1992 Memorandum—*Racial and Ethnic Tensions in American Communities Project*
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: July 8, 1992.

Emma Monroig,

Solicitor.

[FR Doc. 92–16559 Filed 7–9–92; 4:00 pm]

BILLING CODE 6335–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 57, page 29936, July 7, 1992.

PREVIOUSLY ANNOUNCED DATE OF MEETING: July 8, 1992.

CHANGES: The Commission decided to cancel the meeting scheduled for July 8, 1992 and reschedule the matters concerning Section 15 and 37 of the CPSA for consideration on July 23, 1992.

For a Recorded Message Containing the Latest Agenda Information, Call: 301–504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–504–0800

Dated: July 8, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–16484 Filed 7–9–92; 2:57 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

DATE AND TIME: July 15, 1992, 10:00 a.m.

PLACE: 825 North Capitol Street N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from and added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 962nd Meeting—July 15, 1992, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 2179–012, Merced Irrigation District
CAH–2.
Project No. 7270–008, Northern Wasco County People's Utility District
CAH–3.
Project Nos. 9840–009 and 010, Appomattox River Water Authority
CAH–4.
Docket No. UL89–15–006, Theodore A. and Holly S. Keck
CAH–5.
Project No. 6188–018, Sierra Hydro, Inc.
CAH–6.
Omitted

Consent Electric Agenda

CAE–1.
Docket No. ER92–583–000, People's Electric Cooperative
CAE–2.
Docket No. EC92–5–000, Iowa Public Service Company, Iowa Power Inc. and Midwest Power Systems Inc.
CAE–3.
Docket No. ER92–64–001, Northeast Utilities Service Company
CAE–4.
Docket Nos. ER92–436–001 and EL92–29–001, Florida Power Corporation
CAE–5.
Omitted
CAE–6.
Docket No. ER84–560–033, Union Electric Company
CAE–7.
Docket No. ER92–222–001, Arkansas Power and Light Company
CAE–8.
Docket No. ER92–343–001, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
CAE–9.
Docket No. EL91–32–001, Power Authority of the State of New York v. Long Island Lighting Company
Docket No. EL91–34–001, Municipal Electric Utilities Association of New York State v. Long Island Lighting Company
Docket Nos. ER92–25–001, ER92–26–001 and ER92–31–001, Long Island Lighting Company
CAE–10.
Docket No. EL92–56–001, Houlton Water Company, Van Buren Light and Power District, and Eastern Maine Electric Cooperative, Inc. v. Main Public Service Company
CAE–11.
Docket No. ER85–477–010, Southwestern Public Service Company
CAE–12.
Docket Nos. ER92–180–000 and EL92–17–000, Detroit Edison Company
CAE–13.
Docket Nos. ER91–143–000 and EL91–15–000, Public Service Company of New Hampshire Docket No. ER91–235–000, New England Power Company
CAE–14.
Docket No. ER84–75–000 (Phase III), Southern California Edison Company

Consent Oil and Gas Agenda

CAG–1.
Docket No. RP92–189–000, United Gas Pipe Line Company
CAG–2.
Docket No. RP88–259–053, Northern Natural Gas Company
CAG–3.
Docket No. RP92–190–100, Carnegie Natural Gas Company

CAG–4.
Docket No. RP91–166–010, Northwest Pipeline Corporation
CAG–5.
Docket No. RP92–186–000, Texas Gas Transmission Corporation
CAG–6.
Docket No. CP91–1252–005, Questar Pipeline Company
CAG–7.
Docket Nos. RP92–48–003 and 004, Viking Gas Transmission Company
CAG–8.
Docket No. PR92–10–000, Cranberry Pipeline Corporation
CAG–9.
Docket No. PR92–11–000, Utah Gas Service Company
CAG–10.
Docket No. PR92–14–000, The Nueces Company
CAG–11.
Docket No. RP92–114–004, Williams Natural Gas Company
CAG–12.
Docket Nos. RP91–152–019 and RP89–183–040, Williams Natural Gas Company
CAG–13.
Docket Nos. RP90–104–017, RP88–115–028, RP90–192–001 and CP88–686–008, Texas Gas Transmission Corporation
CAG–14.
Docket No. RP87–110–002, Northwest Pipeline Corporation
CAG–15.
Docket Nos. RP83–137–033 and RP85–31–005, Transcontinental Gas Pipe Line Corporation
CAG–16.
Docket No. RP89–245–005, Paiute Pipeline Company
CAG–17.
Docket Nos. RP91–224–004 and RP92–1–006, Northern Natural Gas Company
CAG–18.
Docket No. RP91–210–009, Tennessee Gas Pipeline Company
CAG–19.
Docket Nos. CP89–629–020 and CP90–639–011, Tennessee Gas Pipeline Company
CAG–20.
Docket Nos. TA92–2–82–005 and TM92–2–82–002, Viking Gas Transmission Company
CAG–21.
Docket Nos. RP91–2–010, RP89–137–006, RP89–219–005, RP90–50–005 and RP90–90–002, Northwest Pipeline Corporation
CAG–22.
Docket No. IS92–10–001, Amerada Hess Pipeline Corporation
Docket No. IS92–11–001, ARCO Transportation Alaska, Inc.
Docket No. IS92–12–001, BP Pipelines (Alaska) Inc.
Docket No. IS92–13–001, Exxon Pipeline Company
Docket No. IS92–14–001, Mobil Alaska Pipeline Company
Docket No. IS92–15–001, Phillips Alaska Pipeline Company
Docket No. IS92–16–001, Unocal Pipeline Company
CAG–23.
Docket Nos. RP86–41–010, 009, RP87–14–010 and RP90–22–017, Algonquin Gas Transmission Company
CAG–24.
Omitted
CAG–25.
Docket No. PR92–12–000, The Tekas Corporation
CAG–26.
Docket Nos. CP83–75–001, FA90–19–000 and RP91–186–000, Southern Energy Company
Docket Nos. RP89–224–000, RP90–139–000 and RP–91–69–000, Southern Natural Gas Company
CAG–27.
Docket No. GP92–8–000, State Oil and Gas Board of Alabama, Tight Formation Determination, Alabama–3 Pottsville Series Sandstones, FERC No. JD91–08540T
CAG–28.
Docket No. GP91–12–000, OXY USA, Inc.
CAG–29.
Docket No. RS92–38–000, Gulf States Transmission Corporation
CAG–30.
Docket No. RS92–92–000, Jupiter Energy Corporation
CAG–31.
Docket No. RS92–31–000, Cornerstone Pipeline Company
CAG–32.
Docket Nos. RS92–5–000, RP91–161–000 and RP92–3–000, Columbia Gas Transmission Corporation
Docket Nos. RS92–6–000, RP91–160–000 and RP92–2–000, Columbia Gulf Transmission Company
CAG–33.
Docket No. RS92–89–000, WestGas InterState, Inc.
CAG–34.
Docket No. RS92–77–000, Point Arguello Natural Gas Line Company
CAG–35.
Omitted
CAG–36.
Omitted
CAG–37.
Docket Nos. RP92–104–000, RP92–131–000 and RS92–19–000, KN Energy, Inc.
CAG–38.
Omitted
CAG–39.
Docket No. CI88–496–002, O&R Energy, Inc.
Docket No. CI91–98–000, Southern California Gas Company
Docket No. CI91–115–000, San Diego Gas & Electric Company
Docket No. CI92–20–000, MASSPOWER
Docket No. CI92–22–000, The Berkshire Gas Company
Docket No. CI92–27–000, Boston Gas Company
Docket No. CI92–32–000, Oregon Natural Gas Development Corporation
Docket No. CI92–38–000, The Brooklyn Union Gas Company
Docket No. CI92–41–000, NI-TEX, Inc.
Docket No. CI90–151–001, Indeck Energy Services, Inc.
Docket No. CI91–34–001, Midland Cogeneration Venture Limited Partnership
Docket No. CI92–11–000, Tenaska Gas Company
Docket No. CI92–18–000, Tenaska Marketing Venture
Docket No. CI92–21–000, Destec Gas Services, Inc.
Docket No. CI92–39–000, MCV Gas Acquisition General Partnership
Docket No. CI92–43–000, Encogen Northwest, L.P.
Docket No. CI92–40–001, ONG Western, Inc.
CAG–40.
Docket No. CP88–137–007, ANR Pipeline Company
Docket No. CP89–1953–003, ANR Storage Company
Docket No. CP89–1554–008, Colorado Interstate Gas Company
Docket No. CP88–651–008, Northwest Pipeline Corporation
Docket No. CP90–186–009, Texas Eastern Transmission Corporation
Docket No. CP91–1252–007, Questar Pipeline Company
Docket No. CP92–462–001, Panhandle Eastern Pipe Line Company
CAG–41.
Docket No. CP87–75–007, Tennessee Gas Pipeline Company
CAG–42.
Docket No. CP91–2206–002, Tennessee Gas Pipeline Company
Docket No. CP89–661–018, Algonquin Gas Transmission Company
Docket No. CP92–245–001, Iroquois Gas Transmission System, L.P.
CAG–43.
Docket Nos. TC81–9–007 and 008, Texas Gas Transmission Corporation
CAG–44.
Docket No. CP90–1248–001, Texas Eastern Transmission Corporation and United Gas Pipe Line Company
CAG–45.
Omitted
CAG–46.
Docket No. CP92–365–000, United Gas Pipe Line Company
Docket No. CP92–375–000, Southern Natural Gas Company
CAG–47.
Docket No. CP92–296–000, Northwest Gas Pipeline Corporation
Docket No. CP92–289–000, El Paso Natural Gas Company
CAG–48.
Docket No. CP92–207–000, Transwestern Pipeline Company
CAG–49.
Omitted
CAG–50.
Docket Nos. CP92–515–000, CP92–516–000 and CP92–517–000, Transcontinental Gas Pipe Line Corporation
CAG–51.
Docket Nos. CP92–346–000 and CP92–347–000, Transcontinental Gas Pipe Line Corporation
CAG–52.
Omitted
CAG–53.
Omitted
CAG–54.
Docket No. CP91–2650–000, Cascade Natural Gas Company
CAG–55.
Docket Nos. RP92–53–001 and 002, Kern River Gas Transmission Company

CAG–56.
Docket No. CP92–109–001, Equitrans, Inc.
CAG–57.
Docket Nos. RP92–82–013 and RP92–97–003, Tarpon Transmission Company
CAG–58.
Docket Nos. RP85–209–020 and TC88–6–000, United Gas Pipe Line Company
CAG–59.
Docket No. RP92–174–000, National Fuel Gas Supply Corporation
CAG–60.
Docket Nos. RP91–215–002, 004, RP91–217–001, 002, RP92–8–002, RP91–104–004, 003, RP91–106–003 and RP91–109–004, Transwestern Pipeline Company
CAG–61.
Docket No. CP92–216–000, Peoples Natural Gas Company v. Natural Gas Pipeline Company of America
CAG–62.
Docket Nos. RP92–86–001, RP92–137–005, RP92–108–002 and CP92–378–002, Transcontinental Gas Pipe Line Corporation

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Docket No. ER91–569–001, Entergy Services, Inc. Order on rehearing regarding power and transmission rates
E–2.
Docket No. ER91–313–001, Pennsylvania Electric Company. Order on rehearing regarding transmission rates

Miscellaneous Agenda

M–1.
Docket No. RM91–12–000, Administrative Dispute Resolution. Notice of Proposed Rulemaking

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Reserved

II. Producer Matters

PF–1.
Reserved

III. Pipeline Certificate Matters

PC–1.
Docket No. CP91–2519–001, Columbia Gulf Transmission Company and Arkla Energy Resources, a Division of Arkla, Inc.
Docket No. CP91–2521–001, Tennessee Gas Pipeline Company, Columbia Gulf Transmission Company, Arkla Energy Resources, a Division of Arkla, Inc. and Mississippi River Transmission Corporation. Order on requests for rehearing of order rejecting applications
PC–2.
Docket No. RM92–2–000, Regulations Governing Vehicular Natural Gas. Order on final rule
PC–3.
Docket Nos. CP92–522–000 and RS92–83–000, Tarpon Transmission Company. Order on jurisdictional status of offshore system

Dated: July 8, 1992.

Lois D. Cashell,

Secretary.

[FR Doc. 92–16532 Filed 7–9–92; 2:59 pm]

BILLING CODE 6717–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on July 16, 1992, from 10:00 a.m. until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

B. New Business

1. Regulations

a. Privacy Act Regulations; New Exempt System of Records (Final).

2. Other

a. Alternative Means of Dispute Resolution Policy Statement.

Closed Session*

A. New Business

1. Enforcement Actions

Dated: July 9, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92–16531 Filed 7–9–92; 2:58 pm]

BILLING CODE 6705–01–M

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting, Thursday, July 16, 1992

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, July 16, 1992, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Item No., Bureau, and Subject

1–Common Carrier–Title: Policy and Rules Concerning Rates for Dominant Carriers (CC Docket No. 87–313). Summary: The Commission will consider adoption of a *Memorandum Opinion and Order on Second Further Reconsideration* concerning the local exchange carrier price cap new services test.

2–Common Carrier—Title: Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54–63.58 (CC Docket No. 87–266). Summary: The Commission will consider adoption of a *Memorandum Opinion and Order on Reconsideration* of the First Report and Order.

3–Common Carrier—Title: Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54—63.58 (CC Docket No. 87–266). Summary: The Commission will consider adoption of a *Second Report and Order, Recommendation to Congress, and Second Further Notice of Proposed Rulemaking.*

4—Mass Media—Title: Amendment of Part 73 of the Commission's Rules to Modify Processing Procedures for Commercial FM Broadcast Applications (MM Docket No. 91–347). Summary: The Commission will consider adoption of a *Report and Order* concerning processing of applications for commercial FM frequencies.

5—Mass Media—Title: Conflicts Between Applications and Petitions for Rulemaking to Amend the FM Table of Allotments (MM Docket No. 91–348). Summary: The Commission will consider adoption of a *Report and Order* governing conflicts between rulemaking petitions to amend the FM Table of Allotments and applications for new or modified FM facilities.

6—Mass Media—Title: Amendment of the Commission's Rules to Permit FM Channel and Class Modifications by Application. Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking* concerning the procedures used to obtain certain FM channel and/or class modifications.

7—Private Radio—Title: Amendments of Parts 0, 1, 2, and 95 of the Commission's Rules to Provide for Interactive Video and Data Services (Gen Docket No. 91–2, RM–6196). Summary: The Commission will consider adoption of a *Memorandum Opinion and Order* concerning whether to reconsider part of its decision to establish the Interactive Video and Data Service.

8—Office of Engineering and Technology, Mass Media—Title: Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service (MM Docket No. 87–268). Summary: The Commission will consider adoption of a *Second Further Notice of Proposed Rulemaking* concerning issues pertaining to the allotment of channels for Advanced Television Service.

9—Office of Engineering and Technology—Title: Amendment of the Commission's Rules to Establish New Personal

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* Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Communications Services (GEN Docket No. 90–314 and ET Docket No. 92–100).
Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking and Tentative Decision* concerning the implementation of personal communications services and requests for pioneer's preferences.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632–5050.

Dated: July 9, 1992.
Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 92–16533 Filed 7–9–92; 3:00 pm]
BILLING CODE 6712–01–M

federal register

Monday,
July 13, 1992

Part II

Veterans Affairs Department

38 CFR Parts 0 et al.
Nomenclature Changes; Rules

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 0, 1, 2, 3, 4, 6, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 18a, 18b, 21, 36, 39, 41, 43, 44, and 45

RIN 2900-AF95

Nomenclature Changes

AGENCY: Department of Veterans Affairs.

ACTION: Technical amendments.

SUMMARY: Public Law No. 102–40 and Public Law No. 102–83 effected a renumbering of the provisions of title 38, United States Code. Accordingly, this technical amendment changes the references to the provisions of title 38 to reflect the renumbering. Also, with the change of the Veterans Administration to the Department of Veterans Affairs, position titles have been changed to reflect the change in status. This technical amendment also redesignates the position titles where necessary. No substantive changes to the content of the regulations are being made by this technical amendment.

EFFECTIVE DATE: This amendment is effective August 6, 1991, the date Public Law No. 102–83 was signed by the President.

FOR FURTHER INFORMATION CONTACT: Frederic Conway, Deputy Assistant General Counsel, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 523–3911.

SUPPLEMENTARY INFORMATION: Public Law No. 102–40, the "Department of Veterans Affairs Health-Care Personnel Act of 1991," and Public Law No. 102–83, the "Department of Veterans Affairs Codification Act," redesignated sections of title 38, United States Code, to conform to chapter numbers and made other changes to reflect the change in the status of the Veterans Administration to the Department of Veterans Affairs effected by Public Law No. 100–527, the "Department of Veterans Affairs Act." This document revises the references found throughout title 38 of the Code of Federal Regulations to conform to the changes made by the enactment of these laws.

The Department of Veterans Affairs finds good cause for making this final rule effective immediately, since the rule is merely a technical amendment following a statutory change in our status, name, and underlying statute. The amendment is not a regulation or rule for the purposes of Executive Order No. 12291.

Approved: June 29, 1992.

B. Michael Berger,

Director, Records Management Service.

For the reasons set out in the preamble, title 38 of the Code of Federal Regulations is amended under the authority of Public Law 102–40, 105 Stat. 187, and Public Law No. 102–83, 105 Stat. 378, as set forth below:

PART 0—STANDARDS OF ETHICAL CONDUCT AND RELATED RESPONSIBILITIES

1. Remove the citation "38 U.S.C. 1783" and add in its place "38 U.S.C. 3683", wherever it appears.

2. Remove the words "Chief Attorneys" and add in their place "District Counsels", wherever they appear.

PART 1—GENERAL PROVISIONS

1. Remove the citation "38 U.S.C. 202" and add in its place "38 U.S.C. 302", wherever it appears.

2. Remove the citation "38 U.S.C. 210(c)" and add in its place "38 U.S.C. 501", wherever it appears.

3. Remove the citation "38 U.S.C. 901" and add in its place "38 U.S.C. 2301", wherever it appears.

4. Remove the citation "38 U.S.C. 210, 901" and add in its place "38 U.S.C. 501, 2301", wherever it appears.

5. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

6. Remove the citation "38 U.S.C. 219" and add in its place "38 U.S.C. 527", wherever it appears.

7. Remove the citation "38 U.S.C. 218" and add in its place "38 U.S.C. 901", wherever it appears.

8. Remove the citation "38 U.S.C. 218(b)(1)" and add in its place "38 U.S.C. 902", wherever it appears.

9. Remove the citation "38 U.S.C. 210(c)(1), 5009" and add in its place "38 U.S.C. 501, 8109", wherever it appears.

10. Remove the citation "38 U.S.C. 5009" and add in its place "38 U.S.C. 8109", wherever it appears.

11. Remove the citation "38 U.S.C. 3301, 3302" and add in its place "38 U.S.C. 5701, 5702", wherever it appears.

12. Remove the citation "38 U.S.C. 210, 3301" and add in its place "38 U.S.C. 501, 5701", wherever it appears.

13. Remove the citation "38 U.S.C. 3301" and add in its place "38 U.S.C. 5701", wherever it appears.

14. Remove the citation "38 U.S.C. 4132" and add in its place "38 U.S.C. 7332", wherever it appears.

15. Remove the citation "38 U.S.C. 1820" and add in its place "38 U.S.C. 3720", wherever it appears.

16. Remove the citation "38 U.S.C. 3301(a), (c)" and add in its place "38 U.S.C. 5701(a), (c)", wherever it appears.

17. Remove the citation "38 U.S.C. 3301(c), (h)(2)(D)" and add in its place "38 U.S.C. 5701(c), (h)(2)(D)", wherever it appears.

18. Remove the citation "38 U.S.C. 3301(h)(2)(A), (B), (C)" and add in its place "38 U.S.C. 5701(h)(2)(A), (B), (C)", wherever it appears.

19. Remove the citation "38 U.S.C. 3101(e), (h)(2)(A) and (D)" and add in its place "38 U.S.C. 5701(e), (h)(2)(A) and (D)", wherever it appears.

20. Remove the citation "38 U.S.C. 3101(h)(2)(D)" and add in its place "38 U.S.C. 5701(h)(2)(D)", wherever it appears.

21. Remove the citation "38 U.S.C. 651–654" and add in its place "38 U.S.C. 1751–1754", wherever it appears.

22. Remove the citation "38 U.S.C. 3301(g)" and add in its place "38 U.S.C. 5701(g)", wherever it appears.

23. Remove the citation "38 U.S.C. 3301(f)" and add in its place "38 U.S.C. 5701(f)", wherever it appears.

24. Remove the citation "section 3301(f)" and add in its place "section 5701(f)", wherever it appears.

25. Remove the citation "38 U.S.C. 775, 784" and add in its place "38 U.S.C. 1975, 1984", wherever it appears.

26. Remove the citation "38 U.S.C. 3302(b)" and add in its place "38 U.S.C. 5702(b)", wherever it appears.

27. Remove the citation "38 U.S.C. 3305" and add in its place "38 U.S.C. 5705", wherever it appears.

28. Remove the citation "38 U.S.C. 3001" and add in its place "38 U.S.C. 5101", wherever it appears.

29. Remove the citation "38 U.S.C. 3301(b)(1)" and add in its place "38 U.S.C. 5701(b)(1)", wherever it appears.

30. Remove the citation "38 U.S.C. 210(c); 1004" and add in its place "38 U.S.C. 501, 2404", wherever it appears.

31. Remove the citation "38 U.S.C. 1004" and add in its place "38 U.S.C. 2404", wherever it appears.

32. Remove the citation "38 U.S.C. 3003; 3020" and add in its place "38 U.S.C. 5103; 5120", wherever it appears.

33. Remove the citation "38 U.S.C. 1820(a)(4) and (5) and 3102(a)" and add in its place "38 U.S.C. 3720(a)(4) and (5) and 5302(a)", wherever it appears.

34. Remove the citation "38 U.S.C. 3102" and add in its place "38 U.S.C. 5302", wherever it appears.

35. Remove the citation "38 U.S.C. 3102, 3114" and add in its place "38 U.S.C. 5302, 5314", wherever it appears.

36. Remove the citation "38 U.S.C. 1826" and add in its place "38 U.S.C. 3726", wherever it appears.

37. Remove the citation "38 U.S.C. 3101(c)" and add in its place "38 U.S.C. 5301(c)", wherever it appears.

38. Remove the citation "38 U.S.C. 3114" and add in its place "38 U.S.C. 5314", wherever it appears.

39. Remove the citation "38 U.S.C. 1804(b) and 1804(d)" and add in its place "38 U.S.C. 3704(b) and 3704(d)", wherever it appears.

40. Remove the citation "section 3102" and add in its place "section 5302", wherever it appears.

41. Remove the citation "38 U.S.C. 3102, 3115" and add in its place "38 U.S.C. 5302, 5315", wherever it appears.

42. Remove the citation "38 U.S.C. 3115" and add in its place "38 U.S.C. 5315", wherever it appears.

43. Remove the citation "38 U.S.C. 3301(i)" and add in its place "38 U.S.C. 5701(i)", wherever it appears.

44. Remove the citation "38 U.S.C. 3301(g)" and add in its place "38 U.S.C. 5701(g)", wherever it appears.

45. Remove the citation "38 U.S.C. 1820(a)(4) and 3102" and add in its place "38 U.S.C. 3720(a)(4) and 5302", wherever it appears.

46. Remove the citation "38 U.S.C. 210(c)(1)" and add in its place "38 U.S.C. 501", wherever it appears.

47. Remove the citation "38 U.S.C. 3102(b)" and add in its place "38 U.S.C. 5302(b)", wherever it appears.

48. Remove the citation "38 U.S.C. 3102(a)" and add in its place "38 U.S.C. 5302(a)", wherever it appears.

49. Remove the citation "38 U.S.C. 1785" and add in its place "38 U.S.C. 3685", wherever it appears.

50. Remove the citation "38 U.S.C. 1785, 3102" and add in its place "38 U.S.C. 3685, 5302", wherever it appears.

51. Remove the words "Chief Attorney" and add in their place "District Counsel", wherever they appear.

52. Remove the words "General Council" and add in their place "General Counsel", wherever they appear.

53. Remove the words "Assistant Deputy Administrator for Reports and Statistics" and add in their place "Associate Deputy Assistant Secretary for Information Resources Management", wherever they appear.

54. Remove the words "Assistant Secretary for Policy and Evaluation" and add in their place "Assistant Secretary for Policy and Planning", wherever they appear.

PART 2—DELEGATIONS OF AUTHORITY

1. Remove the citation "38 U.S.C. 212(a)" and add in its place "38 U.S.C. 512(a)", wherever it appears.

2. Remove the citation "38 U.S.C. 3503 or 3504" and add in its place "38 U.S.C. 6103 or 6104", wherever it appears.

3. Remove the citation "38 U.S.C. 5053" and add in its place "38 U.S.C. 8153", wherever it appears.

4. Remove the citation "38 U.S.C. 213" and add in its place "38 U.S.C. 513", wherever it appears.

5. Remove the citation "38 U.S.C. 620" and add in its place "38 U.S.C. 1720", wherever it appears.

6. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

7. Remove the citation "38 U.S.C. 3311" and add in its place "38 U.S.C. 5711", wherever it appears.

8. Remove the citation "38 U.S.C. 202" and add in its place "38 U.S.C. 302", wherever it appears.

9. Remove the citation "38 U.S.C. 210(c)" and add in its place "38 U.S.C. 501", wherever it appears.

10. Remove the citation "38 U.S.C. 223" and add in its place "38 U.S.C. 515(a)", wherever it appears.

11. Remove the citation "38 U.S.C. 236" and add in its place "38 U.S.C. 515(b)", wherever it appears.

12. Remove the citation "38 U.S.C. 4116(e)" and add in its place "38 U.S.C. 7316(e)", wherever it appears.

13. Remove the citation "38 U.S.C. 210, 212" and add in its place "38 U.S.C. 501, 512", wherever it appears.

14. Remove the citation "38 U.S.C. 629(c)(1)" and add in its place "38 U.S.C. 1729(c)(1)", wherever it appears.

15. Remove the citation "38 U.S.C. 3301" and add in its place "38 U.S.C. 5701", wherever it appears.

16. Remove the citation "38 U.S.C. 3305" and add in its place "38 U.S.C. 5705", wherever it appears.

17. Remove the citation "38 U.S.C. 218(a)(3)" and add in its place "38 U.S.C. 901", wherever it appears.

18. Remove the citation "38 U.S.C. 210(c), 212, 1803(c)(1), 1819(f)" and add in its place "38 U.S.C. 501, 512, 2404", wherever it appears.

19. Remove the citation "38 U.S.C. 212" and add in its place "38 U.S.C. 512", wherever it appears.

20. Remove the citation "section 210(c)(2)" and add in its place "section 503(a)", wherever it appears.

21. Remove the citation "section 210(c)(3)" and add in its place "section 503(b)", wherever it appears.

22. Remove the citation "38 U.S.C. 210, 212(a)" and add in its place "38 U.S.C. 501, 512(a)", wherever it appears.

23. Remove the citation "38 U.S.C. 5053" and add in its place "38 U.S.C. 8153", wherever it appears.

PART 3—ADJUDICATION

1. Remove the citation "38 U.S.C. 412" and add in its place "38 U.S.C. 1312", wherever it appears.

2. Remove the citation "38 U.S.C. 801(a)" and add in its place "38 U.S.C. 2101(a)", wherever it appears.

3. Remove the citation "38 U.S.C. 801(b)" and add in its place "38 U.S.C. 2101(b)", wherever it appears.

4. Remove the citation "38 U.S.C. 3021" and add in its place "38 U.S.C. 5121", wherever it appears.

5. Remove the citation "38 U.S.C. 501(a)" and add in its place "38 U.S.C. 1501(a)", wherever it appears.

6. Remove the citation "38 U.S.C. 541" and add in its place "38 U.S.C. 1541", wherever it appears.

7. Remove the citation "38 U.S.C. 512, 536" and add in its place "38 U.S.C. 1512, 1536", wherever it appears.

8. Remove the citation "38 U.S.C. 642" and add in its place "38 U.S.C. 1742", wherever it appears.

9. Remove the citation "38 U.S.C. 210(c)" and add in its place "38 U.S.C. 501", wherever it appears.

10. Remove the citation "38 U.S.C. 110 and 359" and add in its place "38 U.S.C. 110 and 1159", wherever it appears.

11. Remove the citation "38 U.S.C. 521, 541 and 542" and add in its place "38 U.S.C. 1521, 1541 and 1542", wherever it appears.

12. Remove the citation "38 U.S.C. 512" and add in its place "38 U.S.C. 1512", wherever it appears.

13. Remove the citation "38 U.S.C. 521 and 522" and add in its place "38 U.S.C. 1521 and 1522", wherever it appears.

14. Remove the citation "38 U.S.C. 521(b)" and add in its place "38 U.S.C. 1521(b)", wherever it appears.

15. Remove the citation "38 U.S.C. 521(j)" and add in its place "38 U.S.C. 1521(j)", wherever it appears.

16. Remove the citation "38 U.S.C. 502(a)" and add in its place "38 U.S.C. 1502(a)", wherever it appears.

17. Remove the citation "38 U.S.C. 511" and add in its place "38 U.S.C. 1511", wherever it appears.

18. Remove the citation "38 U.S.C. 534 and 535" and add in its place "38 U.S.C. 1534 and 1535", wherever it appears.

19. Remove the citation "38 U.S.C. 536, 537" and add in its place "38 U.S.C. 1536, 1537", wherever it appears.

20. Remove the citation "38 U.S.C. 541, 542 or 543" and add in its place "38 U.S.C. 1541, 1542 or 1543", wherever it appears.

21. Remove the citation "38 U.S.C. 541(a)" and add in its place "38 U.S.C. 1541(a)", wherever it appears.

22. Remove the citation "38 U.S.C. 541 and 542" and add in its place "38 U.S.C. 1541 and 1542", wherever it appears.

23. Remove the citation "38 U.S.C. 310, 331" and add in its place "38 U.S.C. 1110, 1131", wherever it appears.

24. Remove the citation "38 U.S.C. 315" and add in its place "38 U.S.C. 1115", wherever it appears.

25. Remove the citation "38 U.S.C. 724" and add in its place "38 U.S.C. 1924", wherever it appears.

26. Remove the citation "38 U.S.C. 321, 341" and add in its place "38 U.S.C. 1121, 1141", wherever it appears.

27. Remove the citation "38 U.S.C. 417" and add in its place "38 U.S.C. 1317", wherever it appears.

28. Remove the citation "38 U.S.C. 411(a)" and add in its place "38 U.S.C. 1311(a)", wherever it appears.

29. Remove the citation "38 U.S.C. 421" and add in its place "38 U.S.C. 1321", wherever it appears.

30. Remove the citation "38 U.S.C. 411(b)" and add in its place "38 U.S.C. 1311(b)", wherever it appears.

31. Remove the citation "38 U.S.C. 411(c)" and add in its place "38 U.S.C. 1311(c)", wherever it appears.

32. Remove the citation "38 U.S.C. 411(d)" and add in its place "38 U.S.C. 1311(d)", wherever it appears.

33. Remove the citation "38 U.S.C. 3103(c)" and add in its place "38 U.S.C. 5303(c)", wherever it appears.

34. Remove the citation "38 U.S.C. 352, 504" and add in its place "38 U.S.C. 1152, 1504", wherever it appears.

35. Remove the citation "38 U.S.C. 3010" and add in its place "38 U.S.C. 5110", wherever it appears.

36. Remove the citation "38 U.S.C. 357" and add in its place "38 U.S.C. 1157", wherever it appears.

37. Remove the citation "38 U.S.C. 418" and add in its place "38 U.S.C. 1318", wherever it appears.

38. Remove the citation "38 U.S.C. 3103(b)" and add in its place "38 U.S.C. 5303(b)", wherever it appears.

39. Remove the citation "38 U.S.C. 3103A" and add in its place "38 U.S.C. 5303A", wherever it appears.

40. Remove the citation "38 U.S.C. 521" and add in its place "38 U.S.C. 1521", wherever it appears.

41. Remove the citation "38 U.S.C. 3110" and add in its place "38 U.S.C. 5310", wherever it appears.

42. Remove the citation "38 U.S.C. 3011(c)" and add in its place "38 U.S.C. 5111(c)", wherever it appears.

43. Remove the citation "section 418" and add in its place "section 1318", wherever it appears.

44. Remove the citation "38 U.S.C. 418" and add in its place "38 U.S.C. 1318", wherever it appears.

45. Remove the citation "38 U.S.C. 521 and 542" and add in its place "38 U.S.C. 1521 and 1542", wherever it appears.

46. Remove the citation "38 U.S.C. 3112" and add in its place "38 U.S.C. 5312", wherever it appears.

47. Remove the citation "38 U.S.C. 521(b) or (c)" and add in its place "38 U.S.C. 1521(b) or (c)", wherever it appears.

48. Remove the citation "38 U.S.C. 521(d)" and add in its place "38 U.S.C. 1521(d)", wherever it appears.

49. Remove the citation "38 U.S.C. 521(e)" and add in its place "38 U.S.C. 1521(e)", wherever it appears.

50. Remove the citation "38 U.S.C. 521(f)" and add in its place "38 U.S.C. 1521(f)", wherever it appears.

51. Remove the citation "38 U.S.C. 541(b) or (c)" and add in its place "38 U.S.C. 1541(b) or (c)", wherever it appears.

52. Remove the citation "38 U.S.C. 541(d)" and add in its place "38 U.S.C. 1541(d)", wherever it appears.

53. Remove the citation "38 U.S.C. 541(e)" and add in its place "38 U.S.C. 1541(e)", wherever it appears.

54. Remove the citation "38 U.S.C. 521, 541" and add in its place "38 U.S.C. 1521, 1541", wherever it appears.

55. Remove the citation "38 U.S.C. 521(g)" and add in its place "38 U.S.C. 1521(g)", wherever it appears.

56. Remove the citation "38 U.S.C. 521(b)" and add in its place "38 U.S.C. 1521(b)", wherever it appears.

57. Remove the citation "38 U.S.C. 522(b)" and add in its place "38 U.S.C. 1522(b)", wherever it appears.

58. Remove the citation "38 U.S.C. 521(c), (h)" and add in its place "38 U.S.C. 1521(c), (h)", wherever it appears.

59. Remove the citation "38 U.S.C. 543(a)(2)" and add in its place "38 U.S.C. 1543(a)(2)", wherever it appears.

60. Remove the citation "38 U.S.C. 541(c), (h)" and add in its place "38 U.S.C. 1541(c), (h)", wherever it appears.

61. Remove the citation "38 U.S.C. 542" and add in its place "38 U.S.C. 1542", wherever it appears.

62. Remove the citation "38 U.S.C. 415(b)(1)" and add in its place "38 U.S.C. 1315(b)(1)", wherever it appears.

63. Remove the citation "38 U.S.C. 415(b)(3)" and add in its place "38 U.S.C. 1315(b)(3)", wherever it appears.

64. Remove the citation "38 U.S.C. 415(c)(1)" and add in its place "38 U.S.C. 1315(c)(1)", wherever it appears.

65. Remove the citation "38 U.S.C. 415(c)(3)" and add in its place "38 U.S.C. 1315(c)(3)", wherever it appears.

66. Remove the citation "38 U.S.C. 415(d)(1)" and add in its place "38 U.S.C. 1315(d)(1)", wherever it appears.

67. Remove the citation "38 U.S.C. 415(g)" and add in its place "38 U.S.C. 1315(g)", wherever it appears.

68. Remove the citation "38 U.S.C. 3112(a)" and add in its place "38 U.S.C. 5312(a)", wherever it appears.

69. Remove the citation "38 U.S.C. 3112(b)(1)" and add in its place "38 U.S.C. 5312(b)(1)", wherever it appears.

70. Remove the citation "38 U.S.C. 3112(c)(1)" and add in its place "38 U.S.C. 5312(c)(1)", wherever it appears.

71. Remove the citation "38 U.S.C. 3112(c)(2)" and add in its place "38 U.S.C. 5312(c)(2)", wherever it appears.

72. Remove the citation "38 U.S.C. 521, 541 or 542" and add in its place "38 U.S.C. 1521, 1541 or 1542", wherever it appears.

73. Remove the citation "38 U.S.C. 3023" and add in its place "38 U.S.C. 5123", wherever it appears.

74. Remove the citation "38 U.S.C. 508" and add in its place "38 U.S.C. 1508", wherever it appears.

75. Remove the citation "38 U.S.C. 3105" and add in its place "38 U.S.C. 5305", wherever it appears.

76. Remove the citation "38 U.S.C. 3011(c)" and add in its place "38 U.S.C. 5111(c)", wherever it appears.

77. Remove the citation "38 U.S.C. 532(d), 534(c), 536(c), 541(e), 541(f)" and add in its place "38 U.S.C. 1532(d), 1534(c), 1536(c), 1541(e), 1541(f)", wherever it appears.

78. Remove the citation "38 U.S.C. 302" and add in its place "38 U.S.C. 1102", wherever it appears.

79. Remove the citation "38 U.S.C. 410(a)" and add in its place "38 U.S.C. 1310(a)", wherever it appears.

80. Remove the citation "38 U.S.C. 404" and add in its place "38 U.S.C. 1304", wherever it appears.

81. Remove the citation "section 418" and add in its place "section 1318", wherever it appears.

82. Remove the citation "38 U.S.C. 210(c), 521(c), 541(c)" and add in its place "38 U.S.C. 501, 1521(c), 1541(c)", wherever it appears.

83. Remove the citation "38 U.S.C. 1766" and add in its place "38 U.S.C. 3566", wherever it appears.

84. Remove the citation "38 U.S.C. 101(4), 210(c)" and add in its place "38 U.S.C. 101(4), 501", wherever it appears.

85. Remove the citation "38 U.S.C. 521(h)(2)" and add in its place "38 U.S.C. 1521(h)(2)", wherever it appears.

86. Remove the citation "38 U.S.C. 3503 or 3504" and add in its place "38 U.S.C. 6103 or 6104", wherever it appears.

87. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

88. Remove the citation "38 U.S.C. 3503" and add in its place "38 U.S.C. 6103", wherever it appears.

89. Remove the citation "38 U.S.C. 3504" and add in its place "38 U.S.C. 6104", wherever it appears.

90. Remove the citation "38 U.S.C. 212(a)" and add in its place "38 U.S.C. 512(a)", wherever it appears.

91. Remove the citation "38 U.S.C. 3004" and add in its place "38 U.S.C. 5104", wherever it appears.

92. Remove the citation "38 U.S.C. 3012(b)(6)" and add in its place "38 U.S.C. 5112(b)(6)", wherever it appears.

93. Remove the citation "38 U.S.C. 3012(b)(5)" and add in its place "38 U.S.C. 5112(b)(5)", wherever it appears.

94. Remove the citation "38 U.S.C. 3012" and add in its place "38 U.S.C. 5112", wherever it appears.

95. Remove the citation "38 U.S.C. 3106(a)" and add in its place "38 U.S.C. 5306(a)", wherever it appears.

96. Remove the citation "38 U.S.C. 3106(b)" and add in its place "38 U.S.C. 5306(b)", wherever it appears.

97. Remove the citation "38 U.S.C. 3003(a)" and add in its place "38 U.S.C. 5103(a)", wherever it appears.

98. Remove the citation "38 U.S.C. 3010(g)" and add in its place "38 U.S.C. 5110(g)", wherever it appears.

99. Remove the citation "38 U.S.C. 3002" and add in its place "38 U.S.C. 5102", wherever it appears.

100. Remove the citation "38 U.S.C. 3001(a)" and add in its place "38 U.S.C. 5101(a)", wherever it appears.

101. Remove the citation "38 U.S.C. 3010(b)(3)" and add in its place "38 U.S.C. 5110(b)(3)", wherever it appears.

102. Remove the citation "38 U.S.C. 3001(a)" and add in its place "38 U.S.C. 5101(a)", wherever it appears.

103. Remove the citation "38 U.S.C. 3001(b)(1)" and add in its place "38 U.S.C. 5101(b)(1)", wherever it appears.

104. Remove the citation "38 U.S.C. 3001(b)(2)" and add in its place "38 U.S.C. 5101(b)(2)", wherever it appears.

105. Remove the citation "38 U.S.C. 3001(e)" and add in its place "38 U.S.C. 5110(e)", wherever it appears.

106. Remove the citation "38 U.S.C. 3005" and add in its place "38 U.S.C. 5105", wherever it appears.

107. Remove the citation "38 U.S.C. 351" and add in its place "38 U.S.C. 1151", wherever it appears.

108. Remove the citation "38 U.S.C. 3010(a)" and add in its place "38 U.S.C. 5110(a)", wherever it appears.

109. Remove the citation "38 U.S.C. 3007" and add in its place "38 U.S.C. 5107", wherever it appears.

110. Remove the citation "38 U.S.C. 784" and add in its place "38 U.S.C. 1984", wherever it appears.

111. Remove the citation "38 U.S.C. 415 (b), (c), or (d)" and add in its place "38 U.S.C. 1315 (b), (c), or (d)", wherever it appears.

112. Remove the citation "38 U.S.C. 415(d)" and add in its place "38 U.S.C. 1315(d)", wherever it appears.

113. Remove the citation "38 U.S.C. 415" and add in its place "38 U.S.C. 1315", wherever it appears.

114. Remove the citation "38 U.S.C. 521, 541, 542" and add in its place "38 U.S.C. 1521, 1541, 1542", wherever it appears.

115. Remove the citation "38 U.S.C. 543" and add in its place "38 U.S.C. 1543", wherever it appears.

116. Remove the citation "38 U.S.C. 521(c)" and add in its place "38 U.S.C. 1521(c)", wherever it appears.

117. Remove the citation "38 U.S.C. 521(c)" and add in its place "38 U.S.C. 1521(c)", wherever it appears.

118. Remove the citation "section 542" and add in its place "section 1542", wherever it appears.

119. Remove the citation "38 U.S.C. 521(d)(1)" and add in its place "38 U.S.C. 1521(d)(1)", wherever it appears.

120. Remove the citation "38 U.S.C. 521 (b)(3) or (c)(3)" and add in its place "38 U.S.C. 1521 (b)(3) or (c)(3)", wherever it appears.

121. Remove the citation "38 U.S.C. 521(d)(2)" and add in its place "38 U.S.C. 1521(d)(2)", wherever it appears.

122. Remove the citation "38 U.S.C. 415(e) and 506(a)" and add in its place "38 U.S.C. 1351(e) and 1506(a)", wherever it appears.

123. Remove the citation "38 U.S.C. 415(g)(2); 503(b)" and add in its place "38 U.S.C. 1315(g)(2), 1503(b)", wherever it appears.

124. Remove the citation "38 U.S.C. 412(a)" and add in its place "38 U.S.C. 1312(a)", wherever it appears.

125. Remove the citation "38 U.S.C. 521(f)" and add in its place "38 U.S.C. 1521(f)", wherever it appears.

126. Remove the citation "38 U.S.C. 415(g), 503(a)(6)" and add in its place "38 U.S.C. 1315(g), 1503(a)(6)", wherever it appears.

127. Remove the citation "38 U.S.C. 503(15)" and add in its place "38 U.S.C. 1503(15)", wherever it appears.

128. Remove the citation "38 U.S.C. 503(a)(10)" and add in its place "38 U.S.C. 1503(a)(10)", wherever it appears.

129. Remove the citation "38 U.S.C. 415(g)" and add in its place "38 U.S.C. 1315(g)", wherever it appears.

130. Remove the citation "38 U.S.C. 503(a)(14)" and add in its place "38 U.S.C. 1503(a)(14)", wherever it appears.

131. Remove the citation "38 U.S.C. 415(g)(3); 503(c); 521(f)" and add in its place "38 U.S.C. 1315(g)(3), 1503(c), 1521(f)", wherever it appears.

132. Remove the citation "38 U.S.C. 503(a)(7)" and add in its place "38 U.S.C. 1503(a)(7)", wherever it appears.

133. Remove the citation "38 U.S.C. 503(a)(9)" and add in its place "38 U.S.C. 1503(a)(9)", wherever it appears.

134. Remove the citation "38 U.S.C. 503(a)(1)" and add in its place "38 U.S.C. 1503(a)(1)", wherever it appears.

135. Remove the citation "38 U.S.C. 210(c), 503(a)(1)" and add in its place "38 U.S.C. 501, 1503(a)(1)", wherever it appears.

136. Remove the citation "38 U.S.C. 503(a)(2)" and add in its place "38 U.S.C. 1503(a)(2)", wherever it appears.

137. Remove the citation "38 U.S.C. 503(a)(5)" and add in its place "38 U.S.C. 1503(a)(5)", wherever it appears.

138. Remove the citation "38 U.S.C. 503(a)(6)" and add in its place "38 U.S.C. 1503(a)(6)", wherever it appears.

139. Remove the citation "38 U.S.C. 503(a)(7)" and add in its place "38 U.S.C. 1503(a)(7)", wherever it appears.

140. Remove the citation "38 U.S.C. 503(a)(3)" and add in its place "38 U.S.C. 1503(a)(3)", wherever it appears.

141. Remove the citation "38 U.S.C. 503(a)(4)" and add in its place "38 U.S.C. 1503(a)(4)", wherever it appears.

142. Remove the citation "38 U.S.C. 618" and add in its place "38 U.S.C. 1718", wherever it appears.

142. Remove the citation "38 U.S.C. 618(f)" and add in its place "38 U.S.C. 1718(f)", wherever it appears.

143. Remove the citation "38 U.S.C. 521(h), 541(g)" and add in its place "38 U.S.C. 1521(h), 1541(g)", wherever it appears.

144. Remove the citation "38 U.S.C. 522(a)" and add in its place "38 U.S.C. 1522(a)", wherever it appears.

145. Remove the citation "38 U.S.C. 543(a)(1)" and add in its place "38 U.S.C. 1543(a)(1)", wherever it appears.

146. Remove the citation "38 U.S.C. 543(a)(2)" and add in its place "38 U.S.C. 1543(a)(2)", wherever it appears.

147. Remove the citation "38 U.S.C. 543(b)" and add in its place "38 U.S.C. 1543(b)", wherever it appears.

148. Remove the citation "38 U.S.C. 506(a)" and add in its place "38 U.S.C. 1506(a)", wherever it appears.

149. Remove the citation "38 U.S.C. 105, 310, 321, 331, 401, and 521(a)" and add in its place "38 U.S.C. 105, 1110, 1121, 1131, 1301, and 1521(a)", wherever it appears.

150. Remove the citation "38 U.S.C. 311" and add in its place "38 U.S.C. 1111", wherever it appears.

151. Remove the citation "38 U.S.C. 354(b)" and add in its place "38 U.S.C. 1154(b)", wherever it appears.

152. Remove the citation "38 U.S.C. 353" and add in its place "38 U.S.C. 1153", wherever it appears.

153. Remove the citation "38 U.S.C. 354" and add in its place "38 U.S.C. 1154", wherever it appears.

154. Remove the citation "38 U.S.C. 312" and add in its place "38 U.S.C. 1112", wherever it appears.

155. Remove the citation "38 U.S.C. 313" and add in its place "38 U.S.C. 1113", wherever it appears.

156. Remove the citation "38 U.S.C. 333" and add in its place "38 U.S.C. 1133", wherever it appears.

157. Remove the citation "38 U.S.C. 210(c), 310–331" and add in its place "38 U.S.C. 501, 1110–1131", wherever it appears.

158. Remove the citation "38 U.S.C. 501(a)" and add in its place "38 U.S.C. 1501(a)", wherever it appears.

159. Remove the citation "38 U.S.C. 210(c)(1)" and add in its place "38 U.S.C. 501", wherever it appears.

160. Remove the citation "38 U.S.C. 502(b), (c), 512" and add in its place "38 U.S.C. 1502(b), 1502(c), 1512", wherever it appears.

161. Remove the citation "38 U.S.C. 521(g)(2)" and add in its place "38 U.S.C. 1521(g)(2)", wherever it appears.

162. Remove the citation "38 U.S.C. 541(a) and 542(a)" and add in its place "38 U.S.C. 1541(a) and 1542(a)", wherever it appears.

163. Remove the citation "8 U.S.C. 502(a), 523(a)" and add in its place "38 U.S.C. 1502(a), 1523(a)", wherever it appears.

164. Remove the citation "38 U.S.C. 502(b), (c), 521" and add in its place "38 U.S.C. 1502(b), 1502(c), 1521", wherever it appears.

165. Remove the citation "sec. 5202(b)" and add in its place "sec. 8502(b)", wherever it appears.

166. Remove the citation "38 U.S.C. 1802, 1807, 1818" and add in its place "38 U.S.C. 3702, 3707", wherever it appears.

167. Remove the citation "38 U.S.C. 3103A" and add in its place "38 U.S.C. 5303A", wherever it appears.

168. Remove the citation "38 U.S.C. 1411(a)(1)(A)(ii), 1412(b)(1), 1602(1)(A), 1652(a)" and add in its place "38 U.S.C. 3011(a)(1)(A)(ii), 3012(b)(1), 3202(1)(A), 3452(a)", wherever it appears.

169. Remove the citation "38 U.S.C. 355" and add in its place "38 U.S.C. 1155", wherever it appears.

170. Remove the citation "38 U.S.C. 314 and 315" and add in its place "38 U.S.C. 1114 and 1115", wherever it appears.

171. Remove the citation "38 U.S.C. 3009, 3301(b)(1)" and add in its place "38 U.S.C. 5109, 5701(b)(1)", wherever it appears.

172. Remove the citation "38 U.S.C. 3113(c)" and add in its place "38 U.S.C. 5313(c)", wherever it appears.

173. Remove the citation "38 U.S.C. 363" and add in its place "38 U.S.C. 1163", wherever it appears.

174. Remove the citation "38 U.S.C. 502(a)" and add in its place "38 U.S.C. 1502(a)", wherever it appears.

175. Remove the citation "38 U.S.C. 502(a)(2)" and add in its place "38 U.S.C. 1502(a)(2)", wherever it appears.

176. Remove the citation "38 U.S.C. 363(a)" and add in its place "38 U.S.C. 1163(a)", wherever it appears.

177. Remove the citation "38 U.S.C. 314" and add in its place "38 U.S.C. 1114", wherever it appears.

178. Remove the citation "38 U.S.C. 314(k)" and add in its place "38 U.S.C. 1114(k)", wherever it appears.

179. Remove the citation "38 U.S.C. 314(l)" and add in its place "38 U.S.C. 1114(l)", wherever it appears.

180. Remove the citation "38 U.S.C. 314(a)" and add in its place "38 U.S.C. 1114(a)", wherever it appears.

181. Remove the citation "38 U.S.C. 314(o)" and add in its place "38 U.S.C. 1114(o)", wherever it appears.

182. Remove the citation "38 U.S.C. 315" and add in its place "38 U.S.C. 1115", wherever it appears.

183. Remove the citation "38 U.S.C. 314(r)" and add in its place "38 U.S.C. 1114(r)", wherever it appears.

184. Remove the citation "38 U.S.C. 314(m)" and add in its place "38 U.S.C. 1114(m)", wherever it appears.

185. Remove the citation "38 U.S.C. 314(n)" and add in its place "38 U.S.C. 1114(n)", wherever it appears.

186. Remove the citation "38 U.S.C. 314(p)" and add in its place "38 U.S.C. 1114(p)", wherever it appears.

187. Remove the citation "38 U.S.C. 314(r)(1)" and add in its place "38 U.S.C. 1114(r)(1)", wherever it appears.

188. Remove the citation "38 U.S.C. 314(r)(2)" and add in its place "38 U.S.C. 1114(r)(2)", wherever it appears.

189. Remove the citation "38 U.S.C. 314(s)" and add in its place "38 U.S.C. 1114(s)", wherever it appears.

190. Remove the citation "38 U.S.C. 521(d), (e)" and add in its place "38 U.S.C. 1521(d), (e)", wherever it appears.

191. Remove the citation "38 U.S.C. 315(1)(I)" and add in its place "38 U.S.C. 1115(1)(I)", wherever it appears.

192. Remove the citation "38 U.S.C. 411(c), 415(h)" and add in its place "38 U.S.C. 1311(c), 1315(h)", wherever it appears.

193. Remove the citation "38 U.S.C. 541(d)" and add in its place "38 U.S.C. 1541(d)", wherever it appears.

194. Remove the citation "38 U.S.C. 322" and add in its place "38 U.S.C. 1122", wherever it appears.

195. Remove the citation "38 U.S.C. 502(b)" and add in its place "38 U.S.C. 1502(b)", wherever it appears.

196. Remove the citation "38 U.S.C. 521(e)" and add in its place "38 U.S.C. 1521(e)", wherever it appears.

197. Remove the citation "38 U.S.C. 502(c), 521(e)" and add in its place "38 U.S.C. 1502(c), 1521(e)", wherever it appears.

198. Remove the citation "38 U.S.C. 541(e)" and add in its place "38 U.S.C. 1541(e)", wherever it appears.

199. Remove the citation "38 U.S.C. 210(c), 314(r)(2)" and add in its place "38 U.S.C. 501, 1141(r)(2)", wherever it appears.

200. Remove the citation "38 U.S.C. 722" and add in its place "38 U.S.C. 1922", wherever it appears.

201. Remove the citation "38 U.S.C. 3103(b)" and add in its place "38 U.S.C. 5303(b)", wherever it appears.

202. Remove the citation "section 620" and add in its place "section 1720", wherever it appears.

203. Remove the citation "38 U.S.C. 612(b)(3)" and add in its place "38 U.S.C. 1712(b)(3)", wherever it appears.

204. Remove the citation "38 U.S.C. 360" and add in its place "38 U.S.C. 1160", wherever it appears.

205. Remove the citation "38 U.S.C. 3010(a)" and add in its place "38 U.S.C. 5110(a)", wherever it appears.

206. Remove the citation "38 U.S.C. 3010(j)" and add in its place "38 U.S.C. 5110(j)", wherever it appears.

207. Remove the citation "38 U.S.C. 3010(d)" and add in its place "38 U.S.C. 5110(d)", wherever it appears.

208. Remove the citation "38 U.S.C. 3010(e)" and add in its place "38 U.S.C. 5110(e)", wherever it appears.

209. Remove the citation "38 U.S.C. 502(a)" and add in its place "38 U.S.C. 1502(a)", wherever it appears.

210. Remove the citation "38 U.S.C. 3010(i)" and add in its place "38 U.S.C. 5110(i)", wherever it appears.

211. Remove the citation "38 U.S.C. 3010(c)" and add in its place "38 U.S.C. 5110(c)", wherever it appears.

212. Remove the citation "38 U.S.C. 3010(a) and 3010(b)(2)" and add in its place "38 U.S.C. 5110(a) and 5110(b)(2)", wherever it appears.

213. Remove the citation "38 U.S.C. 103(d)(3), 3010(m)" and add in its place "38 U.S.C. 103(d)(3), 5110(m)", wherever it appears.

214. Remove the citation "38 U.S.C. 210(c), 3010(b)(1)" and add in its place "38 U.S.C. 501, 5110(b)(1)", wherever it appears.

215. Remove the citation "38 U.S.C. 210(c), 3010(d)" and add in its place "38 U.S.C. 501, 5110(d)", wherever it appears.

216. Remove the citation "38 U.S.C. 3010(n)" and add in its place "38 U.S.C. 5110(n)", wherever it appears.

217. Remove the citation "38 U.S.C. 3107" and add in its place "38 U.S.C. 5307", wherever it appears.

218. Remove the citation "38 U.S.C. 3203(b)(2)" and add in its place "38 U.S.C. 5503(b)(2)", wherever it appears.

219. Remove the citation "38 U.S.C. 3203(a)" and add in its place "38 U.S.C. 5503(a)", wherever it appears.

220. Remove the citation "38 U.S.C. 3203(b)" and add in its place "38 U.S.C. 5503(b)", wherever it appears.

221. Remove the citation "38 U.S.C. 3503(e); 3504(c); 3505(a)" and add in its place "38 U.S.C. 6103(e), 6104(c), 6105(a)", wherever it appears.

222. Remove the citation "38 U.S.C. 532, 534, or 536" and add in its place "38 U.S.C. 1532, 1534, or 1536", wherever it appears.

223. Remove the citation "38 U.S.C. 3012(b)" and add in its place "38 U.S.C. 5112(b)", wherever it appears.

224. Remove the citation "38 U.S.C. 3012(a)" and add in its place "38 U.S.C. 5112(a)", wherever it appears.

225. Remove the citation "38 U.S.C. 3108(a)" and add in its place "38 U.S.C. 5308(a)", wherever it appears.

226. Remove the citation "38 U.S.C. 3503(a)" and add in its place "38 U.S.C. 6103(a)", wherever it appears.

227. Remove the citation "38 U.S.C. 101(3), 3012(b)" and add in its place "38 U.S.C. 101(3), 5112(b)", wherever it appears.

228. Remove the citation "38 U.S.C. 3012(b)(6)" and add in its place "38 U.S.C. 5112(b)(6)", wherever it appears.

229. Remove the citation "38 U.S.C. 101(4); 210(c)(1)" and add in its place "38 U.S.C. 101(4), 501", wherever it appears.

230. Remove the citation "38 U.S.C. 3504 and 3505" and add in its place "38 U.S.C. 6104 and 6105", wherever it appears.

231. Remove the citation "38 U.S.C. 5101" and add in its place "38 U.S.C. 8301", wherever it appears.

232. Remove the citation "38 U.S.C. 3012(b)(3)" and add in its place "38 U.S.C. 5112(b)(3)", wherever it appears.

233. Remove the citation "38 U.S.C. 3012(b)(2)" and add in its place "38 U.S.C. 5112(b)(2)", wherever it appears.

234. Remove the citation "38 U.S.C. 3012(b)(5)" and add in its place "38 U.S.C. 5112(b)(5)", wherever it appears.

235. Remove the citation "38 U.S.C. 3203" and add in its place "38 U.S.C. 5503", wherever it appears.

236. Remove the citation "38 U.S.C. 3012(c)" and add in its place "38 U.S.C. 5112(c)", wherever it appears.

237. Remove the citation "38 U.S.C. 3012(b)(8)" and add in its place "38 U.S.C. 5112(b)(8)", wherever it appears.

238. Remove the citation "38 U.S.C. 411(a), 3012(b)(10)" and add in its place "38 U.S.C. 1311(a), 5112(b)(10)", wherever it appears.

239. Remove the citation "38 U.S.C. 3203(a)" and add in its place "38 U.S.C. 5503(a)", wherever it appears.

240. Remove the citation "38 U.S.C. 522(c)" and add in its place "38 U.S.C. 1522(c)", wherever it appears.

241. Remove the citation "section 314(1)" and add in its place "section 1114(l)", wherever it appears.

242. Remove the citation "section 314(m)" and add in its place "section 1114(m)", wherever it appears.

243. Remove the citation "section 314(n)" and add in its place "section 1114(n)", wherever it appears.

244. Remove the citation "38 U.S.C. 413(a)" and add in its place "38 U.S.C. 1313(a)", wherever it appears.

245. Remove the citation "38 U.S.C. 413(b)" and add in its place "38 U.S.C. 1313(b)", wherever it appears.

246. Remove the citation "38 U.S.C. 3108" and add in its place "38 U.S.C. 5308", wherever it appears.

247. Remove the citation "38 U.S.C. 3109" and add in its place "38 U.S.C. 5309", wherever it appears.

248. Remove the citation "38 U.S.C. 3109(b)" and add in its place "38 U.S.C. 5309(b)", wherever it appears.

249. Remove the citation "38 U.S.C. 358" and add in its place "38 U.S.C. 1158", wherever it appears.

250. Remove the citation "38 U.S.C. 507" and add in its place "38 U.S.C. 1507", wherever it appears.

251. Remove the citation "38 U.S.C. 103(d)(2), 3104(b)(3)" and add in its place "38 U.S.C. 103(d)(2), 5304(b)(3)", wherever it appears.

252. Remove the citation "38 U.S.C. 3010(h)" and add in its place "38 U.S.C. 5110(h)", wherever it appears.

253. Remove the citation "38 U.S.C. 321 or 341" and add in its place "38 U.S.C. 1121 or 1141", wherever it appears.

254. Remove the citation "38 U.S.C. 314(a)" and add in its place "38 U.S.C. 1114(a)", wherever it appears.

255. Remove the citation "38 U.S.C. 210(c), 3113" and add in its place "38 U.S.C. 501, 5313", wherever it appears.

256. Remove the citation "38 U.S.C. 3012(b)(7)" and add in its place "38 U.S.C. 5112(b)(7)", wherever it appears.

257. Remove the citation "38 U.S.C. 3104(a)" and add in its place "38 U.S.C. 5304(a)", wherever it appears.

258. Remove the citation "38 U.S.C. 3104(c)" and add in its place "38 U.S.C. 5304(c)", wherever it appears.

259. Remove the citation "38 U.S.C. 521(i)" and add in its place "38 U.S.C. 1521(i)", wherever it appears.

260. Remove the citation "38 U.S.C. 3104" and add in its place "38 U.S.C. 5304", wherever it appears.

261. Remove the citation "38 U.S.C. 3104(b)" and add in its place "38 U.S.C. 5304(b)", wherever it appears.

262. Remove the citation "38 U.S.C. 521, 541, or 542" and add in its place "38 U.S.C. 1521, 1541, or 1542", wherever it appears.

263. Remove the citation "38 U.S.C. 412(b)" and add in its place "38 U.S.C. 1312(b)", wherever it appears.

264. Remove the citation "38 U.S.C. 512(a)" and add in its place "38 U.S.C. 1512(a)", wherever it appears.

265. Remove the citation "38 U.S.C. 536" and add in its place "38 U.S.C. 1536", wherever it appears.

266. Remove the citation "38 U.S.C. 541" and add in its place "38 U.S.C. 1541", wherever it appears.

267. Remove the citation "38 U.S.C. 536 (a) and (b) and 544" and add in its place "38 U.S.C. 1536 (a) and (b) and 1544", wherever it appears.

268. Remove the citation "38 U.S.C. 541 and 544" and add in its place "38 U.S.C. 1541 and 1544", wherever it appears.

269. Remove the citation "38 U.S.C. 3105" and add in its place "38 U.S.C. 5305", wherever it appears.

270. Remove the citation "38 U.S.C. 560, 561" and add in its place "38 U.S.C. 1560, 1561", wherever it appears.

271. Remove the citation "38 U.S.C. 562" and add in its place "38 U.S.C. 1562", wherever it appears.

272. Remove the citation "38 U.S.C. 423" and add in its place "38 U.S.C. 1323", wherever it appears.

273. Remove the citation "38 U.S.C. 1765" and add in its place "38 U.S.C. 3565", wherever it appears.

274. Remove the citation "38 U.S.C. 1701(a)" and add in its place "38 U.S.C. 3501(a)", wherever it appears.

275. Remove the citation "38 U.S.C. 1902" and add in its place "38 U.S.C. 3902", wherever it appears.

276. Remove the citation "38 U.S.C. 801(a)" and add in its place "38 U.S.C. 2101(a)", wherever it appears.

277. Remove the citation "38 U.S.C. 801, 804" and add in its place "38 U.S.C. 2101, 2104", wherever it appears.

278. Remove the citation "38 U.S.C. 801(b)" and add in its place "38 U.S.C. 2101(b)", wherever it appears.

279. Remove the citation "38 U.S.C. 802" and add in its place "38 U.S.C. 2102", wherever it appears.

280. Remove the citation "38 U.S.C. 362" and add in its place "38 U.S.C. 1162", wherever it appears.

281. Remove the citation "38 U.S.C. 411" and add in its place "38 U.S.C. 1311", wherever it appears.

282. Remove the citation "38 U.S.C. 1731(b)" and add in its place "38 U.S.C. 3531(b)", wherever it appears.

283. Remove the citation "38 U.S.C. 418" and add in its place "38 U.S.C. 1318", wherever it appears.

284. Remove the citation "38 U.S.C. 3202" and add in its place "38 U.S.C. 5502", wherever it appears.

285. Remove the citation "38 U.S.C. 3503(d) and 3505" and add in its place "38 U.S.C. 6103(d) and 6105", wherever it appears.

286. Remove the citation "38 U.S.C. 3503(b)" and add in its place "38 U.S.C. 6103(b)", wherever it appears.

287. Remove the citation "38 U.S.C. 3504(b)" and add in its place "38 U.S.C. 6104(b)", wherever it appears.

288. Remove the citation "38 U.S.C. 3503(e)" and add in its place "38 U.S.C. 6103(e)", wherever it appears.

289. Remove the citation "38 U.S.C. 3503(a)" and add in its place "38 U.S.C. 6103(a)", wherever it appears.

290. Remove the citation "38 U.S.C. 3503" and add in its place "38 U.S.C. 6103", wherever it appears.

291. Remove the citation "38 U.S.C. 3504(c)" and add in its place "38 U.S.C. 6104(c)", wherever it appears.

292. Remove the citation "38 U.S.C. 3503 (d), (e), 3504" and add in its place "38 U.S.C. 6103(d), 6103(e), 6104", wherever it appears.

293. Remove the citation "38 U.S.C. 3505" and add in its place "38 U.S.C. 6105", wherever it appears.

294. Remove the citation "38 U.S.C. 3503(c)" and add in its place "38 U.S.C. 6103(c)", wherever it appears.

295. Remove the citation "38 U.S.C. 3505(a)" and add in its place "38 U.S.C. 6105(a)", wherever it appears.

296. Remove the citation "38 U.S.C. 3404(c)" and add in its place "38 U.S.C. 5904(c)", wherever it appears.

297. Remove the citation "38 U.S.C. 905" and add in its place "38 U.S.C. 2305", wherever it appears.

298. Remove the citation "38 U.S.C. 359" and add in its place "38 U.S.C. 1159", wherever it appears.

299. Remove the citation "38 U.S.C. 314(q) and 356" and add in its place "38 U.S.C. 1114(q) and 1156", wherever it appears.

300. Remove the citation "38 U.S.C. 3021" and add in its place "38 U.S.C. 5121", wherever it appears.

301. Remove the citation "38 U.S.C. 3021(a)(1)" and add in its place "38 U.S.C. 5121(a)(1)", wherever it appears.

302. Remove the citation "38 U.S.C. 3021(c); 3012(b)" and add in its place "38 U.S.C. 5121(c), 5112(b)", wherever it appears.

303. Remove the citation "38 U.S.C. 3203" and add in its place "38 U.S.C. 5503", wherever it appears.

304. Remove the citation "38 U.S.C. 3021(b) and 3202(d)" and add in its place "38 U.S.C. 5121(b) and 5502(d)", wherever it appears.

305. Remove the citation "38 U.S.C. 3022" and add in its place "38 U.S.C. 5122", wherever it appears.

306. Remove the citation "38 U.S.C. 3203(b)" and add in its place "38 U.S.C. 5503(b)", wherever it appears.

307. Remove the citation "38 U.S.C. 3202(d)" and add in its place "38 U.S.C. 5502(d)", wherever it appears.

308. Remove the citation "38 U.S.C. 210, 902–905" and add in its place "38 U.S.C. 501, 2302–2305", wherever it appears.

309. Remove the citation "38 U.S.C. 907" and add in its place "38 U.S.C. 2307", wherever it appears.

310. Remove the citation "38 U.S.C. 902" and add in its place "38 U.S.C. 2302", wherever it appears.

311. Remove the citation "38 U.S.C. 902(a)" and add in its place "38 U.S.C. 2302(a)", wherever it appears.

312. Remove the citation "38 U.S.C. 210(c), 902" and add in its place "38 U.S.C. 501, 2302", wherever it appears.

313. Remove the citation "38 U.S.C. 903(a)" and add in its place "38 U.S.C. 2303(a)", wherever it appears.

314. Remove the citation "38 U.S.C. 601(4)" and add in its place "38 U.S.C. 1701(4)", wherever it appears.

314a. Remove the citation "38 U.S.C. 610 or 611(a)" and add in its place "38 U.S.C. 1710 or 1711(a)", wherever it appears.

315. Remove the citation "38 U.S.C. 620" and add in its place "38 U.S.C. 1720", wherever it appears.

316. Remove the citation "38 U.S.C. 903(b)" and add in its place "38 U.S.C. 2303(b)", wherever it appears.

317. Remove the citation "38 U.S.C. 903(b)(2)" and add in its place "38 U.S.C. 2303(b)(2)", wherever it appears.

318. Remove the citation "38 U.S.C. 902; 907" and add in its place "38 U.S.C. 2302, 2307", wherever it appears.

319. Remove the citation "38 U.S.C. 902(b)" and add in its place "38 U.S.C. 2302(b)", wherever it appears.

320. Remove the citation "38 U.S.C. 3504(c)(2), 3505(a)" and add in its place "38 U.S.C. 5904(c)(2), 5905(a)", wherever it appears.

321. Remove the citation "38 U.S.C. 906(d)" and add in its place "38 U.S.C. 2306(d)", wherever it appears.

PART 4—SCHEDULE FOR RATING DISABILITIES

1. Remove the citation "38 U.S.C. 355" and add in its place 38 U.S.C. 1155", wherever it appears.

2. Remove the citation "38 U.S.C. 210c" and add in its place 38 "U.S.C. 501" wherever it appears.

3. Remove the citation "38 U.S.C. 1502" and add in its place "38 U.S.C. 3102", wherever it appears.

4. Remove the citation "38 U.S.C. 315" and add in its place "38 U.S.C. 1115", wherever it appears.

5. Remove the citation "38 U.S.C. 314(L)" and add in its place "38 U.S.C. 1114(L)", wherever it appears.

PART 6—UNITED STATES GOVERNMENT LIFE INSURANCE

1. Remove the citation "section 781" and add in its place "section 1981", wherever it appears.

2. Remove the citation "section 742(b)" and add in its place "section 1942(b)", wherever it appears.

3. Remove the citation "38 U.S.C. 752(b)" and add in its place "38 U.S.C. 1952(b)", wherever it appears.

4. Remove the citation "section 752(b)" and add in its place "section 1952(b)", wherever it appears.

5. Remove the citation "section 748" and add in its place "section 1948", wherever it appears.

6. Remove the citation "Sections 721 and 757" and add in its place "Sections 1921 and 1957", wherever it appears.

7. Remove the citation "38 U.S.C. 210, 740–760, 781–788" and add in its place "38 U.S.C. 501, 1940–1960, 1981–1988", wherever it appears.

8. Remove the citation "38 U.S.C. 744" and add in its place "38 U.S.C. 1944", wherever it appears.

9. Remove the citation "38 U.S.C. 718" and add in its place "38 U.S.C. 1918", wherever it appears.

10. Remove the citation "section 746" and add in its place "section 1946", wherever it appears.

11. Remove the citation "38 U.S.C. 3101" and add in its place "38 U.S.C. 5301", wherever it appears.

12. Remove the citation "38 U.S.C. 752" and add in its place "38 U.S.C. 1952", wherever it appears.

13. Remove the citation "38 U.S.C. 706" and add in its place "38 U.S.C. 1906", wherever it appears.

14. Remove the citation "section 744" and add in its place "section 1944", wherever it appears.

15. Remove the citation "8 U.S.C. 761" and add in its place "38 U.S.C. 1961", wherever it appears.

16. Remove the citation "section 763" and add in its place "section 1963", wherever it appears.

17. Remove the citation "38 U.S.C. 763" and add in its place "38 U.S.C. 1963", wherever it appears.

18. Remove the citation "38 U.S.C. 744, 759" and add in its place "38 U.S.C. 1944, 1959", wherever it appears.

19. Remove the citation "section 760" and add in its place "section 1960", wherever it appears.

20. Remove the citation "38 U.S.C. 742 and 748" and add in its place "38 U.S.C. 1942 and 1948", wherever it appears.

21. Remove the citation "section 724" and add in its place "section 1924", wherever it appears.

22. Remove the citation "38 U.S.C. 746" and add in its place "38 U.S.C. 1946", wherever it appears.

23. Remove the citation "38 U.S.C. 750" and add in its place "38 U.S.C. 1950", wherever it appears.

24. Remove the citation "38 U.S.C. 784" and add in its place "38 U.S.C. 1984", wherever it appears.

25. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

26. Remove the citation "38 U.S.C. 3202(a)" and add in its place "38 U.S.C. 5502(a)", wherever it appears.

27. Remove the citation "section 742(c)" and add in its place "section 1942(c)", wherever it appears.

28. Remove the citation "section 757" and add in its place "section 1957", wherever it appears.

29. Remove the citation "section 784" and add in its place "section 1984", wherever it appears.

30. Remove the citation "section 753" and add in its place "section 1953", wherever it appears.

PART 8—NATIONAL SERVICE LIFE INSURANCE

1. Remove the citation "section 717(e)" and add in its place "section 1917(e)", wherever it appears.

2. Remove the citation "section 712" and add in its place "section 1912", wherever it appears.

3. Remove the citation "section 722(a)" and add in its place "section 1922(a)", wherever it appears.

4. Remove the citation "section 723(b)" and add in its place "section 1923(b)", wherever it appears.

5. Remove the citation "section 725" and add in its place "section 1925", wherever it appears.

6. Remove the citation "38 U.S.C. 725" and add in its place "38 U.S.C. 1925", wherever it appears.

7. Remove the citation "38 U.S.C. 717(e)" and add in its place "38 U.S.C. 1917(e)", wherever it appears.

8. Remove the citation "section 715" and add in its place "section 1915", wherever it appears.

9. Remove the citation "section 781" and add in its place "section 1981", wherever it appears.

10. Remove the citation "section 704(b)" and add in its place "section 1904(b)", wherever it appears.

11. Remove the citation "section 724" and add in its place "section 1924", wherever it appears.

12. Remove the citation "section 722(b)" and add in its place "section 1922(b)", wherever it appears.

13. Remove the citation "38 U.S.C. 210, 701–724, 781–788" and add in its place "38 U.S.C. 501, 1901–1924, 1981–1988", wherever it appears.

14. Remove the citation "38 U.S.C. 602" and add in its place "38 U.S.C. 1702", wherever it appears.

15. Remove the citation "section 704(d)" and add in its place "section 1904(d)", wherever it appears.

16. Remove the citation "38 U.S.C. 704(d) and (e)" and add in its place "38 U.S.C. 1904(d) and (e)", wherever it appears.

17. Remove the citation "38 U.S.C. 712" and add in its place "38 U.S.C. 1912", wherever it appears.

18. Remove the citation "38 U.S.C. 704(b)" and add in its place "38 U.S.C. 1904(b)", wherever it appears.

19. Remove the citation "38 U.S.C. 702 and 706" and add in its place "38 U.S.C. 1902 and 1906", wherever it appears.

20. Remove the citation "38 U.S.C. 704(c)" and add in its place "38 U.S.C. 1904(c)", wherever it appears.

21. Remove the citation "38 U.S.C. 722(a)" and add in its place "38 U.S.C. 1922(a)", wherever it appears.

22. Remove the citation "38 U.S.C. 723(b)" and add in its place "38 U.S.C. 1923(b)", wherever it appears.

23. Remove the citation "38 U.S.C. 704, 706" and add in its place "38 U.S.C. 1904, 1906", wherever it appears.

24. Remove the citation "38 U.S.C. 725(b)" and add in its place "38 U.S.C. 1925(b)", wherever it appears.

25. Remove the citation "38 U.S.C. 725(c)" and add in its place "38 U.S.C. 1925(c)", wherever it appears.

26. Remove the citation "38 U.S.C. 704" and add in its place "38 U.S.C. 1904", wherever it appears.

27. Remove the citation "38 U.S.C. 781" and add in its place "38 U.S.C. 1981", wherever it appears.

28. Remove the citation "section 3202(f)" and add in its place "section 5502(f)", wherever it appears.

29. Remove the citation "38 U.S.C. 708" and add in its place "38 U.S.C. 1908", wherever it appears.

30. Remove the citation "38 U.S.C. 704 and 706" and add in its place "38 U.S.C. 1904 and 1906", wherever it appears.

31. Remove the citation "sections 704(c) and 722(a)" and add in its place "sections 1904(c) and 1922(a)", wherever it appears.

32. Remove the citation "38 U.S.C. 723(b) and 725" and add in its place "38 U.S.C. 1923(b) and 1925", wherever it appears.

33. Remove the citation "38 U.S.C. 797(c)" and add in its place "38 U.S.C. 1907(a)", wherever it appears.

34. Remove the citation "section 707(b)" and add in its place "section 1907(b)", wherever it appears.

35. Remove the citation "38 U.S.C. 702 and 706" and add in its place "38 U.S.C. 1902 and 1906", wherever it appears.

36. Remove the citation "38 U.S.C. 704(c)" and add in its place "section 1904(c)", wherever it appears.

37. Remove the citation "38 U.S.C. 704 and 723" and add in its place "38 U.S.C. 1904 and 1923", wherever it appears.

38. Remove the citation "section (c), (d), and (e)" and add in its place "section 1904((c), (d), and (e)", wherever it appears.

39. Remove the citation "38 U.S.C. 602(c) (2)" and add it its place "38 U.S.C. 0702(c) (2)", wherever it appears.

40. Remove the citation "section 725(c)" and add in its place "section 1925(c)", wherever it appears.

41. Remove the citation "38 U.S.C. 706" and add in its place "38 U.S.C. 1906", wherever it appears.

42. Remove the citation "38 U.S.C. 724" and add in its place "38 U.S.C. 1924", wherever it appears.

43. Remove the citation "38 U.S.C. 704(b)" and add in its place "38 U.S.C. 1904(b)", wherever it appears.

44. Remove the citation "sections 712 or 724" and add in its place "sections 1912 or 1924", wherever it appears.

45. Remove the citation "section 704(d)" and add in its place "38 U.S.C. 1904(d)", wherever it appears.

46. Remove the citation "38 U.S.C. 717(d)" and add in its place "38 U.S.C. 1917(d)", wherever it appears.

47. Remove the citation "section 707" and add in its place "section 1907", wherever it appears.

48. Remove the citation "sec. 3101(c)" and add in its place "sec. 5301(c)", wherever it appears.

49. Remove the citation "38 U.S.C. 3101" and add in its place "38 U.S.C. 5301", wherever it appears.

50. Remove the citation "section 716(b)" and add in its place "section 1916(b)", wherever it appears.

51. Remove the citation "38 U.S.C. 704 and 705" and add in its place "38 U.S.C. 1904 and 1905", wherever it appears.

52. Remove the citation "38 U.S.C. 712(b)" and add in its place "38 U.S.C. 1912(b)", wherever it appears.

53. Remove the citation "38 U.S.C. 784" and add in its place "38 U.S.C. 1984", wherever it appears.

54. Remove the citation "38 U.S.C. 808" and add in its place "38 U.S.C. 1906", wherever it appears.

55. Remove the citation "38 U.S.C. 717" and add in its place "38 U.S.C. 1917", wherever it appears.

56. Remove the citation "38 U.S.C. 706" and add in its place "38 U.S.C. 1906", wherever it appears.

57. Remove the citation "sections 702, 723 and 725" and add in its place "sections 1902, 1923 and 1925", wherever it appears.

58. Remove the citation "section 728" and add in its place "section 1928", wherever it appears.

59. Remove the citation "38 U.S.C. 726" and add in its place "38 U.S.C. 1926", wherever it appears.

60. Remove the citation "38 U.S.C. 728" and add in its place "38 U.S.C. 1928", wherever it appears.

61. Remove the citation "38 U.S.C. 705, 706" and add in its place "38 U.S.C. 1905, 1906", wherever it appears.

62. Remove the citation "38 U.S.C. 717(e)" and add in its place "38 U.S.C. 1917(e)", wherever it appears.

63. Remove the citation "38 U.S.C. 715" and add in its place "38 U.S.C. 1915", wherever it appears.

64. Remove the citation "38 U.S.C. 722" and add in its place "38 U.S.C. 1922", wherever it appears.

65. Remove the citation "38 U.S.C. 723" and add in its place "38 U.S.C. 1923", wherever it appears.

66. Remove the citation "38 U.S.C. 704 (c) and (e) and 725(b)" and add in its place "38 U.S.C. 1904 (c) and (e) and 1925(b)", wherever it appears.

67. Remove the citation "38 U.S.C. 704(e) and 725(b)" and add in its place "38 U.S.C. 1904(e) and 1925(b)", wherever it appears.

68. Remove the citation "38 U.S.C. 704 (c) and (e) and 725(c)" and add in its place "38 U.S.C. 1904 (c) and (e) and 1925(c)

69. Remove the citation "38 U.S.C. 704(c) and 725" and add in its place "38 U.S.C. 1904(c) and 1925", wherever it appears.

70. Remove the citation "38 U.S.C. 701, 703, 706 as to cash value, 710, 711, 717, 718, 719(a), 725, 783, 784, 785, and 787" and add in its place "sections 1901, 1903, 1906 as to cash value, 1910, 1911, 1917, 1918, 1919(a), 1925, 1983, 1984, 1985, and 1987", wherever it appears.

71. Remove the citation "38 U.S.C. 705, 706" and add in its place "38 U.S.C. 1905, 1906", wherever it appears.

PART 9—SERVICEMEN'S GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

1. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

2. Remove the citation "38 U.S.C. 766" and add in its place "38 U.S.C. 1966", wherever it appears.

3. Remove the citation "38 U.S.C. 766(b)" and add in its place "38 U.S.C. 1966(b)", wherever it appears.

4. Remove the citation "38 U.S.C. 767" and add in its place "38 U.S.C. 1967", wherever it appears.

5. Remove the citation "38 U.S.C. 768(b), 777(a)" and add in its place "38 U.S.C. 1968(b), 1977(a)", wherever it appears.

6. Remove the citation "38 U.S.C. 777" and add in its place "38 U.S.C. 1977", wherever it appears.

7. Remove the citation "38 U.S.C. 767(b)" and add in its place "38 U.S.C. 1967(b)", wherever it appears.

8. Remove the citation "38 U.S.C. 210(c), 767(c)" and add in its place "38 U.S.C. 501, 1967(c)", wherever it appears.

9. Remove the citation "38 U.S.C. 769" and add in its place "38 U.S.C. 1969", wherever it appears.

10. Remove the citation "38 U.S.C. 210(c)" and add in its place "38 U.S.C. 501", wherever it appears.

11. Remove the citation "Section 770(g)" and add in its place "Section 1970(g)", wherever it appears.

12. Remove the citation "38 U.S.C. 769(a)" and add in its place "38 U.S.C. 1969(a)", wherever it appears.

13. Remove the citation "38 U.S.C. 773" and add in its place "38 U.S.C. 1973", wherever it appears.

14. Remove the citation "38 U.S.C. 767(a) and 777" and add in its place "38 U.S.C. 1967(a) and 1977", wherever it appears.

PART 10—ADJUSTED COMPENSATION

Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

PART 11—LOANS BY BANKS ON AND PAYMENT OF ADJUSTED SERVICE CERTIFICATES

Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

PART 12—DISPOSITION OF VETERAN'S PERSONAL FUNDS AND EFFECTS

1. Remove the citation "38 U.S.C. 210, 5210" and add in its place "38 U.S.C. 501, 8510", wherever it appears.

2. Remove the citation "38 U.S.C. 3202(e)" and add in its place "38 U.S.C. 5502(e)", wherever it appears.

3. Remove the citation "38 U.S.C. 5220(a)" and add in its place "38 U.S.C. 8520(a)", wherever it appears.

PART 13—VETERANS BENEFITS ADMINISTRATION, FIDUCIARY ACTIVITIES

1. Remove the citation "38 U.S.C. 3203(b)(2)" and add in its place "38 U.S.C. 5503(b)(2)", wherever it appears.

2. Remove the citation "38 U.S.C. 3203(b)(1)" and add in its place "38 U.S.C. 5503(b)(1)", wherever it appears.

3. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

4. Remove the citation "38 U.S.C. 212" and add in its place "38 U.S.C. 512", wherever it appears.

5. Remove the citation "38 U.S.C. 3103, 3202, 3203, 3311 and 5220" and add in its place "38 U.S.C. 5303, 5502, 5503, 5711 and 8520", wherever it appears.

6. Remove the citation "38 U.S.C. 3202" and add in its place "38 U.S.C. 5502", wherever it appears.

7. Remove the citation "38 U.S.C. 505(a)" and add in its place "38 U.S.C. 1505(a)", wherever it appears.

8. Remove the citation "38 U.S.C. 3501" and add in its place "38 U.S.C. 6101", wherever it appears.

9. Remove the citation "38 U.S.C. 3203(b)(3)" and add in its place "38 U.S.C. 5503(b)(3)", wherever it appears.

10. Remove the citation "38 U.S.C. 3203(b)(1)(A)" and add in its place "38 U.S.C. 5503(b)(1)(A)", wherever it appears.

11. Remove the citation "38 U.S.C. 3202(e)" and add in its place "38 U.S.C. 5502(e)", wherever it appears.

12. Remove the citation "38 U.S.C. 5220(a)" and add in its place "38 U.S.C. 8520(a)", wherever it appears.

13. Remove the citation "38 U.S.C. 3101(a)" and add in its place "38 U.S.C. 5301(a)", wherever it appears.

PART 14—LEGAL SERVICES, GENERAL COUNSEL

1. Remove the citation "38 U.S.C. 3401–3405" and add in its place "38 U.S.C. 5901–5905", wherever it appears.

2. Remove the citation "38 U.S.C. 210, 3401–3405" and add in its place "38 U.S.C. 501, 5901–5905", wherever it appears.

3. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

4. Remove the citation "38 U.S.C. 4116" and add in its place "38 U.S.C. 7316", wherever it appears.

5. Remove the citation "38 U.S.C. 1820" and add in its place "38 U.S.C. 3720", wherever it appears.

6. Remove the citation "38 U.S.C. 3202(e)" and add in its place "38 U.S.C. 5502(e)", wherever it appears.

7. Remove the citation "38 U.S.C. 210(c)(1)" and add in its place "38 U.S.C. 501", wherever it appears.

8. Remove the citation "38 U.S.C. 218" and add in its place "38 U.S.C. 901", wherever it appears.

9. Remove the citation "38 U.S.C. 223" and add in its place "38 U.S.C. 515", wherever it appears.

10. Remove the citation "section 4116" and add in its place "section 7316", wherever it appears.

11. Remove the citation "section 4116(e)" and add in its place "section 7316(e)", wherever it appears.

12. Remove the citation "38 U.S.C. 4116(e)" and add in its place "38 U.S.C. 7316(e)", wherever it appears.

13. Remove the citation "section 236" and add in its place "section 515(b)", wherever it appears.

14. Remove the citation "38 U.S.C. 236" and add in its place "38 U.S.C. 515(b)", wherever it appears.

15. Remove the citation "38 U.S.C. 629" and add in its place "38 U.S.C. 1729", wherever it appears.

16. Remove the citation "38 U.S.C. 629(c)(1)" and add in its place "38 U.S.C. 1729(c)(1)", wherever it appears.

17. Remove the citation "38 U.S.C. 3402" and add in its place "38 U.S.C. 5902", wherever it appears.

18. Remove the citation "38 U.S.C. 210 (b)(1) and (c)(1) and 3402" and add in its place "38 U.S.C. 303, 501 and 5902", wherever it appears.

19. Remove the citation "38 U.S.C. 210(c), 3401, 3404" and add in its place "38 U.S.C. 501, 5901, 5904", wherever it appears.

20. Remove the citation "38 U.S.C. 3403" and add in its place "38 U.S.C. 5903", wherever it appears.

21. Remove the citation "38 U.S.C. 3402, 3403, 3404" and add in its place "38 U.S.C. 5902, 5903, 5904", wherever it appears.

22. Remove the citation "38 U.S.C. 3402, 3404" and add in its place "38 U.S.C. 5902, 5904", wherever it appears.

23. Remove the citation "38 U.S.C. 210(c), 3402, 3404" and add in its place "38 U.S.C. 501, 5902, 5904", wherever it appears.

24. Remove the citation "38 U.S.C. 233(a)(5)" and add in its place "38 U.S.C. 703(a)(5)", wherever it appears.

PART 16—PROTECTION OF HUMAN SUBJECTS

Remove the citation "38 U.S.C. 210(c)(1), 4131, 4134" and add in its place "38 U.S.C. 501, 7331, 7334", wherever it appears.

PART 17—MEDICAL

1. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

2. Remove the citation "38 U.S.C. 601(5)" and add in its place "38 U.S.C. 1701(5)", wherever it appears.

3. Remove the citation "38 U.S.C. 662" and add in its place "38 U.S.C. 1762", wherever it appears.

4. Remove the citation "38 U.S.C. 601(6)(A)(i)" and add in its place "38 U.S.C. 1701(6)(A)(i)", wherever it appears.

5. Remove the citation "38 U.S.C. 601(6)" and add in its place "38 U.S.C. 1701(6)", wherever it appears.

6. Remove the citation "38 U.S.C. 101(28), 620(e)" and add in its place "38 U.S.C. 101(28), 1720(e)", wherever it appears.

7. Remove the citation "38 U.S.C. 601(8)" and add in its place "38 U.S.C. 1701(8)", wherever it appears.

8. Remove the citation "section 610" and add in its place "section 1710", wherever it appears.

9. Remove the citation "38 U.S.C. 601(4)" and add in its place "38 U.S.C. 1701(4)", wherever it appears.

10. Remove the citation "38 U.S.C. 4131" and add in its place "38 U.S.C. 7331", wherever it appears.

11. Remove the citation "38 U.S.C. 210, 621" and add in its place "38 U.S.C. 501, 1721", wherever it appears.

12. Remove the citation "38 U.S.C. 624" and add in its place "38 U.S.C. 1724", wherever it appears.

13. Remove the citation "38 U.S.C. 624(c)" and add in its place "38 U.S.C. 1724(c)", wherever it appears.

14. Remove the citation "38 U.S.C. 210(c)(1); 620(a)" and add in its place "38 U.S.C. 501, 1720(a)", wherever it appears.

15. Remove the citation "38 U.S.C. 611(a)" and add in its place "38 U.S.C. 1711(a)", wherever it appears.

16. Remove the citation "38 U.S.C. 634" and add in its place "38 U.S.C. 1734", wherever it appears.

17. Remove the citation "38 U.S.C. 351" and add in its place "38 U.S.C. 1151", wherever it appears.

18. Remove the citation "38 U.S.C. 610(e)" and add in its place "38 U.S.C. 1710(e)", wherever it appears.

19. Remove the citation "38 U.S.C. 610,622" and add in its place "38 U.S.C. 1710, 1722", wherever it appears.

20. Remove the citation "38 U.S.C. 5011" and add in its place "38 U.S.C. 8111", wherever it appears.

21. Remove the citation "38 U.S.C. 603, 610" and add in its place "38 U.S.C. 1703, 1710", wherever it appears.

22. Remove the citation "38 U.S.C. 610" and add in its place "38 U.S.C. 1710", wherever it appears.

23. Remove the citation "38 U.S.C. 610(b)" and add in its place "38 U.S.C. 1710(b)", wherever it appears.

24. Remove the citation "38 U.S.C. 610(a)" and add in its place "38 U.S.C. 1710(a)", wherever it appears.

25. Remove the citation "38 U.S.C. 503" and add in its place "38 U.S.C. 1503", wherever it appears.

26. Remove the citation "38 U.S.C. 601, 610" and add in its place "38 U.S.C. 1701, 1710", wherever it appears.

27. Remove the citation "38 U.S.C. 521" and add in its place "38 U.S.C. 1521", wherever it appears.

28. Remove the citation "38 U.S.C. 622" and add in its place "38 U.S.C. 1722", wherever it appears.

29. Remove the citation "38 U.S.C. 311(a)" and add in its place "38 U.S.C. 1111(a)", wherever it appears.

30. Remove the citation "38 U.S.C. 210 and 610" and add in its place "38 U.S.C. 501 and 1710", wherever it appears.

31. Remove the citation "38 U.S.C. 610, 621" and add in its place "38 U.S.C. 1710, 1721", wherever it appears.

32. Remove the citation "38 U.S.C. 629" and add in its place "38 U.S.C. 1729", wherever it appears.

33. Remove the citation "38 U.S.C. 1504(a)(9)" and add in its place "38 U.S.C. 3104(a)(9)", wherever it appears.

34. Remove the citation "38 U.S.C. 4133" and add in its place "38 U.S.C. 7333", wherever it appears.

35. Remove the citation "38 U.S.C. 210 and 621" and add in its place "38 U.S.C. 501 and 1721", wherever it appears.

36. Remove the citation "38 U.S.C. 603, 1504" and add in its place "38 U.S.C. 1703, 3104", wherever it appears.

37. Remove the citation "38 U.S.C. 603" and add in its place "38 U.S.C. 1703", wherever it appears.

38. Remove the citation "38 U.S.C. 603, 610 and 612" and add in its place "38 U.S.C. 1703, 1710 and 1712", wherever it appears.

39. Remove the citation "38 U.S.C. 603(a)" and add in its place "38 U.S.C. 1703(a)", wherever it appears.

40. Remove the citation "38 U.S.C. 5053" and add in its place "38 U.S.C. 8153", wherever it appears.

41. Remove the citation "38 U.S.C. 610, 620" and add in its place "38 U.S.C. 1710, 1720", wherever it appears.

42. Remove the citation "38 U.S.C. 620" and add in its place "38 U.S.C. 1720", wherever it appears.

43. Remove the citation "38 U.S.C. 620(b)" and add in its place "38 U.S.C. 1720(b)", wherever it appears.

44. Remove the citation "38 U.S.C. 210(c)(1); 620(a)" and add in its place "38 U.S.C. 501, 1720(a)", wherever it appears.

45. Remove the citation "38 U.S.C. 612A" and add in its place "38 U.S.C. 1712A", wherever it appears.

46. Remove the citation "38 U.S.C. 529(f)(1)(A)" and add in its place "38 U.S.C. 1529(f)(1)(A)", wherever it appears.

47. Remove the citation "38 U.S.C. 620(f)(1)(A)(i)" and add in its place "38 U.S.C. 1720(f)(1)(A)(i)", wherever it appears.

47a. Remove the citation "38 U.S.C. 620(f)(A)(1)" and add in its place "38 U.S.C. 1720(f)(1)(A)", wherever it appears.

48. Remove the citation "38 U.S.C. 620(f)(1)(B)" and add in its place "38 U.S.C. 1720(f)(1)(B)", wherever it appears.

49. Remove the citation "38 U.S.C. 630" and add in its place "38 U.S.C. 1730", wherever it appears.

50. Remove the citation "38 U.S.C. 620A" and add in its place "38 U.S.C. 1720A", wherever it appears.

51. Remove the citation "38 U.S.C. 4132" and add in its place "38 U.S.C. 7332", wherever it appears.

52. Remove the citation "38 U.S.C. 613(a)" and add in its place "38 U.S.C. 1713(a)", wherever it appears.

53. Remove the citation "38 U.S.C. 613" and add in its place "38 U.S.C. 1713", wherever it appears.

54. Remove the citation "38 U.S.C. 613(c)" and add in its place "38 U.S.C. 1713(c)", wherever it appears.

55. Remove the citation "38 U.S.C. 613(b)" and add in its place "38 U.S.C. 1713(b)", wherever it appears.

56. Remove the citation "38 U.S.C. 524, 525, 1516" and add in its place "38 U.S.C. 1524, 1525, 1516", wherever it appears.

57. Remove the citation "section 351" and add in its place "section 1151", wherever it appears.

58. Remove the citation "38 U.S.C. 111 and 210" and add in its place "38 U.S.C. 111 and 501", wherever it appears.

59. Remove the citation "38 U.S.C. 503, 521(d), and 610(a)" and add in its place "38 U.S.C. 1503, 1521(d), and 1710(a)", wherever it appears.

60. Remove the citation "38 U.S.C. 617" and add in its place "38 U.S.C. 1717", wherever it appears.

61. Remove the citation "section 622" and add in its place "section 1722", wherever it appears.

62. Remove the citation "38 U.S.C. 611(c)(1)" and add in its place "38 U.S.C. 1711(c)(1)", wherever it appears.

63. Remove the citation "38 U.S.C. 601(6)(B)" and add in its place "38 U.S.C. 1701(6)(B)", wherever it appears.

64. Remove the citation "38 U.S.C. 612(i)" and add in its place "38 U.S.C. 1712(i)", wherever it appears.

65. Remove the citation "38 U.S.C. 612(j)" and add in its place "38 U.S.C. 1712(j)", wherever it appears.

66. Remove the citation "38 U.S.C. 612" and add in its place "38 U.S.C. 1712", wherever it appears.

67. Remove the citation "38 U.S.C. 4115" and add in its place "38 U.S.C. 7304", wherever it appears.

68. Remove the citation "38 U.S.C. 629(h)(i)" and add in its place "38 U.S.C. 1729(h)(i)", wherever it appears.

69. Remove the citation "38 U.S.C. 3301 and 4132" and add in its place "38 U.S.C. 5701 and 7332", wherever it appears.

70. Remove the citation "38 U.S.C. 611(c)" and add in its place "38 U.S.C. 1711(c)", wherever it appears.

71. Remove the citation "38 U.S.C. 624, 628" and add in its place "38 U.S.C. 1724, 1728", wherever it appears.

72. Remove the citation "38 U.S.C. 624, 628, 4115" and add in its place "38 U.S.C. 1724, 1728, 7304", wherever it appears.

73. Remove the citation "38 U.S.C. 210(c)(1)" and add in its place "38 U.S.C. 501", wherever it appears.

74. Remove the citation "38 U.S.C. 628" and add in its place "38 U.S.C. 1728", wherever it appears.

75. Remove the citation "38 U.S.C. 628, 4115" and add in its place "38 U.S.C. 1728, 7304", wherever it appears.

76. Remove the citation "38 U.S.C. 4115" and add in its place "38 U.S.C. 7304", wherever it appears.

77. Remove the citation "38 U.S.C. 5053" and add in its place "38 U.S.C. 8153", wherever it appears.

78. Remove the citation "38 U.S.C. 213" and add in its place "38 U.S.C. 513", wherever it appears.

79. Remove the citation "38 U.S.C. 212, 213, 4117, 5053" and add in its place "38 U.S.C. 512, 513, 7409, 8153", wherever it appears.

80. Remove the citation "38 U.S.C. 213 and 603" and add in its place "38 U.S.C. 513 and 1703", wherever it appears.

81. Remove the citation "38 U.S.C. 503" and add in its place "38 U.S.C. 1503", wherever it appears.

82. Remove the citation "38 U.S.C. 314(r)" and add in its place "38 U.S.C. 1114(r)", wherever it appears.

83. Remove the citation "38 U.S.C. 334" and add in its place "38 U.S.C. 1134", wherever it appears.

84. Remove the citation "38 U.S.C. 1902" and add in its place "38 U.S.C. 3902", wherever it appears.

85. Remove the citation "38 U.S.C. 1901, 1902" and add in its place "38 U.S.C. 3901, 3902", wherever it appears.

86. Remove the citation "38 U.S.C. 1903" and add in its place "38 U.S.C. 3903", wherever it appears.

87. Remove the citation "38 U.S.C. 1903(e)(3)" and add in its place "38 U.S.C. 3903(e)(3)", wherever it appears.

88. Remove the citation "38 U.S.C. 612(b)" and add in its place "38 U.S.C. 1712(b)", wherever it appears.

89. Remove the citation "38 U.S.C. 612" and add in its place "38 U.S.C. 1712", wherever it appears.

90. Remove the citation "38 U.S.C. 612(b)(1)(f)" and add in its place "38 U.S.C. 1712(b)(1)(f)", wherever it appears.

91. Remove the citation "38 U.S.C. 612(b)(5)" and add in its place "38 U.S.C. 1712(b)(5)", wherever it appears.

92. Remove the citation "38 U.S.C. 210(c)" and add in its place "38 U.S.C. 501", wherever it appears.

93. Remove the citation "38 U.S.C. 210, 641" and add in its place "38 U.S.C. 501, 1741", wherever it appears.

94. Remove the citation "38 U.S.C. 641, 210" and add in its place "38 U.S.C. 1741, 501", wherever it appears.

95. Remove the citation "38 U.S.C. 643" and add in its place "38 U.S.C. 1743", wherever it appears.

96. Remove the citation "38 U.S.C. 642(a)" and add in its place "38 U.S.C. 1742(a)", wherever it appears.

97. Remove the citation "38 U.S.C. 641" and add in its place "38 U.S.C. 1741", wherever it appears.

98. Remove the citation "38 U.S.C. 641, 642(a)" and add in its place "38 U.S.C. 1741, 1742(a)", wherever it appears.

99. Remove the citation "section 641(a)(1)" and add in its place "section 1741(a)(1)", wherever it appears.

100. Remove the citation "section 641(a)(2)" and add in its place "section 1741(a)(2)", wherever it appears.

101. Remove the citation "section 641(a)(3)" and add in its place "section 1741(a)(3)", wherever it appears.

102. Remove the citation "38 U.S.C. 642" and add in its place "38 U.S.C. 1742", wherever it appears.

103. Remove the citation "38 U.S.C. 5031–5037" and add in its place "38 U.S.C. 8131–8137", wherever it appears.

104. Remove the citation "38 U.S.C. 5031(a)" and add in its place "38 U.S.C. 8131(a)", wherever it appears.

105. Remove the citation "38 U.S.C. 5031(b)" and add in its place "38 U.S.C. 8131(b)", wherever it appears.

106. Remove the citation "38 U.S.C. 5031(c)" and add in its place "38 U.S.C. 8131(c)", wherever it appears.

107. Remove the citation "38 U.S.C. 5031(d)" and add in its place "38 U.S.C. 8131(d)", wherever it appears.

108. Remove the citation "38 U.S.C. 5034(1)" and add in its place "38 U.S.C. 8134(1)", wherever it appears.

109. Remove the citation "38 U.S.C. 5035(a)(3)" and add in its place "38 U.S.C. 8135(a)(3)", wherever it appears.

110. Remove the citation "38 U.S.C. 5035(b)(2)(D)" and add in its place "38 U.S.C. 8135(b)(2)(D)", wherever it appears.

111. Remove the citation "38 U.S.C. 5035(a)" and add in its place "38 U.S.C. 8135(a)", wherever it appears.

112. Remove the citation "38 U.S.C. 5035(a)(8)" and add in its place "38 U.S.C. 8135(a)(8)", wherever it appears.

113. Remove the citation "38 U.S.C. 5005" and add in its place "38 U.S.C. 8105", wherever it appears.

114. Remove the citation "38 U.S.C. 5035(a)(9)" and add in its place "38 U.S.C. 8135(a)(9)", wherever it appears.

115. Remove the citation "38 U.S.C. 5035" and add in its place "38 U.S.C. 8135", wherever it appears.

116. Remove the citation "38 U.S.C. 5035(b)" and add in its place "38 U.S.C. 8135(b)", wherever it appears.

117. Remove the citation "38 U.S.C. 5035(b)(4)" and add in its place "38 U.S.C. 8135(b)(4)", wherever it appears.

118. Remove the citation "38 U.S.C. 5035(b)(5)" and add in its place "38 U.S.C. 8135(b)(5)", wherever it appears.

119. Remove the citation "38 U.S.C. 5035(d)(1)" and add in its place "38 U.S.C. 8135(d)(1)", wherever it appears.

120. Remove the citation "38 U.S.C. 5035(e)" and add in its place "38 U.S.C. 8135(e)", wherever it appears.

121. Remove the citation "38 U.S.C. 5035(c)" and add in its place "38 U.S.C. 8135(c)", wherever it appears.

122. Remove the citation "38 U.S.C. 5036" and add in its place "38 U.S.C. 8136", wherever it appears.

123. Remove the citation "38 U.S.C. 5037" and add in its place "38 U.S.C. 8137", wherever it appears.

124. Remove the citation "38 U.S.C. 5034(2)" and add in its place "38 U.S.C. 8134(2)", wherever it appears.

125. Remove the citation "38 U.S.C. 5034(a)" and add in its place "38 U.S.C. 8134(2)", wherever it appears.

126. Remove the citation "38 U.S.C. 5011A" and add in its place "38 U.S.C. 8111A", wherever it appears.

127. Remove the citation "38 U.S.C. 612(f)" and add in its place "38 U.S.C. 1712(f)", wherever it appears.

128. Remove the citation "Sec. 210(cc) and 620(a)" and add in its place "Sec. 501 and 1720(a)", wherever it appears.

129. Remove the citation "38 U.S.C. 5053" and add in its place "38 U.S.C. 8153", wherever it appears.

130. Remove the citation "38 U.S.C. 5057" and add in its place "38 U.S.C. 8157", wherever it appears.

131. Remove the citation "38 U.S.C. 5055" and add in its place "38 U.S.C. 8155", wherever it appears.

132. Remove the citation "38 U.S.C. 4112(a)" and add in its place "38 U.S.C. 7312", wherever it appears.

133. Remove the citation "38 U.S.C. 631–634" and add in its place "38 U.S.C. 1731–1734", wherever it appears.

134. Remove the citation "38 U.S.C. 632" and add in its place "38 U.S.C. 1732", wherever it appears.

135. Remove the citation "38 U.S.C. 632(a)(2)" and add in its place "38 U.S.C. 1732(a)(2)", wherever it appears.

136. Remove the citation "38 U.S.C. 5073 and 5096" and add in its place "38 U.S.C. 8213 and 8241", wherever it appears.

137. Remove the citation "38 U.S.C. 5083(a)" and add in its place "38 U.S.C. 8223(a)", wherever it appears.

138. Remove the citation "38 U.S.C. 5071–5074" and add in its place "38 U.S.C. 8211–8214", wherever it appears.

139. Remove the citation "38 U.S.C. 5091–5093" and add in its place "38 U.S.C. 8221–8223", wherever it appears.

140. Remove the citation "38 U.S.C. 5051" and add in its place "38 U.S.C. 8151", wherever it appears.

141. Remove the citation "38 U.S.C. 5071" and add in its place "38 U.S.C. 8211", wherever it appears.

142. Remove the citation "38 U.S.C. 5072" and add in its place "38 U.S.C. 8212", wherever it appears.

143. Remove the citation "38 U.S.C. 5081" and add in its place "38 U.S.C. 8221", wherever it appears.

144. Remove the citation "38 U.S.C. 5091" and add in its place "38 U.S.C. 8231", wherever it appears.

145. Remove the citation "38 U.S.C. 5070(e)" and add in its place "38 U.S.C. 8201(e)", wherever it appears.

146. Remove the citation "38 U.S.C. 5081–5083 and 5091–5093" and add in its place "38 U.S.C. 8221–8223 and 8231–8233", wherever it appears.

147. Remove the citation "38 U.S.C. 5082" and add in its place "38 U.S.C. 8222", wherever it appears.

148. Remove the citation "38 U.S.C. 3305" and add in its place "38 U.S.C. 5705", wherever it appears.

149. Remove the citation "section 3305" and add in its place "section 5705", wherever it appears.

150. Remove the citation "38 U.S.C. 4132" and add in its place "38 U.S.C. 7332", wherever it appears.

151. Remove the citation "38 U.S.C. 3301" and add in its place "38 U.S.C. 5701", wherever it appears.

152. Remove the citation "38 U.S.C. 3301 or 4132" and add in its place "38 U.S.C. 5701 or 7332", wherever it appears.

153. Remove the citation "38 U.S.C. 3305" and add in its place "38 U.S.C. 5705", wherever it appears.

154. Remove "38 U.S.C. 4142", wherever it appears.

155. Remove the citation "38 U.S.C. 4141–4146" and add in its place "38 U.S.C. 7601–7655", wherever it appears.

156. Remove the citation "38 U.S.C. 4302(a)(1)(2)" and add in its place "38 U.S.C. 7602(a)", wherever it appears.

157. Remove the citation "38 U.S.C. 4142" and add in its place "38 U.S.C. 7452", wherever it appears.

158. Remove the citation "38 U.S.C. 4333" and add in its place "38 U.S.C. 7633", wherever it appears.

159. Remove the citation "38 U.S.C. 4302(a)(1), 4312(b)(1)" and add in its place "38 U.S.C. 7602(a)(1), 7612(b)(1)", wherever it appears.

160. Remove the citation "38 U.S.C. 4302(a)" and add in its place "38 U.S.C. 7602(a)", wherever it appears.

161. Remove the citation "38 U.S.C. 4312(c)(3)(B)" and add in its place "38 U.S.C. 7612(c)(3)(B)", wherever it appears.

162. Remove the citation "38 U.S.C. 4302(b)" and add in its place "38 U.S.C. 7602(b)", wherever it appears.

163. Remove the citation "38 U.S.C. 4312(b)(4) and 4303(b)(1)" and add in its place "38 U.S.C. 7612(b)(4) and 7603(b)(1)", wherever it appears.

164. Remove the citation "38 U.S.C. 4312(c)(1)(B)" and add in its place "38 U.S.C. 7612(c)(1)(B)", wherever it appears.

165. Remove the citation "38 U.S.C. 4312(b)(5)" and add in its place "38 U.S.C. 7612(b)(5)", wherever it appears.

166. Remove the citation "38 U.S.C. 4303(d)" and add in its place "38 U.S.C. 7603(d)", wherever it appears.

167. Remove the citation "38 U.S.C. 4312(d)(1)" and add in its place "38 U.S.C. 7612(d)(1)", wherever it appears.

168. Remove the citation "38 U.S.C. 4312(c)(1)(A) and 4314(3)" and add in its place "38 U.S.C. 7612(c)(1)(A) and 7614(3)", wherever it appears.

169. Remove the citation "38 U.S.C. 4303(d)" and add in its place "38 U.S.C. 7603(d)", wherever it appears.

170. Remove the citation "38 U.S.C. 4336" and add in its place "38 U.S.C. 7636", wherever it appears.

171. Remove the citation "38 U.S.C. 4313(b)" and add in its place "38 U.S.C. 7613(b)", wherever it appears.

172. Remove the citation "38 U.S.C. 4314(2)" and add in its place "38 U.S.C. 7614(2)", wherever it appears.

173. Remove the citation "38 U.S.C. 4313(c)" and add in its place "38 U.S.C. 7613(c)", wherever it appears.

174. Remove the citation "38 U.S.C. 4316(a)" and add in its place "38 U.S.C. 7616(a)", wherever it appears.

175. Remove the citation "38 U.S.C. 4316(b)" and add in its place "38 U.S.C. 7616(b)", wherever it appears.

176. Remove the citation "38 U.S.C. 4316(b)(3)(A)(ii)" and add in its place "38 U.S.C. 7616(b)(3)(A)(ii)", wherever it appears.

177. Remove the citation "38 U.S.C. 4316(a)(A)(i)" and add in its place "38 U.S.C. 7616(b)(3)(A)(i)", wherever it appears.

178. Remove the citation "38 U.S.C. 4316(b)(u)" and add in its place "38 U.S.C. 7616(b)(4)", wherever it appears.

179. Remove the citation "38 U.S.C. 4316(b)(u)(B)" and add in its place "38 U.S.C. 7616(b)(4)(B)", wherever it appears.

180. Remove the citation "38 U.S.C. 4316(b)(2)" and add in its place "38 U.S.C. 7616(b)(2)", wherever it appears.

181. Remove the citation "section 4107(b)(1)" and add in its place "section 7404(b)(1)", wherever it appears.

182. Remove the citation "38 U.S.C. 4118(h)" and add in its place "38 U.S.C. 7431–7440", wherever it appears.

183. Remove the citation "38 U.S.C. 4317(a)" and add in its place "38 U.S.C. 7617(a)", wherever it appears.

184. Remove the citation "38 U.S.C. 4317(b)(4)" and add in its place "38 U.S.C. 7617(b)(4)", wherever it appears.

185. Remove the citation "38 U.S.C. 4317(b)" and add in its place "38 U.S.C. 7617(b)", wherever it appears.

186. Remove the citation "38 U.S.C. 4317(c)(1)(2)" and add in its place "38 U.S.C. 7617(c)(1)(2)", wherever it appears.

187. Remove the citation "38 U.S.C. 4334(c)" and add in its place "38 U.S.C. 7634(c)", wherever it appears.

188. Remove the citation "38 U.S.C. 4334(a)" and add in its place "38 U.S.C. 7634(a)", wherever it appears.

189. Remove the citation "38 U.S.C. 4334(b)" and add in its place "38 U.S.C. 7634(b)", wherever it appears.

190. Remove the words "Veterans Health Services and Research Administration" and add in their place "Veterans Health Administration", wherever they appear.

PART 18—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

1. Remove the citation "38 U.S.C. 641–643" and add in its place "38 U.S.C. 1741–1743", wherever it appears.

2. Remove the citation "38 U.S.C. 5031–5037" and add in its place "38 U.S.C. 8131–8137", wherever it appears.

3. Remove the citation "38 U.S.C. 3402(a)(2)" and add in its place "38 U.S.C. 5902(a)(2)", wherever it appears.

4. Remove the citation "38 U.S.C. 5051–5057" and add in its place "38 U.S.C. 8151–8157", wherever it appears.

5. Remove the citation "38 U.S.C. 244(1)" and add in its place "38 U.S.C. 7725(1)", wherever it appears.

6. Remove the citation "38 U.S.C. 613" and add in its place "38 U.S.C. 1713", wherever it appears.

7. Remove the citation "38 U.S.C. 620" and add in its place "38 U.S.C. 1720", wherever it appears.

8. Remove the citation "38 U.S.C. 620A" and add in its place "38 U.S.C. 1720A", wherever it appears.

9. Remove the citation "38 U.S.C. 1008" and add in its place "38 U.S.C. 2408", wherever it appears.

10. Remove the citation "38 U.S.C. 4141–4146" and add in its place "38 U.S.C. 7601–7655", wherever it appears.

11. Remove the citation "38 U.S.C. 641, 644, 5031–5037, 5055, 3402(a)" and add in its place "38 U.S.C. 1741, 1744, 8131–8137, 8155, 5902(a)(2)", wherever it appears.

12. Remove the citation "38 U.S.C. 244(4)" and add in its place "38 U.S.C. 7725(4)", wherever it appears.

13. Remove the citation "Section 5202(b)" and add in its place "section 8502(b)", wherever it appears.

14. Remove the citation "Section 613(a)" and add in its place "Section 1713(a)", wherever it appears.

15. Remove the citation "Section 613(c)" and add in its place "Section 1713(c)", wherever it appears.

16. Remove the citation "Section 610" and add in its place "Section 1710", wherever it appears.

17. Remove the citation "Section 1601" and add in its place "Section 3201", wherever it appears.

18. Remove the citation "Section 1651" and add in its place "Section 3451", wherever it appears.

19. Remove the citation "Section 1692(b)" and add in its place "Section 3492(b)", wherever it appears.

20. Remove the citation "Section 1692(a)" and add in its place "Section 3492(a)", wherever it appears.

21. Remove the citation "Section 1700" and add in its place "Section 3500", wherever it appears.

22. Remove the citation "Section 1701" and add in its place "Section 3501", wherever it appears.

23. Remove the citation "Section 1712" and add in its place "Section 3512", wherever it appears.

24. Remove the citation "Section 1736" and add in its place "Section 3536", wherever it appears.

25. Remove the citation "Section 1701(a)(1)(A)(ii)" and add in its place "Section 3501(a)(1)(A)(ii)", wherever it appears.

26. Remove the citation "Section 1713" and add in its place "Section 3513", wherever it appears.

27. Remove the citation "Section 1762" and add in its place "Section 3562", wherever it appears.

28. Remove the citation "Section 1763" and add in its place "Section 3563", wherever it appears.

29. Remove the citation "Section 1701(a)(1)(A)" and add in its place "Section 3501(a)(1)(A)", wherever it appears.

PART 18a—DELEGATION OF RESPONSIBILITY IN CONNECTION WITH TITLE VI, CIVIL RIGHTS ACT OF 1964

1. Remove the citation "38 U.S.C. 210(c)(1)" and add in its place "38 U.S.C. 501", wherever it appears.

2. Remove the citation "38 U.S.C. sections 641, 5031–5037, and 5055" and add in its place "38 U.S.C. sections 1741, 8131–8137 and 8155", wherever it appears.

PART 18b—PRACTICE AND PROCEDURE UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND PART 18 OF THIS CHAPTER

Remove the citation "38 U.S.C. 210(c)(1)" and add in its place "38 U.S.C. 501", wherever it appears.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart A—Vocational Rehabilitation Under 38 U.S.C. Chapter 31

1. Remove the citation "38 U.S.C. 210(c)" and add in its place "38 U.S.C. 501", wherever it appears.
2. Remove the citation "38 U.S.C. 1500" and add in its place "38 U.S.C. 3100", wherever it appears.
3. Remove the citation "38 U.S.C. 1502" and add in its place "38 U.S.C. 3102", wherever it appears.
4. Remove the citation "38 U.S.C. 1506" and add in its place "38 U.S.C. 3106", wherever it appears.
5. Remove the citation "38 U.S.C. 1507" and add in its place "38 U.S.C. 3107", wherever it appears.
6. Remove the citation "38 U.S.C. 1781(b)" and add in its place "38 U.S.C. 3681(b)", wherever it appears.
7. Remove the citation "38 U.S.C. 1795" and add in its place "38 U.S.C. 3695", wherever it appears.
8. Remove the citation "38 U.S.C. 1781" and add in its place "38 U.S.C. 3681", wherever it appears.
9. Remove the citation "38 U.S.C. 1502, 1517" and add in its place "38 U.S.C. 3102, 3117", wherever it appears.
10. Remove the citation "38 U.S.C. 3013" and add in its place "38 U.S.C. 5113", wherever it appears.
11. Remove the citation "U.S.C. 3001, 3013, 210(c)" and add in its place "38 U.S.C. 5101, 5113, 510", wherever it appears.
12. Remove the citation "38 U.S.C. 1501(1)" and add in its place "38 U.S.C. 3101(1)", wherever it appears.
13. Remove the citation "38 U.S.C. 1501(2)" and add in its place "38 U.S.C. 3101(2)", wherever it appears.
14. Remove the citation "38 U.S.C. 1652(b)" and add in its place "38 U.S.C. 3452(b)", wherever it appears.
15. Remove the citation "38 U.S.C. 1501(4)" and add in its place "38 U.S.C. 3101(4)", wherever it appears.
16. Remove the citation "38 U.S.C. 1501(5)" and add in its place "38 U.S.C. 3101(5)", wherever it appears.
17. Remove the citation "38 U.S.C. 1501(6)" and add in its place "38 U.S.C. 3101(6)", wherever it appears.
18. Remove the citation "38 U.S.C. 1517" and add in its place "38 U.S.C. 3117", wherever it appears.
19. Remove the citation "38 U.S.C. 1501(7)" and add in its place "38 U.S.C. 3101(7)", wherever it appears.
20. Remove the citation "38 U.S.C. 1501(8), 1501(9)(A)(i)" and add in its place "38 U.S.C. 3101(8), 3101(9)(A)(i)", wherever it appears.
21. Remove the citation "38 U.S.C. 1501(9)" and add in its place "38 U.S.C. 3101(9)", wherever it appears.
22. Remove the citation "38 U.S.C. 1518(c)" and add in its place "38 U.S.C. 3118(c)", wherever it appears.
23. Remove the citation "38 U.S.C. 1652(c)" and add in its place "38 U.S.C. 3452(c)", wherever it appears.
24. Remove the citation "38 U.S.C. 1652(e)" and add in its place "38 U.S.C. 3452(e)", wherever it appears.
25. Remove the citation "38 U.S.C. 1515(a)" and add in its place "38 U.S.C. 3115(a)", wherever it appears.
26. Remove the citation "38 U.S.C. 1503(a)" and add in its place "38 U.S.C. 3103(a)", wherever it appears.
27. Remove the citation "38 U.S.C. 1503(b)(3)" and add in its place "38 U.S.C. 3103(b)(3)", wherever it appears.
28. Remove the citation "38 U.S.C. 1502(b)(2)" and add in its place "38 U.S.C. 3102(b)(2)", wherever it appears.
29. Remove the citation "38 U.S.C. 1503(c)" and add in its place "38 U.S.C. 3103(c)", wherever it appears.
30. Remove the citation "38 U.S.C. 1503(d)" and add in its place "38 U.S.C. 3103(d)", wherever it appears.
31. Remove the citation "38 U.S.C. 1505" and add in its place "38 U.S.C. 3105", wherever it appears.
32. Remove the citation "38 U.S.C. 1504" and add in its place "38 U.S.C. 3104", wherever it appears.
33. Remove the citation "38 U.S.C. 1503" and add in its place "38 U.S.C. 3103", wherever it appears.
34. Remove the citation "38 U.S.C. 1502(1)" and add in its place "38 U.S.C. 3102(1)", wherever it appears.
35. Remove the citation "38 U.S.C. 220, 1506(d), 1516" and add in its place "38 U.S.C. 523, 3106(d), 3116", wherever it appears.
36. Remove the citation "38 U.S.C. 1506(a)" and add in its place "38 U.S.C. 3106(a)", wherever it appears.
37. Remove the citation "38 U.S.C. 1502, 1503, 1515(a)" and add in its place "38 U.S.C. 3102, 3103, 3115(a)", wherever it appears.
38. Remove the citation "38 U.S.C. 1511" and add in its place "38 U.S.C. 3111", wherever it appears.
39. Remove the citation "38 U.S.C. 1501(1), 1502" and add in its place "38 U.S.C. 3101(1), 3102", wherever it appears.
40. Remove the citation "38 U.S.C. 1501(1)" and add in its place "38 U.S.C. 3101(1)", wherever it appears.
41. Remove the citation "38 U.S.C. 1505(d)" and add in its place "38 U.S.C. 3105(d)", wherever it appears.
42. Remove the citation "38 U.S.C. 1504(a)(1), 1506(a)" and add in its place "38 U.S.C. 3104(a)(1), 3106(a)", wherever it appears.
43. Remove the citation "38 U.S.C. 1504(a)(1), 1506(b)" and add in its place "38 U.S.C. 3104(a)(1), 3106(b)", wherever it appears.
44. Remove the citation "38 U.S.C. 1506(b)" and add in its place "38 U.S.C. 3106(b)", wherever it appears.
45. Remove the citation "38 U.S.C. 1506(c)" and add in its place "38 U.S.C. 3106(c)", wherever it appears.
46. Remove the citation "38 U.S.C. 1502, 1506" and add in its place "38 U.S.C. 3102, 3106", wherever it appears.
47. Remove the citation "38 U.S.C. 1502, 1511" and add in its place "38 U.S.C. 3102, 3111", wherever it appears.
48. Remove the citation "38 U.S.C. 1507(c)" and add in its place "38 U.S.C. 3107(c)", wherever it appears.
49. Remove the citation "38 U.S.C. 1504(a)" and add in its place "38 U.S.C. 3104(a)", wherever it appears.
50. Remove the citation "38 U.S.C. 1504(a), 1515(a)" and add in its place "38 U.S.C. 3104(a), 3115(a)", wherever it appears.
51. Remove the citation "38 U.S.C. 1515(a)(2)" and add in its place "38 U.S.C. 3115(a)(2)", wherever it appears.
52. Remove the citation "38 U.S.C. 1736, 1740, 1741, 1742, 1743" and add in its place "38 U.S.C. 3536, 3540, 3541, 3542, 3543", wherever it appears.
53. Remove the citation "38 U.S.C. 1795, 1505" and add in its place "38 U.S.C. 3695, 3105", wherever it appears.
54. Remove the citation "38 U.S.C. 1505(c)" and add in its place "38 U.S.C. 3105(c)", wherever it appears.
55. Remove the citation "38 U.S.C. 1795" and add in its place "38 U.S.C. 3695", wherever it appears.
56. Remove the citation "38 U.S.C. 1505(b)" and add in its place "38 U.S.C. 3105(b)", wherever it appears.
57. Remove the citation "38 U.S.C. 1506(a)" and add in its place "38 U.S.C. 3106(a)", wherever it appears.
58. Remove the citation "38 U.S.C. 1505(a), 1506(b)" and add in its place "38 U.S.C. 3105(a), 3106(b)", wherever it appears.
59. Remove the citation "38 U.S.C. 1501(4), 1504(b)" and add in its place "38 U.S.C. 3101(4), 3104(b)", wherever it appears.
60. Remove the citation "38 U.S.C. 1505(d)" and add in its place "38 U.S.C. 3105(d)", wherever it appears.
61. Remove the citation "38 U.S.C. 1505(c)(1)(A)" and add in its place "38 U.S.C. 3105(c)(1)(A)", wherever it appears.
62. Remove the citation "38 U.S.C. 1505(c)(1)(B)" and add in its place "38

U.S.C. 3105(c)(1)(B)", wherever it appears.

63. Remove the citation "38 U.S.C. 1413, 1795" and add in its place "38 U.S.C. 3013, 3695", wherever it appears.

64. Remove the citation "38 U.S.C. 1505(c)(2)" and add in its place "38 U.S.C. 3105(c)(2)", wherever it appears.

65. Remove the citation "38 U.S.C. 1508(d)" and add in its place "38 U.S.C. 3108(d)", wherever it appears.

66. Remove the citation "38 U.S.C. 1508(d), 1517" and add in its place "38 U.S.C. 3108(d), 3117", wherever it appears.

67. Remove the citation "38 U.S.C. 1506, 1509" and add in its place "38 U.S.C. 3106, 3109", wherever it appears.

68. Remove the citation "38 U.S.C. 1508, 1780(g)" and add in its place "38 U.S.C. 3108(d), 3680(g)", wherever it appears.

69. Remove the citation "38 U.S.C. 1508(f)" and add in its place "38 U.S.C. 3108(f)", wherever it appears.

70. Remove the citation "38 U.S.C. 1508(c)" and add in its place "38 U.S.C. 3108(c)", wherever it appears.

71. Remove the citation "38 U.S.C. 1780(g)" and add in its place "38 U.S.C. 3680(g)", wherever it appears.

72. Remove the citation "38 U.S.C. 1507(a)" and add in its place "38 U.S.C. 3107(a)", wherever it appears.

73. Remove the citation "38 U.S.C. 220" and add in its place "38 U.S.C. 523", wherever it appears.

74. Remove the citation "38 U.S.C. 1505(c), 1507" and add in its place "38 U.S.C. 3105(c), 3107", wherever it appears.

75. Remove the citation "38 U.S.C. 1517(a)" and add in its place "38 U.S.C. 3117(a)", wherever it appears.

76. Remove the citation "38 U.S.C. 1507" and add in its place "38 U.S.C. 3107", wherever it appears.

77. Remove the citation "38 U.S.C. 1509" and add in its place "38 U.S.C. 3109", wherever it appears.

78. Remove the citation "38 U.S.C. 1504(b), 1520(a)" and add in its place "38 U.S.C. 3104(b), 3120(a)", wherever it appears.

79. Remove the citation "38 U.S.C. 1507(b)" and add in its place "38 U.S.C. 3107(b)", wherever it appears.

80. Remove the citation "38 U.S.C. 1501" and add in its place "38 U.S.C. 3101", wherever it appears.

81. Remove the citation "38 U.S.C. 1518" and add in its place "38 U.S.C. 3118", wherever it appears.

82. Remove the citation "38 U.S.C. 1515" and add in its place "38 U.S.C. 3115", wherever it appears.

83. Remove the citation "38 U.S.C. 1652(c)" and add in its place "38 U.S.C. 3452(c)", wherever it appears.

84. Remove the citation "38 U.S.C. 1504(a)(7)" and add in its place "38 U.S.C. 3104(a)(7)", wherever it appears.

85. Remove the citation "38 U.S.C. 1652(e)" and add in its place "38 U.S.C. 3452(e)", wherever it appears.

86. Remove the citation "38 U.S.C. 1514" and add in its place "38 U.S.C. 3114", wherever it appears.

87. Remove the citation "38 U.S.C. 1780(a)" and add in its place "38 U.S.C. 3680(a)", wherever it appears.

88. Remove the citation "38 U.S.C. 1504(c)" and add in its place "38 U.S.C. 3104(c)", wherever it appears.

89. Remove the citation "38 U.S.C. 1505" and add in its place "38 U.S.C. 3105", wherever it appears.

90. Remove the citation "38 U.S.C. 1504(a)(1)" and add in its place "38 U.S.C. 3104(a)(1)", wherever it appears.

91. Remove the citation "38 U.S.C. 1692" and add in its place "38 U.S.C. 3492", wherever it appears.

92. Remove the citation "38 U.S.C. 1504(a)(14)" and add in its place "38 U.S.C. 3104(a)(14)", wherever it appears.

93. Remove the citation "38 U.S.C. 1504(a)(13)" and add in its place "38 U.S.C. 3104(a)(13)", wherever it appears.

94. Remove the citation "38 U.S.C. 1504(a)(11)" and add in its place "38 U.S.C. 3104(a)(11)", wherever it appears.

95. Remove the citation "38 U.S.C. 1504(a)(10)" and add in its place "38 U.S.C. 3104(a)(10)", wherever it appears.

96. Remove the citation "38 U.S.C. 1504(a)(15)" and add in its place "38 U.S.C. 3104(a)(15)", wherever it appears.

97. Remove the citation "38 U.S.C. 1504(b)" and add in its place "38 U.S.C. 3104(b)", wherever it appears.

98. Remove the citation "38 U.S.C. 220, 1509, 1520" and add in its place "38 U.S.C. 523, 3109, 3120", wherever it appears.

99. Remove the citation "38 U.S.C. 1509, 1520" and add in its place "38 U.S.C. 3109, 3120", wherever it appears.

100. Remove the citation "38 U.S.C. 1520" and add in its place "38 U.S.C. 3120", wherever it appears.

101. Remove the citation "38 U.S.C. 1506(e)" and add in its place "38 U.S.C. 3106(e)", wherever it appears.

102. Remove the citation "38 U.S.C. 1506" and add in its place "38 U.S.C. 3106", wherever it appears.

103. Remove the citation "38 U.S.C. 1502(2)" and add in its place "38 U.S.C. 3102(2)", wherever it appears.

104. Remove the citation "38 U.S.C. 1506, 1507" and add in its place "38 U.S.C. 3106, 3107", wherever it appears.

105. Remove the citation "38 U.S.C. 1508" and add in its place "38 U.S.C. 3108", wherever it appears.

106. Remove the citation "38 U.S.C. 1504, 1508" and add in its place "38 U.S.C. 3104, 3108", wherever it appears.

107. Remove the citation "38 U.S.C. 1508(a)" and add in its place "38 U.S.C. 3108(a)", wherever it appears.

108. Remove the citation "38 U.S.C. 1509, 1510" and add in its place "38 U.S.C. 3109, 3110", wherever it appears.

109. Remove the citation "38 U.S.C. 1507, 1517" and add in its place "38 U.S.C. 3107, 3117", wherever it appears.

110. Remove the citation "38 U.S.C. 1510" and add in its place "38 U.S.C. 3110", wherever it appears.

111. Remove the citation "38 U.S.C. 1511" and add in its place "38 U.S.C. 3111", wherever it appears.

112. Remove the citation "38 U.S.C. 1508, 1511" and add in its place "38 U.S.C. 3108, 3111", wherever it appears.

113. Remove the citation "38 U.S.C. 1504(a), 2012" and add in its place "38 U.S.C. 3104(a), 4212", wherever it appears.

114. Remove the citation "38 U.S.C. 1504(a)(2)" and add in its place "38 U.S.C. 3104(a)(2)", wherever it appears.

115. Remove the citation "38 U.S.C. 1504(a)(12)" and add in its place "38 U.S.C. 3104(a)(12)", wherever it appears.

116. Remove the citation "38 U.S.C. 1504, 1511" and add in its place "38 U.S.C. 3104, 3111", wherever it appears.

117. Remove the citation "38 U.S.C. 1504, 1507" and add in its place "38 U.S.C. 3104, 3107", wherever it appears.

118. Remove the citation "38 U.S.C. 1515(b)" and add in its place "38 U.S.C. 3115(b)", wherever it appears.

119. Remove the citation "38 U.S.C. 1507, 1517" and add in its place "38 U.S.C. 3107, 3117", wherever it appears.

120. Remove the citation "38 U.S.C. 1501, 1506, 1516, 1517" and add in its place "38 U.S.C. 3101, 3106, 3116, 3117", wherever it appears.

121. Remove the citation "38 U.S.C. 1501, 1517" and add in its place "38 U.S.C. 3101, 3117", wherever it appears.

122. Remove the citation "38 U.S.C. 1517(a)(2)" and add in its place "38 U.S.C. 3117(a)(2)", wherever it appears.

123. Remove the citation "38 U.S.C. 1516, 1517" and add in its place "38 U.S.C. 3116, 3117", wherever it appears.

124. Remove the citation "38 U.S.C. 1504(a), 1508(f)" and add in its place "38 U.S.C. 3104(a), 3108(f)", wherever it appears.

125. Remove the citation "38 U.S.C. 1517(b)" and add in its place "38 U.S.C. 3117(b)", wherever it appears.

126. Remove the citation "38 U.S.C. 1508(f), 1516(b)" and add in its place "38 U.S.C. 3108(f), 3116(b)", wherever it appears.

127. Remove the citation "38 U.S.C. 1516(b)" and add in its place "38 U.S.C. 3116(b)", wherever it appears.

128. Remove the citation "38 U.S.C. 1504(a)(12)" and add in its place "38 U.S.C. 3104(a)(12)", wherever it appears.

129. Remove the citation "38 U.S.C. 1508(a), 1508(f), 1662(e)" and add in its place "38 U.S.C. 3108(a), 3108(f), 3462(e)", wherever it appears.

130. Remove the citation "38 U.S.C. 1508(h)" and add in its place "38 U.S.C. 3108(h)", wherever it appears.

131. Remove the citation "38 U.S.C. 1508(e)" and add in its place "38 U.S.C. 3108(e)", wherever it appears.

132. Remove the citation "38 U.S.C. 1504(a)(4), 1685" and add in its place "38 U.S.C. 3104(a)(4), 3485", wherever it appears.

133. Remove the citation "38 U.S.C. 1504(a)(4), 1508(f), 1685" and add in its place "38 U.S.C. 3104(a)(4), 3108(f), 3485", wherever it appears.

134. Remove the citation "38 U.S.C. 1512" and add in its place "38 U.S.C. 3112", wherever it appears.

135. Remove the citation "38 U.S.C. 1508(g), 1780(a)" and add in its place "38 U.S.C. 3108(g), 3680(a)", wherever it appears.

136. Remove the citation "38 U.S.C. 1508(g)" and add in its place "38 U.S.C. 3108(g)", wherever it appears.

137. Remove the citation "38 U.S.C. 1508(f), 1780(a)" and add in its place "38 U.S.C. 3108(f), 3680(a)", wherever it appears.

138. Remove the citation "38 U.S.C. 1501(a)" and add in its place "38 U.S.C. 3101(a)", wherever it appears.

139. Remove the citation "38 U.S.C. 1515, 1520" and add in its place "38 U.S.C. 3115, 3120", wherever it appears.

140. Remove the citation "38 U.S.C. 1508(c), 1515" and add in its place "38 U.S.C. 3108(c), 3115", wherever it appears.

141. Remove the citation "38 U.S.C. 1508(a), 1508(f)" and add in its place "38 U.S.C. 3108(a), 3108(f)", wherever it appears.

142. Remove the citation "38 U.S.C. 1508, 3013" and add in its place "38 U.S.C. 3108, 5113", wherever it appears.

143. Remove the citation "38 U.S.C. 3101" and add in its place "38 U.S.C. 5301", wherever it appears.

144. Remove the citation "38 U.S.C. 1503(b)" and add in its place "38 U.S.C. 3103(b)", wherever it appears.

145. Remove the citation "38 U.S.C. 3013" and add in its place "38 U.S.C. 5113", wherever it appears.

146. Remove the citation "38 U.S.C. 3012(b), 3013" and add in its place "38 U.S.C. 5112(b), 5113", wherever it appears.

147. Remove the citation "38 U.S.C. 1780(a)" and add in its place "38 U.S.C. 3680(a)", wherever it appears.

148. Remove the citation "38 U.S.C. 3503(a)" and add in its place "38 U.S.C. 6103(a)", wherever it appears.

149. Remove the citation "38 U.S.C. 1508(i)" and add in its place "38 U.S.C. 3108(i)", wherever it appears.

150. Remove the citation "38 U.S.C. 1507, 1517(a)" and add in its place "38 U.S.C. 3107, 3117(a)", wherever it appears.

151. Remove the citation "38 U.S.C. 3107(c)" and add in its place "38 U.S.C. 5307(c)", wherever it appears.

152. Remove the citation "38 U.S.C. 1780(d)" and add in its place "38 U.S.C. 3680(d)", wherever it appears.

153. Remove the citation "38 U.S.C. 1780(g)" and add in its place "38 U.S.C. 3680(g)", wherever it appears.

154. Remove the citation "38 U.S.C. 1780(a)" and add in its place "38 U.S.C. 3680(a)", wherever it appears.

155. Remove the citation "38 U.S.C. 1508(f), 1780" and add in its place "38 U.S.C. 3108(f), 3680", wherever it appears.

156. Remove the citation "38 U.S.C. 1411(a)" and add in its place "38 U.S.C. 3011(a)", wherever it appears.

157. Remove the citation "38 U.S.C. 1508(f), 1510" and add in its place "38 U.S.C. 3108(f), 3110", wherever it appears.

158. Remove the citation "38 U.S.C. 111, 1504(a)(13)" and add in its place "38 U.S.C. 111, 3104(a)(13)", wherever it appears.

159. Remove the citation "38 U.S.C. 1518(b)" and add in its place "38 U.S.C. 3118(b)", wherever it appears.

160. Remove the citation "38 U.S.C. 1519(a)" and add in its place "38 U.S.C. 3119(a)", wherever it appears.

161. Remove the citation "38 U.S.C. 1519(b)" and add in its place "38 U.S.C. 3119(b)", wherever it appears.

162. Remove the citation "38 U.S.C. 1519(c)" and add in its place "38 U.S.C. 3119(c)", wherever it appears.

163. Remove the citation "38 U.S.C. 1521(c)" and add in its place "38 U.S.C. 3121(c)", wherever it appears.

164. Remove the citation "38 U.S.C. 1521(a)" and add in its place "38 U.S.C. 3121(a)", wherever it appears.

165. Remove the citation "38 U.S.C. 214" and add in its place "38 U.S.C. 529", wherever it appears.

166. Remove the citation "38 U.S.C. 212(a)" and add in its place "38 U.S.C. 512(a)", wherever it appears.

167. Remove the citation "38 U.S.C. 212(a), 4003" and add in its place "38 U.S.C. 512(a), 7103", wherever it appears.

168. Remove the citation "38 U.S.C. 3012" and add in its place "38 U.S.C. 5112", wherever it appears.

169. Remove the citation "38 U.S.C. 3012, 3013" and add in its place "38 U.S.C. 5112, 5113", wherever it appears.

170. Remove the citation "38 U.S.C. 1515(a)(4)" and add in its place "38 U.S.C. 3115(a)(4)", wherever it appears.

Subpart B—Veterans' Education Assistance Under 38 U.S.C. Chapter 34

1. Remove the citation "38 U.S.C. 210, 1651–1687" and add in its place "38 U.S.C. 501, 3451–3493", wherever it appears.

2. Remove the citation "38 U.S.C. 1652(a)(3), 1682(b)" and add in its place "38 U.S.C. 3452(a)(3), 3482(b)", wherever it appears.

3. Remove the citation "38 U.S.C. 1684" and add in its place "38 U.S.C. 3484", wherever it appears.

4. Remove the citation "38 U.S.C. 1788" and add in its place "38 U.S.C. 3688", wherever it appears.

5. Remove the citation "38 U.S.C. 1602(1)" and add in its place "38 U.S.C. 3202(1)", wherever it appears.

6. Remove the citation "38 U.S.C. 1781" and add in its place "38 U.S.C. 3681", wherever it appears.

7. Remove the citation "38 U.S.C. 1671" and add in its place "38 U.S.C. 3471", wherever it appears.

8. Remove the citation "38 U.S.C. 3003(a)" and add in its place "38 U.S.C. 5103(a)", wherever it appears.

9. Remove the citation "38 U.S.C. 3001, 3013" and add in its place "38 U.S.C. 5101, 5113", wherever it appears.

10. Remove the citation "38 U.S.C. 1662(a)" and add in its place "38 U.S.C. 3462(a)", wherever it appears.

11. Remove the citation "38 U.S.C. 1662" and add in its place "38 U.S.C. 3462", wherever it appears.

12. Remove the citation "38 U.S.C. 1652" and add in its place "38 U.S.C. 3452", wherever it appears.

13. Remove the citation "38 U.S.C. 1602, 1652" and add in its place "38 U.S.C. 3202(1), 3452", wherever it appears.

14. Remove the citation "section 1652(a)(1)(B)" and add in its place "section 3452(a)(1)(B)", wherever it appears.

15. Remove the citation "38 U.S.C. 1662(a)(1)" and add in its place "38 U.S.C. 3462(a)(1)", wherever it appears.

16. Remove the citation "38 U.S.C. 1795" and add in its place "38 U.S.C. 3695", wherever it appears.

17. Remove the citation "38 U.S.C. 1786(a)" and add in its place "38 U.S.C. 3686(a)", wherever it appears.

18. Remove the citation "38 U.S.C. 1661, 1677(b), 1786(a)" and add in its place "38 U.S.C. 3461, 3686(a)", wherever it appears.

19. Remove the citation "38 U.S.C. 1661" and add in its place "38 U.S.C. 3461", wherever it appears.

20. Remove the citation "38 U.S.C. 101, 1662" and add in its place "38 U.S.C. 101, 3462", wherever it appears.

21. Remove the citation "38 U.S.C. 1662, 3103" and add in its place "38 U.S.C. 3462, 5303", wherever it appears.

22. Remove the citation "38 U.S.C. 105, 1662" and add in its place "38 U.S.C. 105, 3462", wherever it appears.

23. Remove the citation "38 U.S.C. 1691(b)(2)" and add in its place "38 U.S.C. 3491(b)(2)", wherever it appears.

24. Remove the citation "38 U.S.C. 1691" and add in its place "38 U.S.C. 3491", wherever it appears.

25. Remove the citation "38 U.S.C. 1661, 1677(b), 1691" and add in its place "38 U.S.C. 3461, 3491", wherever it appears.

26. Remove the citation "38 U.S.C. 1661, 1677(b)" and add in its place "38 U.S.C. 3461", wherever it appears.

27. Remove the citation "38 U.S.C. 1682(e)" and add in its place "38 U.S.C. 3482(e)", wherever it appears.

28. Remove the citation "38 U.S.C. 1677(b)" and add in its place "38 U.S.C. 1677 (Repealed, Pub. L. 97–35, section 2003(b))", wherever it appears.

29. Remove the citation "38 U.S.C. 1787" and add in its place "38 U.S.C. 3687", wherever it appears.

Subpart C—Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35

1. Remove the citation "38 U.S.C. 210, 1700–1766" and add in its place "38 U.S.C. 501, 3500–3566", wherever it appears.

2. Remove the citation "38 U.S.C. 1711(a), 1733, 1741(b)" and add in its place "38 U.S.C. 3511(a), 3533, 3541(b)", wherever it appears.

3. Remove the citation "38 U.S.C. 1766(b)" and add in its place "38 U.S.C. 3566(b)", wherever it appears.

4. Remove the citation "38 U.S.C. 1700, 1701, and 1711" and add in its place "38 U.S.C. 3500, 3501, and 3511", wherever it appears.

5. Remove the citation "38 U.S.C. 1701(a)(4)" and add in its place "38 U.S.C. 3501(a)(4)", wherever it appears.

6. Remove the citation "38 U.S.C. 1701(b)" and add in its place "38 U.S.C. 3501(b)", wherever it appears.

7. Remove the citation "38 U.S.C. 1701(c)" and add in its place "38 U.S.C. 3501(c)", wherever it appears.

8. Remove the citation "38 U.S.C. 1701(a)(3) and (d), and 1712(a)" and add in its place "38 U.S.C. 3501(a)(3) and (d), and 3512(a)", wherever it appears.

9. Remove the citation "38 U.S.C. 1781" and add in its place "38 U.S.C. 3681", wherever it appears.

10. Remove the citation "38 U.S.C. 1713" and add in its place "38 U.S.C. 3513", wherever it appears.

11. Remove the citation "38 U.S.C. 3003(a)" and add in its place "38 U.S.C. 5103(a)", wherever it appears.

12. Remove the citation "38 U.S.C. 3001, 3013" and add in its place "38 U.S.C. 5101, 5113", wherever it appears.

13. Remove the citation "38 U.S.C. 1712" and add in its place "38 U.S.C. 3512", wherever it appears.

14. Remove the citation "38 U.S.C. 1712(a)" and add in its place "38 U.S.C. 3512(a)", wherever it appears.

15. Remove the citation "38 U.S.C. 1712(a)(3), 1712(d)" and add in its place "38 U.S.C. 3512(a)(3), 3512(d)", wherever it appears.

16. Remove the citation "38 U.S.C. 1701" and add in its place "38 U.S.C. 3501", wherever it appears.

17. Remove the citation "38 U.S.C. 301" and add in its place "38 U.S.C. 1101", wherever it appears.

18. Remove the citation "38 U.S.C. 101(a)(4), 1701" and add in its place "38 U.S.C. 101(a)(4), 3501", wherever it appears.

19. Remove the citation "38 U.S.C. 1712(a)(5)" and add in its place "38 U.S.C. 3512(a)(5)", wherever it appears.

20. Remove the citation "38 U.S.C. 1701(d)" and add in its place "38 U.S.C. 3501(d)", wherever it appears.

21. Remove the citation "38 U.S.C. 1711(a)" and add in its place "38 U.S.C. 3511(a)", wherever it appears.

22. Remove the citation "38 U.S.C. 1741(b), 1733(b)" and add in its place "38 U.S.C. 3541(b), 3533(b)", wherever it appears.

23. Remove the citation "38 U.S.C. 1692, 1733(b)" and add in its place "38 U.S.C. 3492, 3533(b)", wherever it appears.

24. Remove the citation "38 U.S.C. 1733(a)" and add in its place "38 U.S.C. 3533(a)", wherever it appears.

25. Remove the citation "38 U.S.C. 1734" and add in its place "38 U.S.C. 3534", wherever it appears.

26. Remove the citation "38 U.S.C. 1682(b), 1732(a)" and add in its place "38 U.S.C. 3482(b), 3532(a)", wherever it appears.

27. Remove the citation "38 U.S.C. 1734, 1787" and add in its place "38 U.S.C. 3534, 3687", wherever it appears.

28. Remove the citation "38 U.S.C. 1786(a)" and add in its place "38 U.S.C. 3686(a)", wherever it appears.

29. Remove the citation "38 U.S.C. 1671, 1732" and add in its place "38 U.S.C. 3471, 3532", wherever it appears.

30. Remove the citation "38 U.S.C. 1711" and add in its place "38 U.S.C. 3511", wherever it appears.

31. Remove the citation "38 U.S.C. 1712(b)" and add in its place "38 U.S.C. 3512(b)", wherever it appears.

32. Remove the citation "38 U.S.C. 1701(a)" and add in its place "38 U.S.C. 3501(a)", wherever it appears.

33. Remove the citation "38 U.S.C. 1711(b)" and add in its place "38 U.S.C. 3511(b)", wherever it appears.

34. Remove the citation "38 U.S.C. 1711(b), 1712(b) 1732, 1786" and add in its place "38 U.S.C. 3511(b), 3512(b), 3532, 3686", wherever it appears.

35. Remove the citation "38 U.S.C. 1740" and add in its place "38 U.S.C. 3540", wherever it appears.

36. Remove the citation "38 U.S.C. 1741(b), 1742" and add in its place "38 U.S.C. 3541(b), 3542", wherever it appears.

37. Remove the citation "38 U.S.C. 1743(b)" and add in its place "38 U.S.C. 3543(b)", wherever it appears.

38. Remove the citation "38 U.S.C. 1741(a)" and add in its place "38 U.S.C. 3541(a)", wherever it appears.

39. Remove the citation "38 U.S.C. 1743" and add in its place "38 U.S.C. 3543", wherever it appears.

40. Remove the citation "38 U.S.C. 1742(c)" and add in its place "38 U.S.C. 3542(c)", wherever it appears.

41. Remove the citation "38 U.S.C. 1741" and add in its place "38 U.S.C. 3541", wherever it appears.

42. Remove the citation "38 U.S.C. 1741, 1743(b)" and add in its place "38 U.S.C. 3541, 3543(b)", wherever it appears.

43. Remove the citation "38 U.S.C. 1742" and add in its place "38 U.S.C. 3542", wherever it appears.

44. Remove the citation "38 U.S.C. 1732, 1742, 1765" and add in its place "38 U.S.C. 3532, 3542, 3565", wherever it appears.

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

1. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

2. Remove the citation "38 U.S.C. 212(a)" and add in its place "38 U.S.C. 512(a)", wherever it appears.

3. Remove the citation "38 U.S.C. 212(c)" and add in its place "38 U.S.C. 512(c)", wherever it appears.

4. Remove the citation "38 U.S.C. 1796" and add in its place "38 U.S.C. 3696", wherever it appears.

5. Remove the citation "38 U.S.C. 1434(a), 1641, 1783(a)" and add in its place "38 U.S.C. 3034(a), 3241, 3683(a)", wherever it appears.

6. Remove the citation "38 U.S.C. 1783" and add in its place "38 U.S.C. 3683", wherever it appears.

7. Remove the citation "38 U.S.C. 1434(a), 1641, 1783(b)" and add in its place "38 U.S.C. 3034(a), 3241, 3683(b)", wherever it appears.

8. Remove the citation "38 U.S.C. 1790" and add in its place "38 U.S.C. 3690", wherever it appears.

9. Remove the citation "38 U.S.C. 1780" and add in its place "38 U.S.C. 3680", wherever it appears.

10. Remove the citation "38 U.S.C. 3503" and add in its place "38 U.S.C. 6103", wherever it appears.

11. Remove the citation "38 U.S.C. 3503, 3504 and 3505" and add in its place "38 U.S.C. 6103, 6104 and 6105", wherever it appears.

12. Remove the citation "38 U.S.C. 1790(b)" and add in its place "38 U.S.C. 3690(b)", wherever it appears.

13. Remove the citation "38 U.S.C. 1785" and add in its place "38 U.S.C. 3685", wherever it appears.

14. Remove the citation "38 U.S.C. 1434(a), 1641, 1785" and add in its place "38 U.S.C. 3034(a), 3241, 3685", wherever it appears.

15. Remove the citation "38 U.S.C. 1795(a)" and add in its place "38 U.S.C. 3695(a)", wherever it appears.

16. Remove the citation "38 U.S.C. 1795(b)" and add in its place "38 U.S.C. 3695(b)", wherever it appears.

17. Remove the citation "38 U.S.C. 1781" and add in its place "38 U.S.C. 3681", wherever it appears.

18. Remove the citation "38 U.S.C. 1671, 1721" and add in its place "38 U.S.C. 3471, 3521", wherever it appears.

19. Remove the citation "38 U.S.C. 1663, 1720" and add in its place "38 U.S.C. 3520", wherever it appears.

20. Remove the citation "38 U.S.C. 1663" and add in its place "38 U.S.C. 1663 (Repealed; for Pub. L. 102–16)", wherever it appears.

21. Remove the citation "38 U.S.C. 1720, 1736, 1741, 1761" and add in its place "38 U.S.C. 3520, 3536, 3541, 3561", wherever it appears.

22. Remove the citation "38 U.S.C. 1733" and add in its place "38 U.S.C. 3533", wherever it appears.

23. Remove the citation "38 U.S.C. 1736, 1740–1743" and add in its place "38 U.S.C. 3536, 3540–3543", wherever it appears.

24. Remove the citation "38 U.S.C. 1761" and add in its place "38 U.S.C. 3561", wherever it appears.

25. Remove the citation "38 U.S.C. 1682, 1691, 1732, 1780(a)" and add in its place "38 U.S.C. 3482, 3491, 3532, 3680(a)", wherever it appears.

26. Remove the citation "38 U.S.C. 1780(a)" and add in its place "38 U.S.C. 3680(a)", wherever it appears.

27. Remove the citation "38 U.S.C. 1652" and add in its place "38 U.S.C. 3452", wherever it appears.

28. Remove the citation "38 U.S.C. 1681(a), 1780(a)" and add in its place "38 U.S.C. 3481(a), 3680(a)", wherever it appears.

29. Remove the citation "38 U.S.C. 1662(a), 1681(a), 1780(a)" and add in its place "38 U.S.C. 3462(a), 3481(a), 3680(a)", wherever it appears.

30. Remove the citation "38 U.S.C. 1772(a)" and add in its place "38 U.S.C. 3672(a)", wherever it appears.

31. Remove the citation "38 U.S.C. 3010(n)" and add in its place "38 U.S.C. 5110(n)", wherever it appears.

32. Remove the citation "38 U.S.C. 3010(f)(n)" and add in its place "38 U.S.C. 5110(f)(n)", wherever it appears.

33. Remove the citation "38 U.S.C. 1662(b)" and add in its place "38 U.S.C. 3462(b)", wherever it appears.

34. Remove the citation "38 U.S.C. 1682(g), 1732(e)" and add in its place "38 U.S.C. 3482(g), 3532(e)", wherever it appears.

35. Remove the citation "38 U.S.C. 3012, 3013" and add in its place "38 U.S.C. 5112, 5113", wherever it appears.

36. Remove the citation "38 U.S.C. 1434, 1790(b)" and add in its place "38 U.S.C. 3034, 3690(b)", wherever it appears.

37. Remove the citation "38 U.S.C. 3012(b), 3013" and add in its place "38 U.S.C. 5112(b), 5113", wherever it appears.

38. Remove the citation "38 U.S.C. 1772(a), 1790" and add in its place "38 U.S.C. 3672(a), 3690", wherever it appears.

39. Remove the citation "38 U.S.C. 1771(b), 1772(a), 1790" and add in its place "38 U.S.C. 3671(b), 3672(a), 3690", wherever it appears.

40. Remove the citation "38 U.S.C. 1711(b)" and add in its place "38 U.S.C. 3511(b)", wherever it appears.

41. Remove the citation "38 U.S.C. 3012(b)(10) and 3013" and add in its place "38 U.S.C. 5112(b)(10) and 5113", wherever it appears.

42. Remove the citation "38 U.S.C. 1780(a)(4)" and add in its place "38 U.S.C. 3680(a)(4)", wherever it appears.

43. Remove the citation "38 U.S.C. 1701" and add in its place "38 U.S.C. 3501", wherever it appears.

44. Remove the citation "38 U.S.C. 1682(e)" and add in its place "38 U.S.C. 3482(e)", wherever it appears.

45. Remove the citation "38 U.S.C. 1788" and add in its place "38 U.S.C. 3688", wherever it appears.

46. Remove the citation "38 U.S.C. 1677, 1682, 1786, 1787" and add in its place "38 U.S.C. 3482, 3686, 3687", wherever it appears.

47. Remove the citation "38 U.S.C. 1682" and add in its place "38 U.S.C. 3482", wherever it appears.

48. Remove the citation "38 U.S.C. 1682, 1787" and add in its place "38 U.S.C. 3482, 3687", wherever it appears.

49. Remove the citation "38 U.S.C. 1787(b)(3)" and add in its place "38 U.S.C. 3687(b)(3)", wherever it appears.

50. Remove the citation "38 U.S.C. 1780(d)(4)(B)" and add in its place "38 U.S.C. 3680(d)(4)(B)", wherever it appears.

51. Remove the citation "38 U.S.C. 1780(d)" and add in its place "38 U.S.C. 3680(d)", wherever it appears.

52. Remove the citation "38 U.S.C. 1780(a)(4)" and add in its place "38 U.S.C. 3680(a)(4)", wherever it appears.

53. Remove the citation "38 U.S.C. 1691" and add in its place "38 U.S.C. 3491", wherever it appears.

54. Remove the citation "38 U.S.C. 1682(g)" and add in its place "38 U.S.C. 3482(g)", wherever it appears.

55. Remove the citation "38 U.S.C. 1732, 1786" and add in its place "38 U.S.C. 3532, 3686", wherever it appears.

56. Remove the citation "38 U.S.C. 1732(c)(2)" and add in its place "38 U.S.C. 3532(c)(2)", wherever it appears.

57. Remove the citation "38 U.S.C. 1732(a)(2)" and add in its place "38 U.S.C. 3532(a)(2)", wherever it appears.

58. Remove the citation "38 U.S.C. 1732" and add in its place "38 U.S.C. 3532", wherever it appears.

59. Remove the citation "section 1733" and add in its place "section 3533", wherever it appears.

60. Remove the citation "38 U.S.C. 1732(e)" and add in its place "38 U.S.C. 3532(e)", wherever it appears.

61. Remove the citation "38 U.S.C. 1691, 1733" and add in its place "38 U.S.C. 3491, 3533", wherever it appears.

62. Remove the citation "38 U.S.C. 1780(f)" and add in its place "38 U.S.C. 3680(f)", wherever it appears.

63. Remove the citation "38 U.S.C. 1691, 1780" and add in its place "38 U.S.C. 3491, 3680", wherever it appears.

64. Remove the citation "38 U.S.C. 3107(c)" and add in its place "38 U.S.C. 5307(c)", wherever it appears.

65. Remove the citation "38 U.S.C. 1762" and add in its place "38 U.S.C. 3562", wherever it appears.

66. Remove the citation "38 U.S.C. 1685" and add in its place "38 U.S.C. 3485", wherever it appears.

67. Remove the citation "section 3101(a)" and add in its place "section 5301(a)", wherever it appears.

68. Remove the citation "38 U.S.C. 3101(a)" and add in its place "38 U.S.C. 5301(a)", wherever it appears.

69. Remove the citation "section 1676" and add in its place "section 3476", wherever it appears.

70. Remove the citation "section 1786" and add in its place "section 3686", wherever it appears.

71. Remove the citation "38 U.S.C. 1771(a)" and add in its place "38 U.S.C. 3671(a)", wherever it appears.

72. Remove the citation "38 U.S.C. 1771(b)(1)" and add in its place "38 U.S.C. 3671(b)(1)", wherever it appears.

73. Remove the citation "38 U.S.C. 212(a), 1761(b)" and add in its place "38 U.S.C. 512(a), 3561(b)", wherever it appears.

74. Remove the citation "38 U.S.C. 1772(c)" and add in its place "38 U.S.C. 3672(c)", wherever it appears.

75. Remove the citation "38 U.S.C. 1772(b)" and add in its place "38 U.S.C. 3672(b)", wherever it appears.

76. Remove the citation "38 U.S.C. 1773(a)" and add in its place "38 U.S.C. 3673(a)", wherever it appears.

77. Remove the citation "38 U.S.C. 1772, 1773, 1774" and add in its place "38 U.S.C. 3672, 3673, 3674", wherever it appears.

78. Remove the citation "38 U.S.C. 1773(b)" and add in its place "38 U.S.C. 3673(b)", wherever it appears.

79. Remove the citation "38 U.S.C. 1782" and add in its place "38 U.S.C. 3682", wherever it appears.

80. Remove the citation "38 U.S.C. 1774, 1774(a)" and add in its place "38 U.S.C. 3674, 3674(a)", wherever it appears.

81. Remove the citation "38 U.S.C. 1774" and add in its place "38 U.S.C. 3674", wherever it appears.

82. Remove the citation "38 U.S.C. 1774(b)" and add in its place "38 U.S.C. 3674(b)", wherever it appears.

83. Remove the citation "38 U.S.C. 1434, 1774" and add in its place "38 U.S.C. 3034, 3674", wherever it appears.

84. Remove the citation "38 U.S.C. 1774A(a)" and add in its place "38 U.S.C. 3674A(a)", wherever it appears.

85. Remove the citation "38 U.S.C. 1774A" and add in its place "38 U.S.C. 3674A", wherever it appears.

86. Remove the citation "38 U.S.C. 1774A(b)" and add in its place "38 U.S.C. 3674A(b)", wherever it appears.

87. Remove the citation "38 U.S.C. 1701(a)(6)" and add in its place "38 U.S.C. 3501(a)(6)", wherever it appears.

88. Remove the citation "38 U.S.C. 1652(e), 1701(a)(9)" and add in its place "38 U.S.C. 3452(e), 3501(a)(9)", wherever it appears.

89. Remove the citation "38 U.S.C. 1788(c)" and add in its place "38 U.S.C. 3688(c)", wherever it appears.

90. Remove the citation "38 U.S.C. 1780(a)(3)" and add in its place "38 U.S.C. 3680(a)(3)", wherever it appears.

91. Remove the citation "38 U.S.C. 1789(c)" and add in its place "38 U.S.C. 3689(c)", wherever it appears.

92. Remove the citation "38 U.S.C. 1780(g)" and add in its place "38 U.S.C. 3680(g)", wherever it appears.

93. Remove the citation "38 U.S.C. 1691(a)(2)" and add in its place "38 U.S.C. 3491(a)(2)", wherever it appears.

94. Remove the citation "38 U.S.C. 1673(d)" and add in its place "38 U.S.C. 3473(d)", wherever it appears.

95. Remove the citation "38 U.S.C. 1673, 1691(c)" and add in its place "38 U.S.C. 3473, 3491(c)", wherever it appears.

96. Remove the citation "38 U.S.C. 1673" and add in its place "38 U.S.C. 3473", wherever it appears.

97. Remove the citation "38 U.S.C. 1434, 1641, 1673(d)" and add in its place "38 U.S.C. 3034, 3241, 3473(d)", wherever it appears.

98. Remove the citation "38 U.S.C. 1780(d), 1784, 1785, 1798" and add in its place "38 U.S.C. 3680(d), 3684, 3685, 3698", wherever it appears.

99. Remove the citation "38 U.S.C. 1784(a)" and add in its place "38 U.S.C. 3684(a)", wherever it appears.

100. Remove the citation "38 U.S.C. 1784(a), 1788(a)" and add in its place "38 U.S.C. 3684(a), 3688(a)", wherever it appears.

101. Remove the citation "38 U.S.C. 1780(a)(2), 1788(a)(7)" and add in its place "38 U.S.C. 3680(a)(2), 3688(a)(7)", wherever it appears.

102. Remove the citation "38 U.S.C. 1674" and add in its place "38 U.S.C. 3474", wherever it appears.

103. Remove the citation "38 U.S.C. 1780(a)(7), 1780(g)" and add in its place "38 U.S.C. 3680(a)(7), 3680(g)", wherever it appears.

104. Remove the citation "38 U.S.C. 1434, 1641, 1784(c)" and add in its place "38 U.S.C. 3034, 3241, 3684(c)", wherever it appears.

105. Remove the citation "38 U.S.C. 1784(c)" and add in its place "38 U.S.C. 3684(c)", wherever it appears.

106. Remove the citation "38 U.S.C. 1784, 1798" and add in its place "38 U.S.C. 3684, 3698", wherever it appears.

107. Remove the citation "38 U.S.C. 1784" and add in its place "38 U.S.C. 3684", wherever it appears.

108. Remove the citation "38 U.S.C. 1434, 1641, 1784(b)" and add in its place "38 U.S.C. 3034, 3241, 3684(b)", wherever it appears.

109. Remove the citation "38 U.S.C. 1784(b)" and add in its place "38 U.S.C 3684(b)", wherever it appears.

110. Remove the citation "38 U.S.C. 1434, 1641, 1790(b)" and add in its place "38 U.S.C. 3034, 3241, 3690(b)", wherever it appears.

111. Remove the citation "38 U.S.C. 1671, 1721, 1790(b)" and add in its place "38 U.S.C. 3471, 3521, 3690(b)", wherever it appears.

112. Remove the citation "38 U.S.C. 1772" and add in its place "38 U.S.C. 3672", wherever it appears.

113. Remove the citation "38 U.S.C. 1434, 1644, 3690" and add in its place "38 U.S.C. 3034, 3242, 3690", wherever it appears.

114. Remove the citation "section 1796(b)" and add in its place "section 3696(b)", wherever it appears.

115. Remove the citation "38 U.S.C. 1652(b), 1670, 1691(a)" and add in its place "38 U.S.C. 3452(b), 3470, 3491(a)", wherever it appears.

116. Remove the citation "38 U.S.C. 1671" and add in its place "38 U.S.C. 3471", wherever it appears.

117. Remove the citation "38 U.S.C. 1721" and add in its place "38 U.S.C. 3521", wherever it appears.

118. Remove the citation "38 U.S.C. 1721, 1736" and add in its place "38 U.S.C. 3521, 3536", wherever it appears.

119. Remove the citation "38 U.S.C. 1736" and add in its place "38 U.S.C. 3536", wherever it appears.

120. Remove the citation "38 U.S.C. 1743(b)" and add in its place "38 U.S.C. 3543(b)", wherever it appears.

121. Remove the citation "38 U.S.C. 1682(a)(2) and 1732(b)" and add in its place "38 U.S.C. 3482(a)(2) and 3532(b)", wherever it appears.

122. Remove the citation "38 U.S.C. 1673(c)" and add in its place "38 U.S.C. 3473(c)", wherever it appears.

123. Remove the citation "38 U.S.C. 1791(b)" and add in its place "38 U.S.C. 3691(b)", wherever it appears.

124. Remove the citation "38 U.S.C. 1791" and add in its place "38 U.S.C. 3691", wherever it appears.

125. Remove the citation "38 U.S.C. 1690, 1691, 1693" and add in its place "38 U.S.C. 3490, 3491, 3493", wherever it appears.

126. Remove the citation "38 U.S.C. 1692" and add in its place "38 U.S.C. 3492", wherever it appears.

127. Remove the citation "38 U.S.C. 1692(b)" and add in its place "38 U.S.C. 3492(b)", wherever it appears.

128. Remove the citation "38 U.S.C. 1690, 1692, 1693" and add in its place "38 U.S.C. 3490, 3492, 3493", wherever it appears.

129. Remove the citation "38 U.S.C. 1691, 1733" and add in its place "38 U.S.C. 3491, 3533", wherever it appears.

130. Remove the citation "38 U.S.C. 1770" and add in its place "38 U.S.C. 3670", wherever it appears.

131. Remove the citation "38 U.S.C. 1772(a)" and add in its place "38 U.S.C. 3672(a)", wherever it appears.

132. Remove the citation "38 U.S.C. 1434, 1641, 1772" and add in its place "38 U.S.C. 3034, 3241, 3672", wherever it appears.

133. Remove the citation "38 U.S.C. 1641, 1676, 1723, 1772(b), 1772(c)" and add in its place "38 U.S.C. 3241, 3476, 3523, 3672(b), 3672(c)", wherever it appears.

134. Remove the citation "38 U.S.C. 1789(b)" and add in its place "38 U.S.C. 3689(b)", wherever it appears.

135. Remove the citation "38 U.S.C. 1789" and add in its place "38 U.S.C. 3689", wherever it appears.

136. Remove the citation "38 U.S.C. 1673(a), 1723(a)" and add in its place "38 U.S.C. 3473(a), 3523(a)", wherever it appears.

137. Remove the citation "section 1796" and add in its place "section 3696", wherever it appears.

138. Remove the citation "38 U.S.C. 1796" and add in its place "38 U.S.C. 3696", wherever it appears.

139. Remove the citation "38 U.S.C. 1775(a)" and add in its place "38 U.S.C. 3675(a)", wherever it appears.

140. Remove the citation "38 U.S.C. 1775(b)" and add in its place "38 U.S.C. 3675(b)", wherever it appears.

141. Remove the citation "38 U.S.C. 1775" and add in its place "38 U.S.C. 3675", wherever it appears.

142. Remove the citation "38 U.S.C. 1776(a)" and add in its place "38 U.S.C. 3676(a)", wherever it appears.

143. Remove the citation "38 U.S.C. 1776(b)" and add in its place "38 U.S.C. 3676(b)", wherever it appears.

144. Remove the citation "38 U.S.C. 1776" and add in its place "38 U.S.C. 3676", wherever it appears.

145. Remove the citation "38 U.S.C. 1776(c)" and add in its place "38 U.S.C. 3676(c)", wherever it appears.

146. Remove the citation "38 U.S.C. 1776(d)" and add in its place "38 U.S.C. 3676(d)", wherever it appears.

147. Remove the citation "38 U.S.C. 1780(a)(5)" and add in its place "38 U.S.C. 3680(a)(5)", wherever it appears.

148. Remove the citation "38 U.S.C. 1778" and add in its place "38 U.S.C. 3678", wherever it appears.

149. Remove the citation "38 U.S.C. 1779" and add in its place "38 U.S.C. 3679", wherever it appears.

150. Remove the citation "38 U.S.C. 1676" and add in its place "38 U.S.C. 3476", wherever it appears.

151. Remove the citation "38 U.S.C. 1787" and add in its place "38 U.S.C. 3687", wherever it appears.

152. Remove the citation "38 U.S.C. 1772(d)" and add in its place "38 U.S.C. 3672(d)", wherever it appears.

153. Remove the citation "38 U.S.C. 1777" and add in its place "38 U.S.C. 3677", wherever it appears.

154. Remove the citation "38 U.S.C. 1677(a)" and add in its place "38 U.S.C. 1677 (repealed, Pub. L. 97–35, section 2003(b))", wherever it appears.

155. Remove the citation "38 U.S.C. 1677" and add in its place "38 U.S.C. 1677 (repealed, "Pub. L. 97–35, Section 2003(b))", wherever it appears.

156. Remove the citation "38 U.S.C. 1671" and add in its place "38 U.S.C. 3471", wherever it appears.

157. Remove the citation "38 U.S.C. 1775(b) or 1776(c)(4)" and add in its place "38 U.S.C. 3675(b) or 3676(c)(4)", wherever it appears.

158. Remove the citation "38 U.S.C. 1671, 1684(d)" and add in its place "38 U.S.C. 3471, 3482(d)", wherever it appears.

159. Remove the citation "38 U.S.C. 1771, 1772" and add in its place "38 U.S.C. 3671, 3672", wherever it appears.

160. Remove the citation "38 U.S.C. 1789(b)(2)" and add in its place "38 U.S.C. 3689(b)(2)", wherever it appears.

161. Remove the citation "38 U.S.C. 1790(c)" and add in its place "38 U.S.C. 3690(c)", wherever it appears.

162. Remove the citation "38 U.S.C. 1652(b)" and add in its place "38 U.S.C. 3452(b)", wherever it appears.

163. Remove the citation "38 U.S.C. 1677(b)" and add in its place "38 U.S.C. 1677 (repealed, Pub. L. 97–35, section 2003(b))", wherever it appears.

164. Remove the citation "38 U.S.C. 1677, 1773(a)" and add in its place "38 U.S.C. 3673(a)", wherever it appears.

165. Remove the citation "38 U.S.C. 1673(d)" and add in its place "38 U.S.C. 3473(d)", wherever it appears.

166. Remove the citation "38 U.S.C. 1682, 1732" and add in its place "38 U.S.C. 3482, 3532", wherever it appears.

167. Remove the citation "38 U.S.C. 1788(b)" and add in its place "38 U.S.C. 3688(b)", wherever it appears.

168. Remove the citation "38 U.S.C. 4114(e)" and add in its place "38 U.S.C. 7407", wherever it appears.

169. Remove the citation "38 U.S.C. 1772, 1789(c)" and add in its place "38 U.S.C. 3672, 3689(c)", wherever it appears.

170. Remove the citation "38 U.S.C. 1788(a)(7)" and add in its place "38 U.S.C. 3688(a)(7)", wherever it appears.

171. Remove the citation "38 U.S.C. 1788(e)" and add in its place "38 U.S.C. 3688(e)", wherever it appears.

172. Remove the citation "38 U.S.C. 1682, 1732, 1777, 1787, 1788" and add in its place "38 U.S.C. 3482, 3532, 3677, 3687, 3688", wherever it appears.

173. Remove the citation "38 U.S.C. 1788(a), 1788(e)" and add in its place "38 U.S.C. 3688(a), 3688(e)", wherever it appears.

174. Remove the citation "38 U.S.C. 1788(b)" and add in its place "38 U.S.C. 3688(a)", wherever it appears.

175. Remove the citation "38 U.S.C. 1682(e)" and add in its place "38 U.S.C. 3482(e)", wherever it appears.

176. Remove the citation "38 U.S.C. 1741" and add in its place "38 U.S.C. 3541", wherever it appears.

177. Remove the citation "38 U.S.C. 1741(a)" and add in its place "38 U.S.C. 3541(a)", wherever it appears.

178. Remove the citation "38 U.S.C. 1743(a)" and add in its place "38 U.S.C. 3543(a)", wherever it appears.

179. Remove the citation "38 U.S.C. 1674 and 1724" and add in its place "38 U.S.C. 3474 and 3524", wherever it appears.

180. Remove the citation "38 U.S.C. 1786(a)" and add in its place "38 U.S.C. 3686(a)", wherever it appears.

181. Remove the citation "38 U.S.C. 1673, 1682, 1733" and add in its place "38 U.S.C. 3473, 3482, 3533", wherever it appears.

182. Remove the citation "38 U.S.C. 1682, 1732" and add in its place "38 U.S.C. 3482, 3532", wherever it appears.

183. Remove the citation "38 U.S.C. 1682, 1732, 1788" and add in its place "38 U.S.C. 3482, 3532, 3688", wherever it appears.

Subpart E—Nondiscrimination in Vocational Rehabilitation and Education Programs—Title VI, Civil Rights Act of 1964

1. Remove the citation "38 U.S.C. 210(c)(1)" and add in its place "38 U.S.C. 501", wherever it appears.

2. Remove the citation "38 U.S.C. 3402(a)(2)" and add in its place "38 U.S.C. 5902(a)(2)", wherever it appears.

Subpart F—Education Loans

1. Remove the citation "38 U.S.C. 210, 1686, 1737" and add in its place "38 U.S.C. 501, 3537", wherever it appears.

2. Remove the citation "section 1798" and add in its place "section 3698", wherever it appears.

3. Remove the citation "38 U.S.C. 1798" and add in its place "38 U.S.C. 3698", wherever it appears.

4. Remove the citation "38 U.S.C. 1798(c)" and add in its place "38 U.S.C. 3698(c)", wherever it appears.

5. Remove the citation "38 U.S.C. 1631, 1661" and add in its place "section 3231, 3461", wherever it appears.

6. Remove the citation "section 1685" and add in its place "section 3485", wherever it appears.

7. Remove the citation "38 U.S.C. 1798(b)" and add in its place "38 U.S.C. 3698(b)", wherever it appears.

8. Remove the citation "38 U.S.C. 1682A(e)" and add in its place "38 U.S.C. 1682A(e) (repealed, Pub. L. 100–689, section 124(a))", wherever it appears.

9. Remove the citation "section 1661" and add in its place "section 3461", wherever it appears.

10. Remove the citation "38 U.S.C. 1798(g)" and add in its place "38 U.S.C. 3698(g)", wherever it appears.

11. Remove the citation "section 1661 or 1711" and add in its place "section 3461 or 3511", wherever it appears.

12. Remove the citation "38 U.S.C. 1662, 1737, 1798" and add in its place "38 U.S.C. 3462, 3537, 3698", wherever it appears.

13. Remove the citation "38 U.S.C. 1671" and add in its place "38 U.S.C. 3471", wherever it appears.

14. Remove the citation "38 U.S.C. 1798(a)" and add in its place "38 U.S.C. 3698(a)", wherever it appears.

15. Remove the citation "38 U.S.C. 1798(e)(1)" and add in its place "38 U.S.C. 3698(e)(1)", wherever it appears.

16. Remove the citation "38 U.S.C. 1796, 1798(b)" and add in its place "38 U.S.C. 3696, 3698(b)", wherever it appears.

Subpart F–1—Veterans' Job Training

1. Remove the citation "38 U.S.C. 212(a)" and add in its place "38 U.S.C. 512(a)", wherever it appears.

2. Remove the citation "38 U.S.C. 1506(a)" and add in its place "38 U.S.C. 3106(a)", wherever it appears.

3. Remove the citation "38 U.S.C. 4004" and add in its place "38 U.S.C. 7104", wherever it appears.

Subpart G—Post-Vietnam Era Veterans' Educational Assistance Under 38 U.S.C. Chapter 32

1. Remove the citation "38 U.S.C. 210(c)" and add in its place "38 U.S.C. 501", wherever it appears.

2. Remove the citation "38 U.S.C. 1641" and add in its place "38 U.S.C. 3241", wherever it appears.

3. Remove the citation "38 U.S.C. 1601" and add in its place "38 U.S.C. 3201", wherever it appears.

4. Remove the citation "38 U.S.C. 1602(l)" and add in its place "38 U.S.C. 3202(l)", wherever it appears.

5. Remove the citation "38 U.S.C. 1602" and add in its place "38 U.S.C. 3202", wherever it appears.

6. Remove the citation "38 U.S.C. 1602; 1652" and add in its place "38 U.S.C. 3202, 3452", wherever it appears.

7. Remove the citation "38 U.S.C. 1622" and add in its place "38 U.S.C. 3222", wherever it appears.

8. Remove the citation "38 U.S.C. 1632" and add in its place "38 U.S.C. 3232", wherever it appears.

9. Remove the citation "38 U.S.C. 1621" and add in its place "38 U.S.C. 3221", wherever it appears.

10. Remove the citation "38 U.S.C. 1621(b)" and add in its place "38 U.S.C. 3221(b)", wherever it appears.

11. Remove the citation "38 U.S.C. 1631" and add in its place "38 U.S.C. 3231", wherever it appears.

12. Remove the citation "38 U.S.C. 1624" and add in its place "38 U.S.C. 3224", wherever it appears.

13. Remove the citation "38 U.S.C. 1602(5), 1652(e)" and add in its place "38 U.S.C. 3202(5), 3452(e)", wherever it appears.

14. Remove the citation "38 U.S.C. 1602(2), 1652(b)" and add in its place "38 U.S.C. 3202(2), 3452(b)", wherever it appears.

15. Remove the citation "38 U.S.C. 1602(2)" and add in its place "38 U.S.C. 3202(2)", wherever it appears.

16. Remove the citation "38 U.S.C. 1641" and add in its place "38 U.S.C. 3241", wherever it appears.

17. Remove the citation "38 U.S.C. 1641(a)" and add in its place "38 U.S.C. 3241(a)", wherever it appears.

18. Remove the citation "38 U.S.C. 105, 1632, 1662" and add in its place "38 U.S.C. 105, 3232, 3462", wherever it appears.

19. Remove the citation "38 U.S.C. 1781" and add in its place "38 U.S.C. 3681", wherever it appears.

20. Remove the citation "38 U.S.C. 1631, 1795" and add in its place "38 U.S.C. 3231, 3695", wherever it appears.

21. Remove the citation "38 U.S.C. 1641, 1781" and add in its place "38 U.S.C. 3241, 3681", wherever it appears.

22. Remove the citation "38 U.S.C. 1632, 1641, 1671" and add in its place "38 U.S.C. 3232, 3241, 3471", wherever it appears.

23. Remove the citation "38 U.S.C. 1602, 3103A" and add in its place "38 U.S.C. 3202, 5303A", wherever it appears.

24. Remove the citation "38 U.S.C. 1631(b)" and add in its place "38 U.S.C. 3231(b)", wherever it appears.

25. Remove the citation "38 U.S.C. 105, 1632" and add in its place "38 U.S.C. 105, 3232", wherever it appears.

26. Remove the citation "38 U.S.C. 1621, 1622" and add in its place "38 U.S.C. 3221, 3222", wherever it appears.

27. Remove the citation "38 U.S.C. 1622(d)" and add in its place "38 U.S.C. 3222(d)", wherever it appears.

28. Remove the citation "38 U.S.C. 1631(a)" and add in its place "38 U.S.C. 3231(a)", wherever it appears.

29. Remove the citation "38 U.S.C. 1621(a)" and add in its place "38 U.S.C. 3221(a)", wherever it appears.

30. Remove the citation "38 U.S.C. 1602(1), 1621" and add in its place "38 U.S.C. 3202(1), 3221", wherever it appears.

31. Remove the citation "38 U.S.C. 1602, 1621" and add in its place "38 U.S.C. 3202, 3221", wherever it appears.

32. Remove the citation "38 U.S.C. 101, 1625, 1632" and add in its place "38 U.S.C. 101, 3225, 3232", wherever it appears.

33. Remove the citation "38 U.S.C. 1621(d)" and add in its place "38 U.S.C. 3221(d)", wherever it appears.

34. Remove the citation "38 U.S.C. 1623" and add in its place "38 U.S.C. 3223", wherever it appears.

35. Remove the citation "38 U.S.C. 1602, 1623, 1632" and add in its place "38 U.S.C. 3202, 3223, 3232", wherever it appears.

36. Remove the citation "38 U.S.C. 101, 1623, 1632" and add in its place "38 U.S.C. 101, 3223, 3232", wherever it appears.

37. Remove the citation "38 U.S.C. 101, 1623" and add in its place "38 U.S.C. 101, 3223", wherever it appears.

38. Remove the citation "38 U.S.C. 1602, 1623, 1632, 3103A" and add in its place "38 U.S.C. 3202, 3223, 3232, 5303A", wherever it appears.

39. Remove the citation "38 U.S.C. 3021" and add in its place "38 U.S.C. 5121", wherever it appears.

40. Remove the citation "38 U.S.C. 1622(d), 1631" and add in its place "38 U.S.C. 3222(d), 3231", wherever it appears.

41. Remove the citation "38 U.S.C. 1641, 1691" and add in its place "38 U.S.C. 3241, 3491", wherever it appears.

42. Remove the citation "38 U.S.C. 1631(c) and add in its place "38 U.S.C. 3231(c)", wherever it appears.

43. Remove the citation "38 U.S.C. 1633(c)" and add in its place "38 U.S.C. 3233(c)", wherever it appears.

44. Remove the citation "38 U.S.C. 1631(d)" and add in its place "38 U.S.C. 3231(d)", wherever it appears.

45. Remove the citation "38 U.S.C. 1631(e)" and add in its place "38 U.S.C. 3231(e)", wherever it appears.

46. Remove the citation "38 U.S.C. 1634" and add in its place "38 U.S.C. 3234", wherever it appears.

47. Remove the citation "38 U.S.C. 1641, 1780" and add in its place "38 U.S.C. 3241, 3680", wherever it appears.

48. Remove the citation "38 U.S.C. 1641, 1663" and add in its place "38 U.S.C. 3241", wherever it appears.

49. Remove the citation "38 U.S.C. 1663" and add in its place "38 U.S.C. 1663 (repealed Pub. L. 102–16 § 2(b)(1))", wherever it appears.

50. Remove the citation "38 U.S.C. 1641, 1633" and add in its place "38 U.S.C. 3241, 3233", wherever it appears.

51. Remove the citation "38 U.S.C. 1641, 1780(a)" and add in its place "38 U.S.C. 3241, 3680(a)", wherever it appears.

52. Remove the citation "38 U.S.C. 1641, 1788" and add in its place "38 U.S.C. 3241, 3688", wherever it appears.

53. Remove the citation "38 U.S.C. 1621, 1631" and add in its place "38 U.S.C. 3221, 3231", wherever it appears.

54. " and add in its place "38 U.S.C. 3680(d)(4)(B) for 38 U.S.C. 1780(d)(4)(B)", wherever it appears.

55. Remove the citation "38 U.S.C. 1641, 1780(d)" and add in its place "38 U.S.C. 3241, 3680(d)", wherever it appears.

56. Remove the citation "38 U.S.C. 1631(b)" and add in its place "38 U.S.C. 3231(b)", wherever it appears.

57. Remove the citation "38 U.S.C. 1631, 1633" and add in its place "38 U.S.C. 3231, 3233", wherever it appears.

58. Remove the citation "38 U.S.C. 1633" and add in its place "38 U.S.C. 3233", wherever it appears.

59. Remove the citation "38 U.S.C. 1634, 1692" and add in its place "38 U.S.C. 3234, 3492", wherever it appears.

60. Remove the citation "38 U.S.C. 1634, 3001" and add in its place "38 U.S.C. 3234, 5101", wherever it appears.

61. Remove the citation "38 U.S.C. 1641, 1685" and add in its place "38 U.S.C. 3241, 3485", wherever it appears.

62. Remove the citation "38 U.S.C. 1641, 1770–1774, 1774A" and add in its place "38 U.S.C. 3241, 3670–3674, 3674A", wherever it appears.

63. Remove the citation "38 U.S.C. 1641, 1673(d)" and add in its place "38 U.S.C. 3241, 3473(d)", wherever it appears.

64. Remove the citation "38 U.S.C. 1641, 1790" and add in its place "38 U.S.C. 3241, 3690", wherever it appears.

65. Remove the citation "38 U.S.C. 1641, 1784" and add in its place "38 U.S.C. 3241, 3684", wherever it appears.

66. Remove the citation "38 U.S.C. 1641(a)(2)" and add in its place "38 U.S.C. 3241(a)(2)", wherever it appears.

67. Remove the citation 38 U.S.C. 1641, 1772" and add in its place "38 U.S.C. 3241, 3672", wherever it appears.

68. Remove the citation "38 U.S.C. 1641, 1789" and add in its place "38 U.S.C. 3241, 3689", wherever it appears.

69. Remove the citation "38 U.S.C. 1641, 1673" and add in its place "38 U.S.C. 3241, 3673", wherever it appears.

70. Remove the citation "38 U.S.C. 1641, 1775" and add in its place "38 U.S.C. 3241, 3675", wherever it appears.

71. Remove the citation "38 U.S.C. 1641, 1776" and add in its place "38 U.S.C. 3241, 3676", wherever it appears.

72. Remove the citation "38 U.S.C. 1641, 1786" and add in its place "38 U.S.C. 3241, 3686", wherever it appears.

73. Remove the citation "38 U.S.C. 1641, 1778" and add in its place "38 U.S.C. 3241, 3678", wherever it appears.

74. Remove the citation "38 U.S.C. 1641, 1779" and add in its place "38 U.S.C. 3241, 3679", wherever it appears.

75. Remove the citation "38 U.S.C. 1641, 1685" and add in its place "38 U.S.C. 3241, 3485", wherever it appears.

76. Remove the citation "38 U.S.C. 1641, 1772, 1789(c)" and add in its place "38 U.S.C. 3241, 3672, 3689(c)", wherever it appears.

77. Remove the citation "38 U.S.C. 1641, 1674" and add in its place "38 U.S.C. 3241, 3474", wherever it appears.

78. Remove the citation "38 U.S.C. 1641, 1673" and add in its place "38 U.S.C. 3241, 3473", wherever it appears.

79. Remove the citation "38 U.S.C. 1632, 1798(a)(2)" and add in its place "38 U.S.C. 3232, 3698(a)(2)", wherever it appears.

80. Remove the citation "38 U.S.C. 1798(a)(2)" and add in its place "38 U.S.C. 3698(a)(2)", wherever it appears.

Subpart H—Educational Assistance Test Program

1. Remove the citation "36 U.S.C. 3001, 3013" and add in its place "38 U.S.C. 5101, 5113", wherever it appears.

2. Remove the citation "38 U.S.C. 3103A" and add in its place "38 U.S.C. 5303A", wherever it appears.

3. Remove the citation "38 U.S.C. 1795" and add in its place "38 U.S.C. 3695", wherever it appears.

Subpart I—Temporary Program of Vocational Training for Certain New Pension Recipients

1. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

2. Remove the citation "38 U.S.C. 524" and add in its place "38 U.S.C. 1524", wherever it appears.

3. Remove the citation "38 U.S.C. 524(a)(4)" and add in its place "38 U.S.C. 1524(a)(4)", wherever it appears.

4. Remove the citation "38 U.S.C. 524(a)" and add in its place "38 U.S.C. 1524(a)", wherever it appears.

5. Remove the citation "38 U.S.C. 524(b)" and add in its place "38 U.S.C. 1524(b)", wherever it appears.

6. Remove the citation "38 U.S.C. 524(d)(3)" and add in its place "38 U.S.C. 1524(d)(3)", wherever it appears.

7. Remove the citation "38 U.S.C. 524(b)(4)" and add in its place "38 U.S.C. 1524(b)(4)", wherever it appears.

8. Remove the citation "38 U.S.C. 524(b)(3)" and add in its place "38 U.S.C. 1524(b)(3)", wherever it appears.

9. Remove the citation "38 U.S.C. 524(b)(2)" and add in its place "38 U.S.C. 1524(b)(2)", wherever it appears.

10. Remove the citation "38 U.S.C. 524(b)(2)(A)" and add in its place "38 U.S.C. 1524(b)(2)(A)", wherever it appears.

11. Remove the citation "38 U.S.C. 524(b)(1)" and add in its place "38 U.S.C. 1524(b)(1)", wherever it appears.

12. Remove the citation "38 U.S.C. 524(a)(1)" and add in its place "38 U.S.C. 1524(a)(1)", wherever it appears.

13. Remove the citation "section 524" and add in its place "section 1524", wherever it appears.

14. Remove the citation "38 U.S.C. 524(a)(2)" and add in its place "38 U.S.C. 1524(a)(2)", wherever it appears.

15. Remove the citation "38 U.S.C. 524(a)(3)" and add in its place "38 U.S.C. 1524(a)(3)", wherever it appears.

16. Remove the citation "38 U.S.C. 524(a)(1)(2)" and add in its place "38 U.S.C. 1524(a)(1)(2)", wherever it appears.

17. Remove the citation "38 U.S.C. 1506(e)" and add in its place "38 U.S.C. 3106(e)", wherever it appears.

18. Remove the citation "38 U.S.C. 220, 524(b)" and add in its place "38 U.S.C. 523, 1524(b)", wherever it appears.

19. Remove the citation "38 U.S.C. 1504(a)" and add in its place "38 U.S.C. 3104(a)", wherever it appears.

20. Remove the citation "38 U.S.C. 524(b)(2)(B)(ii)" and add in its place "38 U.S.C. 1524(b)(2)(B)(ii)", wherever it appears.

21. Remove the citation "38 U.S.C. 524(d)" and add in its place "38 U.S.C. 1524(d)", wherever it appears.

22. Remove the citation "38 U.S.C. (b)(2)" and add in its place "38 U.S.C. 1524(b)(2)", wherever it appears.

23. Remove the citation "38 U.S.C. 212(a)" and add in its place "38 U.S.C. 512(a)", wherever it appears.

Subpart J—Temporary Program of Vocational Training and Rehabilitation

1. Remove the citation "38 U.S.C. 363" and add in its place "38 U.S.C. 1163", wherever it appears.

2. Remove the citation "38 U.S.C. 1504(a)(2)" and add in its place "38 U.S.C. 3104(a)(2)", wherever it appears.

3. Remove the citation "38 U.S.C. 1504(a)(5)" and add in its place "38 U.S.C. 3104(a)(5)", wherever it appears.

4. Remove the citation "38 U.S.C. 363(a)(2)(B)" and add in its place "38 U.S.C. 1163(a)(2)(B)", wherever it appears.

5. Remove the citation "38 U.S.C. 363(a)(2)(A)" and add in its place "38 U.S.C. 1163(a)(2)(A)", wherever it appears.

6. Remove the citation "38 U.S.C. 363(a)" and add in its place "38 U.S.C. 1163(a)", wherever it appears.

7. Remove the citation "38 U.S.C. 1504(a)(2)" and add in its place "38 U.S.C. 3104(a)(2)", wherever it appears.

8. Remove the citation "38 U.S.C. 363(b)" and add in its place "38 U.S.C. 1163(b)", wherever it appears.

9. Remove the citation "38 U.S.C. 363(c)(1)" and add in its place "38 U.S.C. 1163(c)(1)", wherever it appears.

10. Remove the citation "38 U.S.C. 363(c)" and add in its place "38 U.S.C. 1163(c)", wherever it appears.

11. Remove the citation "38 U.S.C. 363" and add in its place "38 U.S.C. 1163", wherever it appears.

Subpart K—All Volunteer Force Educational Assistance Program (New GI Bill)

1. Remove the citation "38 U.S.C. 210(c)" and add in its place "38 U.S.C. 501(c)", wherever it appears.

2. Remove the citation "38 U.S.C. 1401(1)" and add in its place "38 U.S.C. 3001(1)", wherever it appears.

3. Remove the citation "38 U.S.C. 1401" and add in its place "38 U.S.C. 3001", wherever it appears.

4. Remove the citation "38 U.S.C. 1416" and add in its place "38 U.S.C. 3016", wherever it appears.

5. Remove the citation "38 U.S.C. 1411, 1412" and add in its place "38 U.S.C. 3011, 3012", wherever it appears.

6. Remove the citation "38 U.S.C. 101(21), 1402(6)" and add in its place "38 U.S.C. 101(21), 3002(6)", wherever it appears.

7. Remove the citation "38 U.S.C. 1434, 1780(g)" and add in its place "38 U.S.C. 3034, 3680(g)", wherever it appears.

8. Remove the citation "38 U.S.C. 1434, 1780(a)" and add in its place "38 U.S.C. 3034, 3680(a)", wherever it appears.

9. Remove the citation "38 U.S.C. 1402(1)" and add in its place "38 U.S.C. 3002(1)", wherever it appears.

10. Remove the citation "38 U.S.C. 1421" and add in its place "38 U.S.C. 3021", wherever it appears.

11. Remove the citation "38 U.S.C. 1432" and add in its place "38 U.S.C. 3032", wherever it appears.

12. Remove the citation "38 U.S.C. 1434" and add in its place "38 U.S.C. 3034", wherever it appears.

13. Remove the citation "38 U.S.C. 1415(d)" and add in its place "38 U.S.C. 3015(d)", wherever it appears.

14. Remove the citation "38 U.S.C. 1402" and add in its place "38 U.S.C. 3002", wherever it appears.

15. Remove the citation "38 U.S.C. 1402(3), 1652(b)" and add in its place "38 U.S.C. 3002(3), 3452(b)", wherever it appears.

16. Remove the citation "38 U.S.C. 1434, 1780" and add in its place "38 U.S.C. 3034, 3680", wherever it appears.

17. Remove the citation "38 U.S.C. 1434, 1780(c)" and add in its place "38 U.S.C. 3034, 3680(c)", wherever it appears.

18. Remove the citation "38 U.S.C. 1434, 1788" and add in its place "38 U.S.C. 3034, 3688", wherever it appears.

19. Remove the citation "38 U.S.C. 1434, 1780(a)(1)" and add in its place "38 U.S.C. 3034, 3680(a)(1)", wherever it appears.

20. Remove the citation "38 U.S.C. 1402(3)" and add in its place "38 U.S.C. 3002(3)", wherever it appears.

21. Remove the citation "38 U.S.C. 1402(3), 1652(b)" and add in its place "38 U.S.C. 3002(3), 3452(b)", wherever it appears.

22. Remove the citation "38 U.S.C. 1434" and add in its place "38 U.S.C. 3034", wherever it appears.

23. Remove the citation "38 U.S.C. 1691(a)(2)" and add in its place "38 U.S.C. 3491(a)(2)", wherever it appears.

24. Remove the citation "38 U.S.C. 1402(5)" and add in its place "38 U.S.C. 3002(5)", wherever it appears.

25. Remove the citation "38 U.S.C. 1402(4)" and add in its place "38 U.S.C. 4002(4)", wherever it appears.

26. Remove the citation "38 U.S.C. 1434, 1786(a)(1)" and add in its place "38 U.S.C. 3034, 3686(a)(1)", wherever it appears.

27. Remove the citation "38 U.S.C. 1434, 1786" and add in its place "38 U.S.C. 3034, 3686", wherever it appears.

28. Remove the citation "38 U.S.C. 1434, 1787" and add in its place "38 U.S.C. 3034, 3687", wherever it appears.

29. Remove the citation "38 U.S.C. 105, 1431(d)" and add in its place "38 U.S.C. 105, 3031(d)", wherever it appears.

30. Remove the citation "38 U.S.C. 1402, 1682(a)" and add in its place "38 U.S.C. 3002, 3482(a)", wherever it appears.

31. Remove the citation "38 U.S.C. 1418" and add in its place "38 U.S.C. 3018", wherever it appears.

32. Remove the citation "38 U.S.C. 1434(a), 1671" and add in its place "38 U.S.C. 3034(a), 3471", wherever it appears.

33. Remove the citation "38 U.S.C. 1431(d)" and add in its place "38 U.S.C. 3031(d)", wherever it appears.

34. Remove the citation "38 U.S.C. 1411" and add in its place "38 U.S.C. 3011", wherever it appears.

35. Remove the citation "38 U.S.C. 1412" and add in its place "38 U.S.C. 3012", wherever it appears.

36. Remove the citation "38 U.S.C. 1433" and add in its place "38 U.S.C. 3033", wherever it appears.

37. Remove the citation "38 U.S.C. 1411, 1412, 1416" and add in its place "38 U.S.C. 3011, 3012, 3016", wherever it appears.

38. Remove the citation "38 U.S.C. 1411, 1412, 1418" and add in its place "38 U.S.C. 3011, 3012, 3018", wherever it appears.

39. Remove the citation "38 U.S.C. 1411(a)(1)(B)" and add in its place "38 U.S.C. 3011(a)(1)(B)", wherever it appears.

40. Remove the citation "38 U.S.C. 1412(b)" and add in its place "38 U.S.C. 3012", wherever it appears.

41. Remove the citation "38 U.S.C. 1421(a)" and add in its place "38 U.S.C. 3021(a)", wherever it appears.

42. Remove the citation "38 U.S.C. 1431(b)" and add in its place "38 U.S.C. 3031(b)", wherever it appears.

43. Remove the citation "38 U.S.C. 1431(c)" and add in its place "38 U.S.C. 3031(c)", wherever it appears.

44. Remove the citation "38 U.S.C. 105, 3031(d)" and add in its place "38 U.S.C. 105, 3031(d)", wherever it appears.

45. Remove the citation "38 U.S.C. 1414" and add in its place "38 U.S.C. 3014", wherever it appears.

46. Remove the citation "38 U.S.C. 1413" and add in its place "38 U.S.C. 3013", wherever it appears.

47. Remove the citation "38 U.S.C. 1413(a)" and add in its place "38 U.S.C. 3013(a)", wherever it appears.

48. Remove the citation "38 U.S.C. 1413(b)" and add in its place "38 U.S.C. 3013(b)", wherever it appears.

49. Remove the citation "38 U.S.C. 1433(b)" and add in its place "38 U.S.C. 3033(b)", wherever it appears.

50. Remove the citation "38 U.S.C. 1413(c)" and add in its place "38 U.S.C. 3013(c)", wherever it appears.

51. Remove the citation "38 U.S.C. 1423" and add in its place "38 U.S.C. 3023", wherever it appears.

52. Remove the citation "38 U.S.C. 1432(c), 1434(c)" and add in its place "38 U.S.C. 3032(c), 3034(c)", wherever it appears.

53. Remove the citation "38 U.S.C. 1432(d)" and add in its place "38 U.S.C. 3032(d)", wherever it appears.

54. Remove the citation "38 U.S.C. 1419" and add in its place "38 U.S.C. 3019", wherever it appears.

55. Remove the citation "38 U.S.C. 1434, 1663" and add in its place "38 U.S.C. 3034, 3463", wherever it appears.

56. Remove the citation "38 U.S.C. 1432, 1663" and add in its place "38 U.S.C. 3032, 3463", wherever it appears.

57. Remove the citation "38 U.S.C. 1414, 1423, 1434" and add in its place "38 U.S.C. 3014, 3023, 3034", wherever it appears.

58. Remove the citation "38 U.S.C. 1402(3), 1434, 1671" and add in its place "38 U.S.C. 3002(3), 3034, 3471", wherever it appears.

59. Remove the citation "38 U.S.C. 1434(b)" and add in its place "38 U.S.C. 3034(b)", wherever it appears.

60. Remove the citation "38 U.S.C. 1434, 1673(c)" and add in its place "38 U.S.C. 3034, 3473(c)", wherever it appears.

61. Remove the citation "38 U.S.C. 1434, 1791" and add in its place "38 U.S.C. 3034, 3691", wherever it appears.

62. Remove the citation "38 U.S.C. 1402(3), 1652" and add in its place "38 U.S.C. 3002(3), 3452", wherever it appears.

63. Remove the citation "38 U.S.C. 1434, 1673" and add in its place "38 U.S.C. 3034, 3473", wherever it appears.

64. Remove the citation "38 U.S.C. 1434, 1772" and add in its place "38 U.S.C. 3034, 3672", wherever it appears.

65. Remove the citation "38 U.S.C. 1402(3), 1434, 1652(b)" and add in its place "38 U.S.C. 3002(3), 3034, 3452(b)", wherever it appears.

66. Remove the citation "38 U.S.C. 1434, 1796" and add in its place "38 U.S.C. 3034, 3696", wherever it appears.

67. Remove the citation "38 U.S.C. 1434, 1673(d)" and add in its place "38 U.S.C. 3034, 3473(d)", wherever it appears.

68. Remove the citation "38 U.S.C. 1780(a)(4)" and add in its place "38 U.S.C. 3680(a)(4)", wherever it appears.

69. Remove the citation "38 U.S.C. 1402(3), 1434, 1772(a), 1780(a)" and add in its place "38 U.S.C. 3002(3), 3034, 3672(a), 3680(a)", wherever it appears.

70. Remove the citation "38 U.S.C. 1415, 1422, 1432" and add in its place "38 U.S.C. 3015, 3022, 3032", wherever it appears.

71. Remove the citation "38 U.S.C. 1414, 1423, 1434, 1722" and add in its place "38 U.S.C. 3014, 3023, 3034, 3672", wherever it appears.

72. Remove the citation "38 U.S.C. 1414, 1423" and add in its place "38 U.S.C. 3014, 3023", wherever it appears.

73. Remove the citation "38 U.S.C. 1434, 1671(a)" and add in its place "38 U.S.C. 3034, 3471(a)", wherever it appears.

74. Remove the citation "38 U.S.C. 3010(n)" and add in its place "38 U.S.C. 5110(n)", wherever it appears.

75. Remove the citation "38 U.S.C. 3012(b)" and add in its place "38 U.S.C. 5112(b)", wherever it appears.

76. Remove the citation "38 U.S.C. 1431(b)" and add in its place "38 U.S.C. 3031(b)", wherever it appears.

77. Remove the citation "38 U.S.C. 1434, 1682(g)" and add in its place "38 U.S.C. 3034, 3482(g)", wherever it appears.

78. Remove the citation "38 U.S.C. 1434, 1790" and add in its place "38 U.S.C. 3034, 3690", wherever it appears.

79. Remove the citation "38 U.S.C. 3012(b), 3013" and add in its place "38 U.S.C. 5112(b), 5113", wherever it appears.

80. Remove the citation "38 U.S.C. 1434(b), 1780" and add in its place "38 U.S.C. 3034(b), 3680", wherever it appears.

81. Remove the citation "38 U.S.C. 1434, 1780" and add in its place "38 U.S.C. 3034, 3680", wherever it appears.

82. Remove the citation "38 U.S.C. 1434, 1772(a)" and add in its place "38 U.S.C. 3034, 3672(a)", wherever it appears.

83. Remove the citation "38 U.S.C. 1434, 1771(b), 1772(a)" and add in its place "38 U.S.C. 3034, 3671(b), 3672(a)", wherever it appears.

84. Remove the citation "38 U.S.C. 1434, 1783" and add in its place "38 U.S.C. 3034, 3683", wherever it appears.

85. Remove the citation "38 U.S.C. 1415(c)" and add in its place "38 U.S.C. 3015(c)", wherever it appears.

86. Remove the citation "38 U.S.C. 1431(e)" and add in its place "38 U.S.C. 3031(e)", wherever it appears.

87. Remove the citation "38 U.S.C. 1434(a)" and add in its place "38 U.S.C. 3034", wherever it appears.

88. Remove the citation "38 U.S.C. 1415(c), 1415(f)" and add in its place "38 U.S.C. 3015(c), 3015(f)", wherever it appears.

89. Remove the citation "38 U.S.C. 1415(d), 1415(f)" and add in its place "38 U.S.C. 3015(d), 3015(f)", wherever it appears.

90. Remove the citation "38 U.S.C. 1415, 1432" and add in its place "38 U.S.C. 3015, 3032", wherever it appears.

91. Remove the citation "38 U.S.C. 1415(d), 1422, 1432(d)" and add in its place "38 U.S.C. 3015(d), 3022, 3032(d)", wherever it appears.

92. Remove the citation "38 U.S.C. 1415(c), 1432(c)" and add in its place "38 U.S.C. 3015(c), 3032(c)", wherever it appears.

93. Remove the citation "38 U.S.C. 1422(b), 1432(c)" and add in its place "38 U.S.C. 3022(b), 3032(c)", wherever it appears.

94. Remove the citation "38 U.S.C. 1422, 1432" and add in its place "38 U.S.C. 3022, 3032", wherever it appears.

95. Remove the citation "38 U.S.C. 1415" and add in its place "38 U.S.C. 3015", wherever it appears.

96. Remove the citation "38 U.S.C. 1434, 1786(a)(2)" and add in its place "38 U.S.C. 3034, 3686(a)(2)", wherever it appears.

97. Remove the citation "38 U.S.C. 1434, 1787(b)(3)" and add in its place "38 U.S.C. 3034, 3687(b)(3)", wherever it appears.

98. Remove the citation "38 U.S.C. 1780(d)(4)(B)" and add in its place "38 U.S.C. 3680(d)(4)(B)", wherever it appears.

99. Remove the citation "38 U.S.C. 1434, 1780(d)" and add in its place "38 U.S.C. 3034, 3680(d)", wherever it appears.

100. Remove the citation "38 U.S.C. 1434, 1780(f)" and add in its place "38 U.S.C. 3034, 3680(f)", wherever it appears.

101. Remove the citation "38 U.S.C. 1434, 1780(b)" and add in its place "38 U.S.C. 3034, 3680(b)", wherever it appears.

102. Remove the citation "38 U.S.C. 1417(b)" and add in its place "38 U.S.C. 3017(b)", wherever it appears.

103. Remove the citation "38 U.S.C. 1419, 1692" and add in its place "38 U.S.C. 3019, 3492", wherever it appears.

104. Remove the citation "38 U.S.C. 1419, 3001" and add in its place "38 U.S.C. 3019, 5101", wherever it appears.

105. Remove the citation "38 U.S.C. 1419, 1692" and add in its place "38 U.S.C. 3019, 3492", wherever it appears.

106. Remove the citation "38 U.S.C. 1434, 1790(b)" and add in its place "38

U.S.C. 3034, 3690(b)", wherever it appears.

107. Remove the citation "38 U.S.C. 1434, 1785" and add in its place "38 U.S.C. 3034, 3685", wherever it appears.

108. Remove the citation "38 U.S.C. 1434, 1685" and add in its place "38 U.S.C. 3034, 3485", wherever it appears.

109. Remove the citation "38 U.S.C. 1432, 1434, 1682(g), 1780, 1787" and add in its place "38 U.S.C. 3032, 3034, 3482(g), 3680, 3687", wherever it appears.

110. Remove the citation "38 U.S.C. 1434, 1674" and add in its place "38 U.S.C. 3034, 3474", wherever it appears.

111. Remove the citation "38 U.S.C. 1434, 1780, 1790, 3503" and add in its place "38 U.S.C. 3034, 3680, 3690, 6103", wherever it appears.

112. Remove the citation "38 U.S.C. 1434, 1770, 1771, 1772, 1773, 1774, 1774A" and add in its place "38 U.S.C. 3034, 3670, 3671, 3672, 3674, 3674A", wherever it appears.

113. Remove the citation "38 U.S.C. 1434, 1676, 1772, 1775, 1776, 1778, 1779, 1789" and add in its place "38 U.S.C. 3034, 3476, 3672, 3675, 3676, 3678, 3679, 3689", wherever it appears.

114. Remove the citation "38 U.S.C. 1434(d)" and add in its place "38 U.S.C. 3034(d)", wherever it appears.

115. Remove the citation "38 U.S.C. 1417" and add in its place "38 U.S.C. 3017", wherever it appears.

116. Remove the citation "38 U.S.C. 1417(a)(2)" and add in its place "38 U.S.C. 3017(a)(2)", wherever it appears.

117. Remove the citation "38 U.S.C. 1417(b)" and add in its place "38 U.S.C. 3017(b)", wherever it appears.

118. Remove the citation "38 U.S.C. 212(a)" and add in its place "38 U.S.C. 512(a)", wherever it appears.

119. Remove the citation "38 U.S.C. 212(a), 1434, 1796" and add in its place "38 U.S.C. 512(a), 3034, 3696", wherever it appears.

120. Remove the citation "38 U.S.C. 211" and add in its place "38 U.S.C. 511", wherever it appears.

121. Remove the citation "38 U.S.C. 1411(a), 1412(a)" and add in its place "38 U.S.C. 3011(a), 3012(a)".

Subpart L—Educational Assistance for Members of the Selected Reserve

1. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

2. Remove the citation "38 U.S.C. 2136(b), 1789(g)" and add in its place "10 U.S.C. 2136(b); 38 U.S.C. 3689", wherever it appears.

3. Remove the citation "38 U.S.C. 1780(a)" and add in its place "38 U.S.C. 3680(a)", wherever it appears.

4. Remove the citation "38 U.S.C. 1780(g)" and add in its place "38 U.S.C. 3680(g)", wherever it appears.

5. Remove the citation "38 U.S.C. 1788(c)" and add in its place "38 U.S.C. 3688(c)", wherever it appears.

6. Remove the citation "38 U.S.C. 1780" and add in its place "38 U.S.C. 3680", wherever it appears.

7. Remove the citation "38 U.S.C. 1691(a)(2)" and add in its place "38 U.S.C. 3491(a)(2)", wherever it appears.

8. Remove the citation "38 U.S.C. 1788" and add in its place "38 U.S.C. 3688", wherever it appears.

9. Remove the citation "38 U.S.C. 1672" and add in its place "38 U.S.C. 3472", wherever it appears.

10. Remove the citation "38 U.S.C. 1671" and add in its place "38 U.S.C. 3471", wherever it appears.

11. Remove the citation "38 U.S.C. 1433(c)" and add in its place "38 U.S.C. 3033(c)", wherever it appears.

12. Remove the citation "38 U.S.C. 1412" and add in its place "38 U.S.C. 3012", wherever it appears.

13. Remove the citation "38 U.S.C. 1431(d)" and add in its place "38 U.S.C. 3031(d)", wherever it appears.

14. Remove the citation "38 U.S.C. 2136(b), 1633 10 U.S.C. 2136(b), 38 U.S.C. 3233", wherever it appears.

15. Remove the citation "38 U.S.C. 1663" and add in its place "38 U.S.C. 3967(a)", wherever it appears.

16. Remove the citation "10 U.S.C. 2136(b), 1663" and add in its place "10 U.S.C. 2136(b); 38 U.S.C. 3467(a)", wherever it appears.

17. Remove the citation "38 U.S.C. 1673(c)" and add in its place "38 U.S.C. 3473(c)", wherever it appears.

18. Remove the citation "38 U.S.C. 1791" and add in its place "38 U.S.C. 3691", wherever it appears.

19. Remove the citation "38 U.S.C. 1788(b)" and add in its place "38 U.S.C. 3688(b)", wherever it appears.

20. Remove the citation "38 U.S.C. 1772" and add in its place "38 U.S.C. 3672", wherever it appears.

21. Remove the citation "38 U.S.C. 2131 10 U.S.C. 2131", wherever it appears.

22. Remove the citation "38 U.S.C. 1796" and add in its place "38 U.S.C. 3696", wherever it appears.

23. Remove the citation "38 U.S.C. 1673(d)" and add in its place "38 U.S.C. 3473(d)", wherever it appears.

24. Remove the citation "38 U.S.C. 1772(a), 1780(a)" and add in its place "38 U.S.C. 3672(a), 3680(a)", wherever it appears.

25. Remove the citation "38 U.S.C. 1790" and add in its place "38 U.S.C. 3690", wherever it appears.

26. Remove the citation "38 U.S.C. 1790(b)" and add in its place "38 U.S.C. 3690(b)", wherever it appears.

27. Remove the citation "38 U.S.C. 1414, 1423" and add in its place "38 U.S.C. 3014, 3023", wherever it appears.

28. Remove the citation "38 U.S.C. 3012(b), 3013" and add in its place "38 U.S.C. 5112(b), 5113", wherever it appears.

29. Remove the citation "38 U.S.C. 1682(g)" and add in its place "38 U.S.C. 3482(g)", wherever it appears.

30. Remove the citation "38 U.S.C. 1772(a), 1790" and add in its place "38 U.S.C. 3672(a), 3690", wherever it appears.

31. Remove the citation "38 U.S.C. 1771(b), 1772(a), 1790" and add in its place "38 U.S.C. 3671(b), 3672(a), 3690", wherever it appears.

32. Remove the citation "38 U.S.C. 1674" and add in its place "38 U.S.C. 3474", wherever it appears.

33. Remove the citation "38 U.S.C. 1783" and add in its place "38 U.S.C. 3683", wherever it appears.

34. Remove the citation "38 U.S.C. 1780(d)" and add in its place "38 U.S.C. 3680(d)", wherever it appears.

35. Remove the citation "38 U.S.C. 3503" and add in its place "38 U.S.C. 6103", wherever it appears.

36. Remove the citation "38 U.S.C. 3504, 3505" and add in its place "38 U.S.C. 6104, 6105", wherever it appears.

37. Remove the citation "38 U.S.C. 3012(a), 3013" and add in its place "38 U.S.C. 5112(a), 5113", wherever it appears.

38. Remove the citation "38 U.S.C. 1780, 3101(a)" and add in its place "38 U.S.C. 3680, 5301(a)", wherever it appears.

39. Remove the citation "38 U.S.C. 1780(d)(4)(B)" and add in its place "38 U.S.C. 3680(d)(4)(B)", wherever it appears.

40. Remove the citation "38 U.S.C. 1433(a), 1781(b), 1795" and add in its place "38 U.S.C. 3033(a), 3681(b), 3695" wherever it appears.

41. Remove the citation "38 U.S.C. 1795" and add in its place "38 U.S.C. 3695", wherever it appears.

42. Remove the citation "38 U.S.C. 1781" and add in its place "38 U.S.C. 3681", wherever it appears.

43. Remove the citation "38 U.S.C. 1785" and add in its place "38 U.S.C. 3685", wherever it appears.

44. Remove the citation "38 U.S.C. 1785, 3102" and add in its place "38 U.S.C. 3685, 5302", wherever it appears.

45. Remove the citation "38 U.S.C. 1682(g), 1780" and add in its place "38 U.S.C. 3482(g), 3680", wherever it appears.

46. Remove the citation "38 U.S.C. 1784" and add in its place "38 U.S.C. 3684", wherever it appears.

47. Remove the citation "38 U.S.C. 1780, 1790, 3503" and add in its place "38 U.S.C. 3680, 3690, 6103", wherever it appears.

48. Remove the citation "38 U.S.C. 1788(a)" and add in its place "38 U.S.C. 3688(a)", wherever it appears.

49. Remove the citation "38 U.S.C. 1788(b)" and add in its place "38 U.S.C. 3688(b)", wherever it appears.

50. Remove the citation "38 U.S.C. 1775" and add in its place "38 U.S.C. 3675", wherever it appears.

51. Remove the citation "38 U.S.C. 1788(e)" and add in its place "38 U.S.C. 3688(e)", wherever it appears.

52. Remove the citation "38 U.S.C. 1770, 1771, 1772, 1774, 1774A" and add in its place "38 U.S.C. 3670, 3671, 3672, 3674, 3674A", wherever it appears.

53. Remove the citation "38 U.S.C. 4114(e)" and add in its place "38 U.S.C. 7407", wherever it appears.

54. Remove the citation "38 U.S.C. 1676, 1772, 1775, 1776, 1778, 1779" and add in its place "38 U.S.C. 3476, 3672, 3675, 3676, 3678, 3679", wherever it appears.

55. Remove the citation "38 U.S.C. 1673" and add in its place "38 U.S.C. 3473", wherever it appears.

56. Remove the citation "38 U.S.C. 212(a)" and add in its place "38 U.S.C. 512(a)", wherever it appears.

57. Remove the citation "38 U.S.C. 211" and add in its place "38 U.S.C. 511", wherever it appears.

PART 36—LOAN GUARANTY

1. Remove the citation "38 U.S.C. 1812" and add in its place "38 U.S.C. 3712", wherever it appears.

2. Remove the citation "38 U.S.C. 1815" and add in its place "38 U.S.C. 3703(a)", wherever it appears.

3. Remove the citation "38 U.S.C. 210, 1812" and add in its place "38 U.S.C. 501, 3712", wherever it appears.

4. Remove the citation "38 U.S.C. 1802(d)" and add in its place "38 U.S.C. 3702(d)", wherever it appears.

5. Remove the citation "38 U.S.C. 1810 and 1814" and add in its place "38 U.S.C. 3710 and 3714", wherever it appears.

6. Remove the citation "38 U.S.C. 1814" and add in its place "38 U.S.C. 3714", wherever it appears.

7. Remove the citation "38 U.S.C. 1804(d); 1812(g)" and add in its place "38 U.S.C. 3704(d), 3712(g)", wherever it appears.

8. Remove the citation "38 U.S.C. 1810, 1811 or 1812" and add in its place "38 U.S.C. 3710, 3711, or 3712", wherever it appears.

9. Remove the citation "38 U.S.C. 1812(b)(1)" and add in its place "38 U.S.C. 3712(b)(1)", wherever it appears.

10. Remove the citation "38 U.S.C. 1812(a)(1)"and add in its place " 38 U.S.C. 3712(a)(1)", wherever it appears.

11. Remove the citation "38 U.S.C. 1812(a)(1)(F)" and add in its place "38 U.S.C. 3712(a)(1)(F)", wherever it appears.

12. Remove the citation "38 U.S.C. 1812(a)(4)" and add in its place "38 U.S.C. 3712(a)(4)", wherever it appears.

13. Remove the citation "38 U.S.C. 1812(a)(1)(G)" and add in its place "38 U.S.C. 3712(a)(1)(G)", wherever it appears.

14. Remove the citation "38 U.S.C. 1801(a)(2), 1812(c)(4)" and add in its place "38 U.S.C. 3701(a)(2), 3712(c)(4)", wherever it appears.

15. Remove the citation "38 U.S.C. 1812(a)(4)(C)" and add in its place "38 U.S.C. 3712(a)(4)(C)", wherever it appears.

16. Remove the citation "38 U.S.C. 1812(h)(1)" and add in its place "38 U.S.C. 3712(h)(1)", wherever it appears.

17. Remove the citation "38 U.S.C. 1812(e)(5)" and add in its place "38 U.S.C. 3712(e)(5)", wherever it appears.

18. Remove the citation "38 U.S.C. 1812(c)(1)" and add in its place "38 U.S.C. 3712(c)(1)", wherever it appears.

19. Remove the citation "38 U.S.C. 1803(c)(1)" and add in its place "38 U.S.C. 3703(c)(1)", wherever it appears.

20. Remove the citation "38 U.S.C. 1812(9)(f)" and add in its place "38 U.S.C. 3712(f)", wherever it appears.

21. Remove the citation "38 U.S.C. 1812(a)(1)(f)" and add in its place "38 U.S.C. 3712(a)(1)(F)", wherever it appears.

22. Remove the citation "38 U.S.C. 210(c), 1803(c)(1) and 1812(g)" and add in its place "38 U.S.C. 501, 3703(c)(1) and add in its place "3712(g)", wherever it appears.

23. Remove the citation "38 U.S.C. 3311" and add in its place "38 U.S.C. 5711", wherever it appears.

24. Remove the citation "38 U.S.C. 1820(a)" and add in its place "38 U.S.C. 3720(a)", wherever it appears.

25. Remove the citation "38 U.S.C. 210(c) or 1815(b)" and add in its place "38 U.S.C. 501 or 3715(b)", wherever it appears.

26. Remove the citation "38 U.S.C. 1821" and add in its place "38 U.S.C. 3721", wherever it appears.

27. Remove the citation "38 U.S.C. 210(c), 1820(a)(5)" and add in its place "38 U.S.C. 501, 3720(a)(5)", wherever it appears.

28. Remove the citation "38 U.S.C. 1812(a)(1)(A)" and add in its place "38 U.S.C. 3712(a)(1)(A)", wherever it appears.

29. Remove the citation "38 U.S.C. 1812(a)(1)(G)" and add in its place "38 U.S.C. 3712(a)(1)(G)", wherever it appears.

31. Remove the citation "38 U.S.C. 1802(b)" and add in its place "38 U.S.C. 3702(b)", wherever it appears.

32. Remove the citation "38 U.S.C. 1802(d)(1)" and add in its place "38 U.S.C. 3702(d)(1)", wherever it appears.

33. Remove the citation "38 U.S.C. 1802(d)(3)" and add in its place "38 U.S.C. 3702(d)(3)", wherever it appears.

34. Remove the citation "38 U.S.C. 1802(e)" and add in its place "38 U.S.C. 3702(e)", wherever it appears.

35. Remove the citation "38 U.S.C. 1812(a)(1)(b)" and add in its place "38 U.S.C. 3712(a)(1)(b)", wherever it appears.

36. Remove the citation "38 U.S.C. 1812(e)(4)" and add in its place "38 U.S.C. 3712(e)(4)", wherever it appears.

37. Remove the citation "38 U.S.C. 1812(g)" and add in its place "38 U.S.C. 3712(g)", wherever it appears.

38. Remove the citation "38 U.S.C. 1829(a)" and add in its place "38 U.S.C. 3729(a)", wherever it appears.

39. Remove the citation "section 1814" and add in its place "section 3714", wherever it appears.

40. Remove the citation "38 U.S.C. 1814, 1829" and add in its place "38 U.S.C. 3714, 3729", wherever it appears.

41. Remove the citation "38 U.S.C. 210(c)" and add in its place "38 U.S.C. 501", wherever it appears.

42. Remove the citation "38 U.S.C. 1829(b)" and add in its place "38 U.S.C. 3729(b)", wherever it appears.

43. Remove the citation "38 U.S.C. 210(c), 1803(c), and 1812(a)(1)(G)" and add in its place "38 U.S.C. 501, 3703(c) and 3712(a)(1)(G)", wherever it appears.

44. Remove the citation "38 U.S.C. 1814, 1929" and add in its place "38 U.S.C. 3714, 3729", wherever it appears.

43. Remove the citation "section 1802(b)(2)" and add in its place "section 3701(b)(2)", wherever it appears.

44. Remove the citation "38 U.S.C. 1829(c)" and add in its place "38 U.S.C. 3729(c)", wherever it appears.

45. Remove the citation "38 U.S.C. 210(c) and 1812(g)" and add in its place "38 U.S.C. 501 and 3712(g)", wherever it appears.

46. Remove the citation "38 U.S.C. 1804 and 1814" and add in its place "38 U.S.C. 3704 and 3714", wherever it appears.

47. Remove the citation "38 U.S.C. 210(c), 1803(c), 1812(g)" and add in its place "38 U.S.C. 501, 3703(c), 3712(g)", wherever it appears.

48. Remove the citation "38 U.S.C. 1820(g)" and add in its place "38 U.S.C. 3720(g)", wherever it appears.

49. Remove the citation "38 U.S.C. 1813(a)" and add in its place "38 U.S.C. 3713(a)", wherever it appears.

50. Remove the citation "38 U.S.C. 1813, 1814" and add in its place "38 U.S.C. 3713, 3714", wherever it appears.

51. Remove the citation "38 U.S.C. 1817(a)" and add in its place "38 U.S.C. 3713(a)", wherever it appears.

52. Remove the citation "38 U.S.C. 1817(b)" and add in its place "38 U.S.C. 3713(b)", wherever it appears.

53. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501", wherever it appears.

54. Remove the citation "sections 1807 and 1802(a)(2)(c)" and add in its place "sections 3707 and 3702(a)(2)(c)", wherever it appears.

55. Remove the citation "38 U.S.C. 1803(c)(1), 1810(a)(1)" and add in its place "38 U.S.C. 3703(c)(1), 3710(a)(1)", wherever it appears.

56. Remove the citation "38 U.S.C. 1810 and 1814" and add in its place "38 U.S.C. 3710 and 3714", wherever it appears.

57. Remove the citation "38 U.S.C. 1802(c)" and add in its place "38 U.S.C. 3702(c)", wherever it appears.

58. Remove the citation "38 U.S.C. 1810(a)(6)" and add in its place "38 U.S.C. 3710(a)(6)", wherever it appears.

59. Remove the citation "38 U.S.C. 1810(a)(9)" and add in its place "38 U.S.C. 3710(a)(9)", wherever it appears.

60. Remove the citation "38 U.S.C. 1810(d)" and add in its place "38 U.S.C. 3710(d)", wherever it appears.

61. Remove the citation "38 U.S.C. 1810(a)(7)" and add in its place "38 U.S.C. 3710(a)(7)", wherever it appears.

62. Remove the citation "38 U.S.C. 1802(d) or 1803(a)(2)" and add in its place "38 U.S.C. 3702(d) or 3703(a)(2)", wherever it appears.

63. Remove the citation "38 U.S.C. 1803(c)(1)" and add in its place "38 U.S.C. 3703(c)(1)", wherever it appears.

64. Remove the citation "38 U.S.C. 1803(c)" and add in its place "38 U.S.C. 3703(c)", wherever it appears.

65. Remove the citation "38 U.S.C. 1832" and add in its place "38 U.S.C. 3732", wherever it appears.

66. Remove the citation "38 U.S.C. 1803(a)(2)" and add in its place "38 U.S.C. 3703(a)(2)", wherever it appears.

67. Remove the citation "38 U.S.C. 1804(d); 1812(g)" and add in its place "38 U.S.C. 3704(d), 3712(g)", wherever it appears.

68. Remove the citation "38 U.S.C. 1810(a)(9)" and add in its place "38 U.S.C. 3710(a)(9)", wherever it appears.

69. Remove the citation "38 U.S.C. 1810(A)(9)" and add in its place "38 U.S.C. 3710(a)(9)", wherever it appears.

70. Remove the citation "38 U.S.C. 1810(a)(5)" and add in its place "38 U.S.C. 3710(a)(5)", wherever it appears.

71. Remove the citation "38 U.S.C. 1810(a)(8)" and add in its place "38 U.S.C. 3710(a)(8)", wherever it appears.

72. Remove the citation "38 U.S.C. 1810(A)(6)" and add in its place "38 U.S.C. 3710(a)(6)", wherever it appears.

73. Remove the citation "38 U.S.C. 1810(a)(6)" and add in its place "38 U.S.C. 3710(a)(6)", wherever it appears.

74. Remove the citation "38 U.S.C. 1810(f)(2)" and add in its place "38 U.S.C. 3710(f)(2)", wherever it appears.

75. Remove the citation "38 U.S.C. 210(c), 1803(c)(1)" and add in its place "38 U.S.C. 501, 3703(c)(1)", wherever it appears.

76. Remove the citation "38 U.S.C. 1810" and add in its place "38 U.S.C. 3710", wherever it appears.

77. Remove the citation "38 U.S.C. 1803(a)" and add in its place "38 U.S.C. 3703(a)", wherever it appears.

78. Remove the citation "38 U.S.C. 1810(a)(8)" and add in its place "38 U.S.C. 3710(a)(8)", wherever it appears.

79. Remove the citation "38 U.S.C. 1803(a), 1812(c)(4)" and add in its place "38 U.S.C. 3703(a), 3712(c)(4)", wherever it appears.

80. Remove the citation "38 U.S.C. 3703(b)" and add in its place "38 U.S.C. 3703(b)", wherever it appears.

81. Remove the citation "38 U.S.C. 1810(e)(3)" and add in its place "38 U.S.C. 3710(e)(3)", wherever it appears.

82. Remove the citation "38 U.S.C. 1801(a)" and add in its place "38 U.S.C. 3701(a)", wherever it appears.

83. Remove the citation "38 U.S.C. 1803(a)(1)" and add in its place "38 U.S.C. 3703(a)(1)", wherever it appears.

84. Remove the citation "38 U.S.C. 1802(d)" and add in its place "38 U.S.C. 3702(d)", wherever it appears.

85. Remove the citation "38 U.S.C. 1802(d)(1)" and add in its place "38 U.S.C. 3702(d)(1)", wherever it appears.

86. Remove the citation "38 U.S.C. 1802(d), 1815" and add in its place "38 U.S.C. 3702(d), 3703(a)(2)", wherever it appears.

87. Remove the citation "38 U.S.C. 1804(c)" and add in its place "38 U.S.C. 3704(c)", wherever it appears.

88. Remove the citation "38 U.S.C. 1802(a), 1810(c)" and add in its place "38 U.S.C. 3702(a), 3710(c)", wherever it appears.

89. Remove the citation "sections 210(c), 1803(c)(1)" and add in its place "sections 501, 3703(c)(1)", wherever it appears.

90. Remove the citation "38 U.S.C. 1810(a)(5)" and add in its place "38 U.S.C. 3701(a)(5)", wherever it appears.

91. Remove the citation "38 U.S.C. 1810(e)(1) and 1810(h)" and add in its place "38 U.S.C. 3710(e)(1) and 3710(h)", wherever it appears.

92. Remove the citation "38 U.S.C. 1810(e)(1)" and add in its place "38 U.S.C. 3710(e)(1)", wherever it appears.

93. Remove the citation "38 U.S.C. 1810(a)(9)(B)(ii)" and add in its place "38 U.S.C. 3710(a)(9)(B)(ii)", wherever it appears.

94. Remove the citation "38 U.S.C. 1803(a)" and add in its place "38 U.S.C. 3703(a)", wherever it appears.

95. Remove the citation "38 U.S.C. 1803(d)(1)" and add in its place "38 U.S.C. 3703(d)(1)", wherever it appears.

96. Remove the citation "38 U.S.C. 1810(a)(9)(B)(i)" and add in its place "38 U.S.C. 3710(a)(9)(B)(i)", wherever it appears.

97. Remove the citation "38 U.S.C. 1810(a)(1)" and add in its place "38 U.S.C. 3710(a)(1)", wherever it appears.

PART 39—STATE CEMETERY GRANTS

1. Remove the citation "38 U.S.C. 1008" and add in its place "38 U.S.C. 2408", wherever it appears.

2. Remove the citation "38 U.S.C. 1008(c)(2)" and add in its place "38 U.S.C. 2408(c)(2)", wherever it appears.

3. Remove the citation "38 U.S.C. 1008(c)(1)" and add in its place "38 U.S.C. 2408(c)(1)", wherever it appears.

4. Remove the citation "38 U.S.C. 1002" and add in its place "38 U.S.C. 2402", wherever it appears.

5. Remove the citation "38 U.S.C. 1008(b)(2)" and add in its place "38 U.S.C. 2408(b)(2)", wherever it appears.

6. Remove the citation "38 U.S.C. 1008(b)(3)" and add in its place "38 U.S.C. 2408(b)(3)", wherever it appears.

7. Remove the citation "38 U.S.C. 1008(a)(1)" and add in its place "38 U.S.C. 2408(a)(1)", wherever it appears.

8. Remove the citation "38 U.S.C. 1008(b)(1)" and add in its place "38 U.S.C. 2408(b)(1)", wherever it appears.

9. Remove the citation "38 U.S.C. 1008(d)" and add in its place "38 U.S.C. 2408(d)", wherever it appears.

10. Remove the citation "38 U.S.C. 1008(b)(4)" and add in its place "38 U.S.C. 2408(b)(4)", wherever it appears.

PART 41—AUDITING REQUIREMENTS

Remove the citation "38 U.S.C. 210(c)" and add in its place "38 U.S.C. 501", wherever it appears.

PART 43—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. Remove the citation "38 U.S.C. 210" and add in its place "38 U.S.C. 501" wherever it appears.

2. Remove the citation "38 U.S.C. 612" and add in its place "38 U.S.C. 1712" wherever it appears.

3. Remove the citation "38 U.S.C. 641–643" and add in its place "38 U.S.C. 1741–1743" wherever it appears.

PART 44—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Remove the citation "38 U.S.C. 210(c)" and add in its place "38 U.S.C. 501" wherever it appears.

PART 45—NEW RESTRICTIONS ON LOBBYING

Remove the citation "38 U.S.C. 210(c)" and add in its place "38 U.S.C. 501", wherever it appears."

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Monday
July 13, 1992

Part III

Office of Management and Budget

Federal Procurement Policy Office

Statement of Objectives, Policies and Concepts (May 1992); Notice

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Cost Accounting Standards Board; Statement of Objectives, Policies and Concepts (May 1992)

In May 1977, the Cost Accounting Standards Board, authorized under Public Law 91–379, published a Restatement of the objectives, policies and concepts within which the Board formulated the existing Cost Accounting Standards and related rules and regulations. The Board published that document to improve the general understanding of its fundamental objectives and concepts. Pursuant to Public Law 100–679, there is established within the Office of Federal Procurement Policy an independent board to be known as the Cost Accounting Standards Board. The Board is now publishing a Statement of its current objectives, policies and concepts. This Statement is intended to make known the current views of the Board, as it considers the cost accounting issues that come before it. As such, the Board intends for subsequent promulgations to be consistent with the objectives and concepts provided herein. Interested members of the public should, on the basis of this Statement, be better able to focus on the complex and difficult issues that the Board faces in promulgating and revising Cost Accounting Standards. Anticipating that the Board, from time-to-time, will revise this document, the Board welcomes the views of interested parties on the objectives, policies and concepts stated herein.

Objectives

The purpose of this Statement is to present the basic policies, procedures and objectives within which the Cost Accounting Standards Board carries out its functions under the authority of Public Law 100–679. The primary objective of the Board is to promulgate, amend, and revise Cost Accounting Standards designed to achieve (1) an increased degree of uniformity in cost accounting practices among Government contractors in like circumstances, and (2) consistency in cost accounting practices in like circumstances by individual Government contractors over periods of time. In accomplishing this primary objective, the Board takes into account (1) the advantages, disadvantages, and improvements anticipated in the pricing and administration of, and settlement of disputes concerning contracts, (2) the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits of such Standards, and (3) the alternatives available.

Increased uniformity and consistency in accounting practices among Government contractors improves understanding and communications, reduces the incidence of contract disputes, increases the effectiveness of the contract administration process and facilitates equitable contract settlements. A Cost Accounting Standard is a statement formally issued by the Cost Accounting Standards Board that (1) enunciates a principle or principles to be followed, (2) establishes practices to be applied, or (3) specifies criteria to be employed in selecting from alternative principles and practices in estimating, accumulating and reporting costs under contracts subject to the rules of the Board. A Cost Accounting Standard may be stated in terms as general or as specific as the Board considers necessary to accomplish its purpose.

Uniformity

Uniformity relates to comparison of two or more accounting entities. The Board's objective in this respect is to achieve comparability of results of entities operating under like circumstances. The Board recognizes the impracticality of defining or attaining absolute uniformity, largely because of the problems related to defining like circumstances. The Board will, nonetheless, seek ways to attain a practical degree of uniformity in cost accounting practices among covered Government contractors.

Absolute uniformity would be achieved only if contractors in the same circumstances, with respect to a given subject, always followed the same cost accounting practices. The Board does not seek to establish a single uniform accounting system or chart of accounts for all the complex and diverse businesses engaged in Government contracting. Any increase in uniformity, however, will provide more comparability among contractors whose circumstances are similar. Therefore, if the Board were to be satisfied that circumstances among all concerned Government contractors were substantially the same in a given subject area, the Board would not be precluded from establishing a single cost accounting treatment for use in such circumstances.

Consistency

Consistency pertains to the use by one accounting entity of compatible cost accounting practices which permit comparability of contract results under similar circumstances over periods of time. Like uniformity, the attainment of absolute consistency can only be measured when like circumstances can be defined. Essentially, consistency relates to the allocation of costs, both direct and indirect, and to the treatment of cost with respect to individual cost objectives as well as among cost objectives in like circumstances. The Board believes that consistency within an entity enhances the usefulness of comparisons between estimates and actuals. It also improves the comparability of cost reports from one time period to another where there are like circumstances.

Allowability and Allocability

While the Board has exclusive authority for establishing Standards governing the measurement, assignment and allocation of costs, it does not determine the allowability of categories or individual items of cost. Allowability is a procurement concept affecting contract price and in most cases is established in regulatory or contractual provisions. An agency's policies on allowability of costs may be derived from law and are generally embodied in its procurement regulations. A contracting agency may include in contract terms, or in its procurement regulations, a provision that will refuse to allow certain costs incurred by contractors that are unreasonable in amount or contrary to public policy. In accounting terms, these same costs may be allocable to the contract in question.

The Board acknowledges that the Chairman, who also serves as Administrator for Federal Procurement Policy, has the authority under 41 U.S.C. 405 and 422 to ensure that the procurement regulations of the Executive Branch agencies are consistent with the Federal Acquisition Regulation and such other procurement policies as the Administrator shall determine (including Cost Accounting Standards promulgated by the Board). In addition, Public Law 100–679 specifies that costs that are subject to the Cost Accounting Standards shall not be subject to agency regulations which differ from the Standards in the areas of measurement, assignment or allocation of such costs. The Administrator may, in accordance with statutory authority, review cost allowability questions that are brought before the Office of Federal Procurement Policy. In such instances, the Administrator exercises his independent authority to make discretionary judgments on public policy

issues relating to the allowability of contract costs.

Allocability is an accounting concept involving the ascertainment of contract cost. It results from a relationship between a cost and cost objective such that the cost objective appropriately bears all or a portion of the cost. For a particular cost objective to have allocated to it all or part of a cost, there should exist a beneficial or causal relationship between the cost objective and the cost.

Cost Accounting Standards provide for the definition and measurement of costs, the assignment of costs to particular cost accounting periods, and the determination of the bases for the direct and indirect allocation of the total assigned costs to the contracts and other cost objectives of these periods. The use of Cost Accounting Standards has no direct bearing on the allowability of those individual items of cost which are subject to limitations or exclusions set forth in the contract or which are otherwise specified as unallowable by the Government.

The Board recognizes that contract costs are only one of several important factors which should be involved in negotiating contracts. Therefore, the promulgation of Cost Accounting Standards, and the determination of contract costs thereunder, cannot be considered a substitute for effective contract negotiation. It should be emphasized that where Cost Accounting Standards are applicable, they are determinative as to the costs allocable to contracts. It is a contracting agency's prerogative to negotiate the allowability of costs which are allocated to contracts. However, agency regulations should determine allowability based on reasonableness and/or public policy and not on the way a cost is measured, assigned, or allocated provided that such measurement, assignment, or allocation is consistent with the Cost Accounting Standards promulgated by the Board. The definition of Government contract costs, and how the amount thereof is to be allocated is a function of the Cost Accounting Standards.

Fairness and Equity

The Board considers a Cost Accounting Standard to be fair when in the Board's best judgment it provides equitable allocation of costs to contracts and shows neither bias nor prejudice to either party to affected contracts.

The results of contract pricing may ultimately be regarded as fair or unfair by either or both parties to a particular contract. But if the Cost Accounting Standards utilized in the negotiation, administration, and settlement of the contract provided the contracting parties with accounting data that are representative of the facts, the Standards themselves are fair. The concept of equity will be considered by the Board when a Standard is written and/or amended.

Verifiability

Verifiability is generally accepted as an important goal for information used in cost accounting. Contract cost accounting systems should provide for verifiability to the greatest extent practical. Contract costs should be auditable by examination of appropriate data and documents supporting such costs or by reference to the facts and assumptions used to allocate the costs to the contract.

The Board recognizes that under some Standards individual contractors may accumulate or allocate certain contract costs on a different basis, or in greater detail, than would otherwise be provided in a contractor's general books of account. The Board has stated in the prefatory comments of certain Standards that contractors may use memorandum accounting records to meet the requirements of Standards. These statements reflect the Board's intent that, for these Standards and elsewhere, only such detail of cost allocation and recordkeeping should be required as is necessary to provide the verifiability that is needed to satisfy regulatory contract cost audit requirements. Detailed contractor accounting records of contract costs should be reconcilable with the general books of account.

Cost Allocation Concepts

In order to achieve increased uniformity and consistency in accounting for costs of negotiated Government contracts, Cost Accounting Standards provide criteria for the allocation to cost objectives of the costs of resources used. As used in this discussion, cost is the monetary value of the resources used. A cost objective as defined by the Board is "a function, organizational subdivision, contract, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc." Standards deal with all aspects of cost allocability, including:

1. The definition and measurement of costs which may be allocated to cost objectives,

2. The determination of the cost accounting period to which such costs are assignable, and

3. The determination of the methods by which costs are to be allocated to cost objectives.

The basic premise of good cost accounting is that the measurement, assignment, and allocation of costs to cost objectives be based on the beneficial or causal relationship between those costs and the cost objectives. In defining the proper measurement, assignment, and allocation of cost, certain accounting concepts such as materiality, the choice of an appropriate accounting method, and full costing should be carefully considered.

Materiality

Materiality must be considered in applying the Cost Accounting Standards because, as a practical matter, the cost of an accounting application should not exceed its benefit. Although uniformity and consistency in accounting are desired goals of the Cost Accounting Standards, the Board recognizes that the applications of accounting criteria must consider issues of practical application. Consequently, the application of Cost Accounting Standards in determining the measurement, assignment, and allocation of costs should not be so stringently interpreted that the desired benefits are negated by excessive administrative costs.

Method of Accounting

The accounting areas of interest to the Board include assignment of the costs of resources consumed to time periods. This accounting area is also of interest to other authoritative bodies established to issue pronouncements affecting accounting for financial and tax purposes. The Board will continue taking those other pronouncements into account to the extent it can do so in accomplishing its objectives. However, the Board recognizes that the purposes of these pronouncements are not intended to meet the objectives of contract costing. Therefore, the Board will retain and exercise full responsibility for meeting the objectives of contract costing.

As a practical matter, the simplest way to determine the period in which to recognize a cost is to select the period of cash payment. However, generally accepted accounting principles usually require deferral or accrual in order to recognize costs in periods other than those in which cash payment is made. Differences between the cash and accrual basis of accounting will occur with respect to the assignment of cost when liquidation of an obligation is deferred. Although the Board believes

that the accrual basis of accounting generally provides for a better matching of costs to the production of goods and services which gave rise to them, the assignment of costs to accounting periods for government contract costing purposes must be carefully evaluated to assure that the assignment shows neither bias nor prejudice to either party to the contract. The Board in individual Standards will provide guidance with respect to the use of accrual, cash or any other accounting methods for assigning costs to accounting periods.

Full Costing

The Board will adhere to the concept of full costing whenever appropriate. Full allocation of all costs of a period, including general and administrative expenses and all other indirect costs, is considered by the Board generally to be the basis for determining the cost of negotiated Government contracts.

Under the full costing concept, all costs initially allocated to intermediate cost objectives must be subsequently reallocated to final cost objectives. For this purpose, a final cost objective may be established to include unreasonable costs or costs unallowable for other reasons. The bases selected for allocating costs from intermediate cost objectives to final cost objectives are the devices used to associate costs with final cost objectives when such costs are not directly identifiable with those cost objectives. If the base selected is a reasonable measure of the relationship between the cost and cost objectives, the cost will be reasonably allocated to such cost objectives. The Board has referred to this conceptual relationship in the Standards as the beneficial or causal relationship between costs and cost objectives. In addition to the expression of this concept, the Cost Accounting Standards define in appropriate circumstances what criteria should be used to select the allocation base that best expresses this conceptual relationship.

Hierarchy for Allocating Costs

As an ideal, each item should be assigned to the cost objective that was intended to benefit from the resource represented by the cost or, alternatively, that caused incurrence of the cost. To approach this goal, the Board believes in the desirability of direct identification of costs with final cost objectives where the following allocation characteristics exist:

1. The beneficial or causal relationship between the incurrence of cost and cost objectives is clear and exclusive.

2. The amount of resource used is readily and economically measurable.

However, if all items of cost incurred for the same purpose in like circumstances do not have these characteristics, then none of these items should be identified directly with final cost objectives.

In addition, the Board recognizes that there are circumstances where although the units of resource used can be directly identified with a final cost objective, it would be inappropriate or unnecessary to directly identify the cost with the final cost objective. Where the units of resource used are interchangeable, as for example in the case of like machinery and equipment, consumption of materials and supplies or utility services, the amount of cost to be allocated to cost objectives may more appropriately be determined on the basis of an average cost and not on the actual cost of each unit used. The Board believes that this averaging concept should be applied in appropriate circumstances. Individual Cost Accounting Standards recognize specific instances where, although the incidence of resource use is directly identified with particular final cost objectives, the cost of the resource used should be determined on an averaging or indirect basis.

Where units of resource used are not directly identified with final cost objectives, the cost of such resources should be grouped into logical and homogeneous pools for allocation to cost objectives in accordance with a hierarchy of preferable techniques. Homogeneity means that the costs of functions allocated by a single base have the same or a similar relationship to the cost objectives for which the functions are performed, and the grouping of such costs in homogeneous pools for allocation to benefitted cost objectives results in a better identification of cost with cost objectives. There are circumstances where unlike functions will have the same or a similar relationship to cost objectives; it may be appropriate to group the cost of such functions and use a measure of the common relationship as the base for cost allocation purposes. Finally, where the final output of either goods or services is the same or similar (i.e., homogeneous), all indirect functions attributable to the common output may be grouped for allocation of the costs of those functions.

The Board believes that the preferable allocation techniques for distributing homogeneous pools of cost are as follows:

1. The preferred representation of the relationship between the pooled cost and the benefiting cost objectives is a measure of the activity (input) of the function or functions represented by the pool of cost. This relationship can be measured in circumstances where there is a direct and definitive relationship between the function or functions and the benefiting cost objectives. In such cases, a single unit of measure can generally represent the consumption of resources in performance of the activities represented by the pool of cost. Measures of the activity ordinarily can be expressed in such terms as labor hours, machine hours, or square footage. Accordingly, costs of these functions can be allocated by use of a rate, such as a rate per labor hour, rate per machine hour or cost per square foot of the support activity.

2. Where such measures are unavailable or impractical to ascertain, the basis for allocation can be a measurement of the output of the function or functions represented by the pool of cost. Thus the output becomes a substitute measure for the use of resources, and is a reasonable alternative where direct measurement of input is impractical. Output can be measured in terms of units of end product produced by the functions, as for example, number of printed pages for a print shop, number of purchase orders processed by a purchasing department, or number of hires by a personnel office.

3. Where neither activity (input) nor output of the functions can be measured practically, a surrogate must be used to measure the resources used. Surrogates used to represent the relationship generally measure the activity of the cost objectives receiving the service and should vary in proportion to the services received. For example, a personnel department may provide various services which cannot be measured practically on an activity or output basis. Number of personnel served may reasonably represent the use of resources of the personnel function for the cost objectives receiving the service, where this base varies in proportion to the services performed.

4. Pooled costs that cannot readily be allocated on measures of specific beneficial or causal relationship generally represent the cost of overall management activities. Such costs do not have a direct and definitive relationship to the benefiting cost objectives. These costs should be grouped in relation to the activities managed, and the base selected to measure the allocation of these indirect costs to cost objectives should be a base

representative of the entire activity being managed. For example, the total cost of plant activities managed might be a reasonable base for allocation of general plant indirect costs. The use of a portion of a total activity, such as direct labor costs or direct material costs only, as a substitute for a total activity base, is acceptable only if the base is a good representative of the total activity being managed.

In developing allocation techniques for individual Cost Accounting Standards, the Board will define the circumstances where direct identification or an appropriate level of the allocation hierarchy should be used.

Accounting Standards and the Flow of Costs

Cost Accounting Standards on cost allocation address the accounting for the flow of incurred costs as resources are used. The costs of resources used are initially allocated to a cost pool or to final cost objectives. The cost pools are intermediate cost objectives under the full costing concept of cost allocation used by the Board. Cost pools are either service centers, overhead pools or general and administrative (G&A) cost pools. Costs are allocated from cost pools to other cost pools and to final cost objectives until all costs are accumulated in final cost objectives, thus determining the total cost of those final cost objectives. Costs accumulated in service center pools can be allocated to other service center pools, to overhead pools, to G&A pools, and to final cost objectives. The costs accumulated in the overhead and G&A cost pools are allocated only to final cost objectives.

The particular distribution and cost flow characteristics of cost pools can be identified by relating the cost flow concept described above with the hierarchy of preferable allocation techniques described previously. Costs initially allocated to the various cost pools and final cost objectives are costs that can be directly identified with those cost objectives. Cost pools that are identified as service centers normally will distribute their costs on a base which measures the activity or output of the service center and, as a result, these costs can be allocated to any cost objective benefiting from that service including other cost pools. Cost pools that are identified as overhead pools will distribute their costs using an allocation base that measures the total activity of a period. These costs are allocated only to cost objectives that ultimately reflect that total activity, i.e., the final cost objectives of a business unit.

As Standards are promulgated for the treatment of pools of cost, each pool is categorized either as a function of general support (e.g., overhead pool) or specific support (e.g., service center). The classification is determined by the type of allocation base and flow of cost that is prescribed for that pool.

Operating Policies

The following descriptions of policies illustrate a number of important considerations that will be relevant to the Board as it seeks to achieve the objectives discussed previously.

Relationship to Other Authoritative Bodies

A number of authoritative bodies have been established to issue pronouncements affecting accounting and financial reporting. The Cost Accounting Standards Board views its work as relating directly to the preparation, use, and review of cost accounting data in the negotiation, administration, and settlement of Government contracts. The Board is the exclusive body established by law with the specific responsibility to promulgate, amend, and rescind Cost Accounting Standards designed to achieve uniformity and consistency in the cost accounting practices governing government contractors. Furthermore, Standards, rules, regulations, and interpretations promulgated or amended by the Board have the full force and effect of law in the negotiation, administration, and settlement of Government contracts.

The accounting areas of interest to the Board that are also of interest to others for financial and tax accounting purposes are: (1) definition and measurement of costs; (2) assignment of the cost of resources consumed to time periods; and (3) allocation of direct labor, direct material, and indirect costs to the goods and services produced in a period.

The Cost Accounting Standards Board seeks to avoid conflict or disagreement with other bodies having similar responsibilities and will, through continuous liaison, make every reasonable effort to do so. The Board will give careful consideration to the pronouncements affecting financial and tax reporting and, in the development of Cost Accounting Standards, it will take those pronouncements into account to the extent it can do so in accomplishing its objectives. The nature of the Board's authority and its mission, however, is such that it must retain and exercise full responsibility for meeting its objectives.

Transition Method

In consideration of the expanded application of the Cost Accounting Standards to civilian agency contracts, as well as the current application of the Standards to defense contracts, the Board is especially cognizant of the fact that the process of converting from preexisting cost accounting practices to the practices required by the Standards (or those required by the promulgation of a new Standard) could be a source of disagreement between the contracting parties. To assist in minimizing such disagreements, the Board expects that it will on occasion issue guidance so that the implementation of the Standards may be accomplished in such a manner as to place the contracting parties in a position where any amount of money that might be left to be dealt with by an equitable adjustment to the affected contract(s) would be immaterial. For other Standards, the impact of changes in cost accounting practices required by the implementation of the Standards, or by the promulgation of new Standards, will be accommodated by price adjustments for covered prime contracts and subcontracts through the equitable adjustment provisions provided for in the covered contracts.

Single Government Representative

To assure maximum uniformity of interpretation of its promulgations, the Cost Accounting Standards Board believes that it is highly desirable to have Federal agencies agree upon a single representative to deal with a given contractor regarding the application and administration of the contract requirements of the Board's rules and Standards. Because of its conviction of the merit of such a procedure, the Board recommended that agencies arrange for a single contracting officer for each contractor, or major component thereof, to be designated to negotiate as needed to achieve consistent practices relating to the application of the Cost Accounting Standards.

Both contractors and the Government will benefit from the establishment of procedures by which a Government contractor may be certain that only one contracting officer will deal with it to resolve issues that may arise under the contractor's Government contracts concerning the application of Cost Accounting Standards, rules, and regulations.

The Board believes experience has demonstrated the benefits to be derived by both the Government and contractors from this single-representative system

and will work with the civilian agencies in order to encourage uniform contract administration of the Standards as these Standards become more widely applicable to the contracts of the civilian agencies.

Responsibilities for Compliance

The Board recognizes that the basic responsibility for securing compliance with Board promulgations, as with all contractual matters, rests with the relevant Federal contracting agencies. They are responsible for such matters as:

1. Incorporating all applicable Cost Accounting Standards Board promulgations into their procurement regulations;
2. Including the contract clause in all covered contracts;
3. Receiving Disclosure Statements;
4. Reviewing and approving the adequacy of such Statements;
5. Reviewing contractors' records to determine whether or not contractors have (a) followed consistently their disclosed cost accounting practices and (b) complied with the Cost Accounting Standards;
6. Making appropriate contract price adjustments because of changed accounting practices, failure to follow existing Standards, or the issuance of new Standards; and
7. Evaluating the validity of claims by contractors and subcontractors for exemptions from the requirements of the Standards as established in Public Law 100–679.

It should be noted that section 26(k) of the Office of Federal Procurement Policy Act gives to any authorized representative of the head of the agency concerned, or of the Offices of the Inspector General established pursuant to the Inspector General Act of 1978, or of the Comptroller General of the United States, the right to examine and make copies of any documents, papers, or records relating to compliance with the Board's rules.

Another element of compliance concerns the manner in which relevant contracting agencies implement the requirements established by the Board. Special and recurring reviews of agencies' compliance with Board promulgations should be performed by the agencies' internal review staffs, the agencies' Inspectors General, and by the U.S. General Accounting Office.

The Board must retain responsibility for evaluating the effectiveness of the Standards, rules, and regulations that it promulgates. Some of the Board's evaluative needs can be met by reviewing reports from contracting and audit organizations. However, the Board may also from time-to-time request reports and analyses concerning its rules from affected Federal agencies.

The Board also recognizes its responsibility for receiving evaluations of promulgated Standards, rules, and regulations from contractors, professional associations, and other associations and persons outside the Government who are concerned with the effectiveness of the Board's Standards, rules, and regulations, as well as the economy and efficiency of the Government procurement process in general. The Board will consider holding periodic conferences on promulgated Standards and regulations. Additionally, the Board welcomes comments and inquiries at any time.

Interpretations

The Board notes the existence of contractual and administrative provisions for the resolution or settlement of disputes arising under Government contracts. In particular, the Board notes that the Contract Disputes Act, 41 U.S.C. 601 *et seq.*, provides a mechanism for resolving disputes involving the Cost Accounting Standards. The Board will not seek to intervene or supersede this process. When there are widespread and serious questions of the Board's intention or meaning in its promulgations, however, the Board may, at its discretion, respond to requests for authoritative interpretations of its rules, regulations, and Cost Accounting Standards. Such interpretations are authorized pursuant to 41 U.S.C. section 422(f). Interpretations will be published in the **Federal Register**, and will be considered by the Board to be an integral part of the rules, regulations, and Cost Accounting Standards to which the interpretations relate. This formalized procedure does not preclude informal consultation between members of the public and the Executive Secretary and members of the Board's staff.

Exemptions and Waivers

The Board is authorized by law to grant exemptions to such classes or categories of contractors or contracts as it determines are appropriate and consistent with the purposes sought to be achieved by the Board's enabling legislation. In previous years, the Cost Accounting Standards Board used this authority to (1) exempt from its rules and regulations certain categories of contractors, (2) grant waivers of its requirements for certain individual contracts, (3) limit the requirements for formal disclosure of accounting practices to the larger Government contractors, (4) limit the application of some individual Standards either by exempting certain categories of contractors or by establishing a dollar threshold for the application of the Standard, and (5) exempt certain classes of contractors from the requirement to comply with Standards on the condition that they accept application of the Disclosure Statement regulations.

The Board anticipates that it will grant waivers only in rare and unusual cases. The Board notes that the granting of an exemption or a waiver from Cost Accounting Standards or the disclosure regulations reduces the extent to which the primary goals of increased uniformity and consistency are achieved.

The Process of Developing Standards

Research and Development of Standards

The promulgation of any Cost Accounting Standard is characterized by an in-depth study of the subject and by participation of various interested parties. The Board is not committed to any specific research process, but uses those techniques and resources which are appropriate to the topic. Typical research steps in the development of Standards are briefly described below.

1. Selection of topics—The Board's objectives are clearly set forth in Public Law 100–679; the Board seeks to develop Cost Accounting Standards to provide increased uniformity and consistency in cost accounting practices of Government contractors. Specific subjects for research and possible development of Cost Accounting Standards are selected after considering the nature and magnitude of the costing problems related to the subject, as well as the relationship of the subject to other Standards and other staff research projects. The Board has sought advice from interested parties in the selection of topics of research. Board approval of a work project or its continuance does not imply the ultimate promulgation of a Standard.

2. Reserch of concepts and existing practices—Early research generally involves review of the accounting concepts and existing practices. This review includes examination of available literature, and often involves discussions with representatives of professional accounting and other organizations. Early research also usually involves review of the treatment of the cost in connection with negotiated contracts. This requires examination of Government procurement regulations, and the decisions of courts and of Boards of Contract Appeals. It also

involves meeting with representatives of procurement agencies and of contractors. Review may be made of Disclosure Statements and various reports received from Government agencies as to practices currently being followed. Personal interviews and plant visits may be made to review existing practices further in connection with contracts. The extent of this phase of the research and the amount of participation by interested parties depend on the nature of the topic.

3. Prior to promulgating, amending, or rescinding a Cost Accounting Standard or interpretation thereof, the Board is required to:

a. Take into account, after consultation and discussion with the Comptroller General, professional accounting organizations, contractors, government agencies and other interested parties:

(1) The probable costs of implementation, including inflationary effects, if any, compared to the probable benefits;

(2) The advantages, disadvantages, and improvements anticipated in the pricing and administration of, and settlement of disputes concerning, contracts; and

(3) The scope of, and alternatives available to, the action proposed to be taken;

b. Prepare and publish a report in the **Federal Register** on the issues reviewed under paragraph 3.a. above;

c. (1) Publish an advance notice of proposed rulemaking in the **Federal Register** in order to solicit comments on the report prepared pursuant to paragraph 3.b. above; and

(2) Provide all parties affected a period of not less than 60 days after such publication to submit their views and comments; and

d. Publish a notice of such proposed rulemaking in the **Federal Register** and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments.

4. The **Federal Register** publication provides an opportunity for participation by all those who are interested in the work of the Board. The Board reviews the responses received, and determines what changes may be warrant in its proposal. Follow-up visits to Government agencies and contractors may be arranged in connection with particular comments received. Sometimes, interested members of the public may be invited to meet with individual Board Members or the Board's staff.

5. Consultation with the Comptroller General—Throughout the **Federal Register** publication phase described in paragraph 3, above, the Board will directly consult with and consider any recommendation the Comptroller General may make regarding the potential costs, benefits, advantages, disadvantages, and improvements anticipated regarding the Board's proposals to establish, amend, or rescind Cost Accounting Standards or interpretations thereof.

6. Promulgation—Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended by the Board, shall have the full force and effect of law and shall become effective within 120 days after publication in the **Federal Register** in final form, unless the Board determines a longer period is necessary. Implementation dates for contractors and subcontractors shall be determined by the Board, but in no event shall such dates be later than the beginning of the second fiscal year of affected contractors or subcontractors after the Standard becomes effective. Rules, regulations, Cost Accounting Standards, and modifications thereof promulgated or amended by the Board shall be accompanied by prefatory comments and by illustrations, if necessary.

7. The functions of the Board described in paragraphs 1 through 6, above, are excluded by statute form the operations of sections 551, 553 through 559, and 701 through 706 of Title 5, United States Code.

8. Continuing review—The Board keeps informed on the operation of Standards in actual contract situations. The Board will publish authoritative interpretations in the **Federal Register** for comment when there are widespread and serious questions of the Board's intention or meaning in its promulgations. The Board will also modify any of its promulgations if experience shows that modification is desirable.

Format of Standards

The Board uses the same general format for all of its Cost Accounting Standards to facilitate their use.

The "Purpose" section normally provides a brief description of the goals of the Board in promulgating the Standard. The "Definition" section states, as referenced in the "Definitions" part of the Board's regulations, terms which are prominent in a particular Standard.

The "Fundamental Requirement" section contains the broad principles or practices to be applied in accounting for the cost covered by the Standard.

The "Techniques for Application" section provides criteria for the selection of alternative practices to implement the concepts contained in the "Fundamental Requirement." The techniques for application may describe the practices to be followed with respect to particular fundamental requirements or in particular circumstances. As a general rule, the techniques for application will narrow the accounting options in accordance with the concepts in the fundamental requirement. This section may also provide special techniques for applying the concepts of the fundamental requirement to give consideration to materiality or special circumstances.

Examples of how the Standard is to operate in specific circumstances appear under "Illustrations." Usually this section describes actual or hypothetical accounting practices and specifies whether or not such practices would comply with the provisions of the Standard. This section may also illustrate specific practices which may be followed in particular circumstances.

The final three sections of a Standard are "Interpretation," "Exemption," and "Effective Date." Where necessary, this format of a Standard may be supplemented by additional material, such as appendices, which also are an integral part of the Standard.

No one section of a Standard stands alone, and all sections must be read in the context of the Standard as a whole.

Prefatory Comments

The Board prefaces its issuance of Standards, rules, and regulations with analytical comments to provide additional insight into the process by which the issuance was developed and the factors which led to the provisions set out in the issuance. The prefatory comments summarize the comments received in response to the publication and explain the reasons for any significant changes made as well as the reasons for not making changes which were suggested. Although these prefatory comments are not a formal part of any promulgation, they nonetheless are authoritative statements by the Board. As such, the Board encourages their use as aids in applying Standards, rules, and regulations to specific situations.

Comparing Costs and Benefits

As previously mentioned, Public Law 100–679 requires the Board, in promulgating Standards, to take into account (1) "the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits," (2) "the advantages, disadvantages, and improvements

anticipated in the pricing and administration of, and settlement of disputes concerning, contracts"; and (3) "the scope of, and alternatives to, the action proposed to be taken."

The Board views costs and benefits in a broad sense. All disruptions of contractors' and agencies' practices and procedures are viewed as costs. Prior to making a final promulgation decision, the Board makes specific inquiries into the likely costs of implementing proposed Standards, both for contractors and for affected agencies of the Government. In this inquiry, an effort is made to distinguish transitional costs from those that may persist on a recurring basis. Also, the Board makes a distinction between (1) incremental administrative costs, i.e., the cost of added activities over and above that which would otherwise have been incurred, and (2) costs that are absorbed in implementing and administering Standards, i.e., the cost of effort or resources diverted to the implementation and administration of Standards that otherwise would have been applied elsewhere. Out-of-pocket administrative expenses can be estimated, albeit with difficulty, and any increase in such expenses must be regarded as a cost.

Benefits from the application of the Cost Accounting Standards to Government contractors include reductions in the number of time-consuming controversies stemming from unresolved aspects of cost allocability, as well as greater equity to all concerned. The Board also believes that additional benefits accrue through simplified contract negotiation, administration, audit, and settlement procedures. In addition, the Standards should serve to reduce the opportunities for the manipulation of accounting methods alleged to have existed prior to the establishment of the Standards. Finally, and most importantly, the availability of better cost data stemming from the use of Cost Accounting Standards permits improved comparability of offers and facilitates better negotiation of resulting contracts. The Board believes that it would be extremely difficult, if not impossible, to quantify the benefits that accrue to Government and contractors alike from continued use of the Standards.

The Board is interested in data that will enable it to gauge the impact of a proposed Standard on the amount of costs that may result in a shift to or from Government contracts as a result of one or more Standards. The Board recognizes that a fair Cost Accounting Standard may result in a shift of cost either to or from Government contracts. In formulating Standards, the Board will not regard such shifts of costs as determinative.

The likely impact of a Cost Accounting Standard on a contractor is to modify the distribution of its costs among time periods or among its projects in a given time period. Standards may increase administrative costs, which if not offset by increased productivity in Government contracting, would contribute to inflation; the Board considers the total of benefits relative to the total cost.

FOR FURTHER INFORMATION CONTACT: Richard C. Loeb, Executive Secretary, Cost Accounting Standards Board (telephone: 202–395–3254).

Allan V. Burman,

Administrator for Federal Procurement Policy and Chairman, Cost Accounting Standards Board.

[FR Doc. 92–16190 Filed 7–10–92; 8:45 am]

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Federal Register

Monday
July 13, 1992

Part IV

Department of Commerce

International Trade Administration

Consortia of Businesses in the Newly Independent States of the Former Soviet Republics; Notice

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 920498-2098]

Consortia of American Businesses in the Newly Independent States

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of a New Business Consortia Grant Program to Assist U.S. Firms Establish a Commercial Presence in the Newly Independent States of the former Soviet republics.

SUMMARY: A program has been designed to assist U.S. firms in establishing a commercial presence in the former Soviet republics through the formation of Consortia of American Businesses in the Newly Independent States (CABNIS). CABNISs are private and public non-profit organizations which will be formed to promote U.S. goods and services in the Newly Independent States (NIS). The participants in these consortia will be for-profit U.S. firms interested in trade with the former Soviet republics. CABNISs will establish offices and staff in the NIS to provide a broad range of services for their for-profit member firms, including market research, sales promotion, communication of sales opportunities, identification of and introduction to potential buyers and trade contacts, staging trade and technical missions and seminars, provision or arrangement of necessary legal services, and other export trade facilitation services. Grant funds will be awarded as seed money to pay the start-up costs of establishing and operating U.S. consortia offices in the NIS. CABNISs can be organized along a single industry line or represent more than one business sector. There is no limitation on the number of for-profit firms that a consortium may represent.

SUPPLEMENTARY INFORMATION:

Program Objectives

The consortia are intended to strengthen the U.S. business presence in the NIS. They will provide direct trade facilitation support for their member firms, stimulating increased U.S. exports to the NIS. The consortia will promote two-way trade and will be expected to support the privatization movement of host country economies through consortia assistance with defense plant conversion projects, finding markets for NIS products, promoting U.S. investment and U.S.-NIS joint ventures, and/or technical training.

Funding Availability

Pursuant to Section 531 and Section 632(b) of the Foreign Assistance Act of 1961, as amended, (the "Act") funding for the program will be provided by the Agency for International Development (A.I.D.). ITA will award financial assistance and administer the program pursuant to the authority contained in section 635(b) of the Act. The total amount of program grant funds available for CABNIS is $1 million for FY 1992 and an anticipated $3.5 million for FY 1993.

Funding Instrument and Project Duration

The Federal grant contribution will not exceed 50 percent of proposed eligible project costs with a maximum grant amount of $500,000 per consortium. Applicants are expected to provide the remaining share, preferably in cash. Federal funding will be a one-time injection with a grant period not to exceed three years. Assistance will be available for the period of time required to complete the scope of work but not to exceed three years from the date of the grant offer.

Request for Applications

Competitive Application kits (Application Kits) #110-0005-1 will be available from Commerce starting July 13, 1992.

To obtain a copy of the Application Kit #110-0005-1, please send a written request with two self-addressed mailing labels to Mr. George Muller, Director, Office of Export Trading Company Affairs, room 1800 HCHB, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230. Only written requests will be honored; telephone, fax, or walk-in requests will not be accepted. Only one copy of the Application Kit will be provided to each organization requesting it, but it may be reproduced by the requester. Applications (Standard Form 424 (Rev. 4-88)) are to be received at the addressed designated in the Application Kit no later than 3 PM E.D.T. August 28, 1992. Commerce intends to award a minimum of two grants prior to the end of FY 1992 and, subject to availability of funds, award an anticipated minimum of seven grants during 1993. Applications which are not selected for funding in FY 1992 will be carried over automatically and be evaluated for possible funding in FY 1993—again subject to availability of FY 1993 funds.

Eligibility

Eligible applicants for the CABNIS grant program will be private and public non-profit U.S. organizations including non-profit corporations, associations and public sector entities established to represent the commercial interests of U.S. firms. Within the industry or industries represented by the consortium, membership in a consortium must be available on a non-discriminatory basis. For example, membership in a trade association cannot be a requirement for membership in a consortium. Only applicants proposing to open an office in one or more of the Newly Independent States are eligible for this program. Each application will receive an independent, objective review by one or more review panels qualified to evaluate the applications submitted under the program. Applications will be evaluated on a competitive basis in accordance with the selection criteria set below.

Selection Criteria

Consideration for financial assistance will be given to those CABNIS proposals which:

1. Demonstrate how proposed member firms' U.S. exports and consortia business activities will support privatization and private enterprise (e.g., through assistance with defense plant conversion projects, technical training, marketing assistance and investment promotion). Marketability of the proposed products and/or services in the NIS will be taken into account in evaluating applications.

2. Are proposed by non-profit organizations with the capacity, qualifications and staff necessary to successfully undertake the intended activities.

In addition, priority consideration will be given to those applications which:

3. Demonstrate the capability and intent of enlisting small and mid-sized U.S. firms as members of the consortium.

4. Provide a reasonable assurance that the proposed project can be continued on a self-sustained basis after expiration of the Federal grant expenditure period.

5. Contain a commitment to encourage, support and assist in the development of indigenous counterpart organizations (e.g. trade associations) and a well reasoned plan as to how that will be accomplished.

6. Present a realistic work plan detailing the services it will provide to the consortium member firms.

7. Present a reasonable, itemized budget for the proposed activities.

Selection criteria factors 1 and 2 will be weighted equally and will take precedence over priority consideration factors 3–7. Priority consideration factors 3–7 will be weighted equally.

The need for U.S. products and services and for assistance in the privatization process canvasses all of the former Soviet republics. Different geographic locations will be more suitable for different industries (e.g., oil production equipment versus medical equipment). In selecting grant recipients, ITA reserves the right to award grants in such a way to ensure a reasonably balanced distribution of consortia and the industry sectors that they represent among the NIS countries. Preference will be given to financial proposals which demonstrate the maximum allocation of Federal and non-Federal resources to program activities. ITA reserves the right to determine the level of funding for each grant awarded.

Notifications

All applicants are advised of the following:

1. No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the deliquent 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 are made.

2. 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, "Governmental Debarment and Suspension (Nonprocurement)" and the related section of the certification form prescribed above applies. Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies. Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater. 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.

3. 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 the Department of Commerce. SF–LLL submitted by any tier recipient or subrecipient should be submitted to the Department of Commerce in accordance with the instructions contained in the award document.

4. A false statement on the application may be grounds for denial or termination of funds.

5. All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

6. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

7. 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 Department of Commerce to cover pre-award costs.

8. If an application is selected for funding, the 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 of Commerce.

9. Awards under this program shall be subject to all Federal and Departmental regulations, policies and procedures applicable to financial assistance awards.

10. The Standard Form 424 (Rev. 4–88) mentioned in this Notice is subject to the requirements of the Paperwork Reduction Act and it has been approved by OMB under Control No. 0348–0006.

11. Executive Order 12372 "Intergovernmental Review of Federal Programs" does not apply to this program.

Dated: July 8, 1992.

George Miller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 92–16336 Filed 7–10–92; 8:45 am]

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federal register

Monday
July 13, 1992

PART V

Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 25 and 202
Mortgagee Review Board; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 25 and 202

[Docket No. R-92-1499; FR-2801-F-03]

RIN 2501-AB01

Mortgagee Review Board

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule makes comprehensive changes in the Department of Housing and Urban Development's Mortgagee Review Board (Board) procedures. The purpose of the rule is to conform Board procedures to the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act of 1989).

EFFECTIVE DATE: August 1, 1992.

FOR FURTHER INFORMATION CONTACT: For discussion of legal issues or matters of regulatory interpretation: Emmett N. Roden, III, Assistant General Counsel, Inspector General and Administrative Proceedings Division, Department of Housing and Urban Development, room 10251, 451 Seventh Street, SW., Washington, DC 20410, Telephone (202) 608-3200.

For programmatic issues: William Heyman, Director, Office of Lender Activities and Land Sales Registration, Department of Housing and Urban Development, room 9146, 451 Seventh Street, SW., Washington, DC 20410, Telephone (202) 708-1824. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2502-0450.

II. In General

This rule amends part 25 of title 24, of the Code of Federal Regulations. It implements sections 202(c), 202(d), 203(s), and 536 of the National Housing Act (National Housing Act), (12 U.S.C. 1708 (c), (d), 1709(s) and 1735f-14) as added by sections 135, 142, and 107 of the Department of Housing and Urban Development Reform Act of 1989. (Pub. L. 101-235, approved December 15, 1989). Section 536 of the National Housing Act authorizes the Board to impose civil money penalties against mortgagees and lenders. Section 203(s) requires the Secretary to notify eight government or Federally chartered entities if the Secretary takes discretionary action to suspend or revoke the approval of any mortgagee to participate in any HUD/FHA mortgage insurance program. Section 202(c) of the National Housing Act established the Board. Section 202(d) requires the Government National Mortgage Association (GNMA) and (FHA) to coordinate withdrawal actions in their respective programs.

III. Background

Section 202(c) of the National Housing Act establishes within FHA the Board which is composed of five HUD officials at the Assistant Secretary level, and the Department's Chief Financial Officer. The Board is authorized to initiate administrative actions against HUD/FHA approved mortgagees found to be engaging in activities in violation of Federal Housing Administration requirements or the Equal Credit Opportunity Act, the Fair Housing Act, or Executive Order 11063.

The Board is empowered to issue a letter of reprimand, place a mortgagee on probation, suspend, or withdraw the HUD/FHA approval of a mortgagee. The Board is required to follow statutory notice and hearing procedures when imposing administrative sanctions, except in the case of the issuance of a letter of reprimand. The Board also is authorized to enter into a settlement agreement with a mortgagee to resolve any outstanding grounds for an administrative action.

Section 202(c) further provides that the Board may request the Secretary of HUD to issue a temporary cease and desist order against a mortgagee where a violation of HUD/FHA requirements could result in a significant cost to the government or the public. In addition, section 202(c) requires that the Board, in consultation with the FHA Advisory Board, must annually make appropriate recommendations for regulatory or statutory changes to ensure the long term financial strength of the FHA mortgage insurance funds, and adequate support for home mortgage credit. This section also requires the Department to publish in the **Federal Register** administrative actions taken by the Board against mortgagees.

IV. Discussion of Public Comments

The Proposed Rule

On April 4, 1991 (56 FR 13984) HUD published a proposed rule amending 24 CFR part 25 of the Code of Federal Regulations. Nine persons submitted comments on the proposed rule. The issues raised by the commenters are summarized below.

Discussion of Section 25.2 Establishment of Board

Comment: The provision in § 25.2 which states that "The Board may redelegate its authority to take administrative actions on the grounds specified in §§ 25.9 (e), (h) and (u) and to take all other nondiscretionary acts." should be deleted, or in the alternative, be modified to relate only to the instance when the administrative action to be imposed is a letter or reprimand.

Response: The Board may redelegate its authority to take administrative actions relating to nondiscretionary acts. Since §§ 25.9 (e), (h) and (u) relate to non-waivable lender approval requirements, if the Board determines that a violation of any one or more of these requirements warrants withdrawal of approval, the taking of this action is nondiscretionary.

Comment: These regulations should not apply to Title I lenders since the HUD Reform Act of 1989 did not grant authority to the Board to sanction such lenders.

Response: The intent of the HUD Reform Act of 1989 is to include title I lenders as entities against whom the Board may take an administrative action. For purposes of clarification, § 25.2 has been revised to reflect the authority of the Board in this regard by including lenders. This provision is consistent with existing regulations at 24 CFR 202.8 and in any event section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)) authorizes the Secretary to delegate his authority to sanction title I lenders to the Board.

Discussion of Section 25.3 Definitions

Comment: The definition of "Adequate Evidence" fails to explain the quantum of proof contemplated by this term.

Response: The definition of "Adequate Evidence" as stated in these regulations is consistent with rulings by the Department's Hearing Officers. Thus, the quantum of proof necessary has been determined to be within the discretion of the individuals making the determination as to whether adequate evidence exists in any particular instance.

Comment: The Definition of "Mortgagee" should not be expanded to include the term "Affiliates."

Response: The Department agrees with this comment and has revised these regulations accordingly.

Comment: The definition of "Reasonable Cause" should be clarified to provide objective standards upon which to justify the issuance of a Cease and Desist Order.

Response: The definition of "Reasonable Cause" as stated in these regulations reflects decisions rendered by the Department's Hearing Officers and is consistent with the provisions of the Act.

Discussion of Section 25.4 Operations of the Mortgagee Review Board

Comment: The reference to "designees" in this section should be modified to provide that only senior officials will serve in this capacity.

Response: This provision is consistent with the HUD Reform Act of 1989. It is the intention of the HUD Reform Act of 1989 to give full discretion to the Board members to choose their designees.

Comment: Board administrative actions should be determined by a unanimous vote of the Quorum.

Response: While in the past the Board has rendered its decisions with respect to suspensions and withdrawals by a unanimous vote, the HUD Reform Act of 1989 has increased the membership on the Board, and consequently, the Department believes that requiring a majority vote is more appropriate.

Discussion of Section 25.5 Administrative Actions

Comment: The provision stating that a letter of reprimand may only be issued once to a mortgagee without the Board taking further administrative action should be clarified.

Response: The HUD Reform Act of 1989 provides that a letter of reprimand may be issued by the Board only once to a mortgagee. The Department interprets this provision of the HUD Reform Act of 1989 to relate to specific violations. Thus, the Board may issue more than one letter of reprimand to a mortgagee, provided that each such letter of reprimand relates to a different violation.

Comment: The placing of a mortgagee on probation should not be effective until 30 days after the mortgagee receives notice and fails to contest the action, or in the alternative, should the mortgagee request an administrative hearing, until such time as the Hearing Officer affirms the Board's action.

Response: In response to this comment, the Department has amended these regulations so that the placing of a mortgagee on probation shall be effective upon receipt of notice by the mortgagee. Court decisions have affirmed the authority of the Board to take administrative actions against mortgagees and to determine that the effective date of an administrative action will occur before expiration of the 30-day notice period during which the mortgagee has the right to appeal, and, before the time that a Department Hearing Officer affirms the Board's action.

Comment: The provision stating that the Department will neither commit to insure nor endorse for insurance any mortgage originated by the suspended mortgagee should be modified.

Response: The Department has accepted this comment and has revised these regulations to provide that during the period of suspension, the mortgagee is without HUD approval, and HUD will not endorse any mortgage originated by the suspended mortgagee unless prior to the date of suspension a firm commitment has been issued relating to any such mortgage or unless a Direct Endorsement underwriter has approved the mortgagor for any such mortgage.

Comment: A suspension should not be effective until 30 days after the mortgagee receives notice and fails to request an administrative hearing to contest the action, or in the alternative, should the mortgagee request an administrative hearing to contest the action, until such time as the Hearing Officer affirms the Board's action.

Response: In response to this comment, the Department has revised these regulations so that the suspension of a mortgagee shall be effective upon receipt of notice by the mortgagee. Court decisions have affirmed the authority of the Board to take administrative actions against mortgagees and to determine that the effective date of the administrative actions should occur before the 30-day period within which the mortgagee has the right to appeal, and before a Department Hearing Officer affirms the Board's action.

Comment: The withdrawal of a mortgagee's approval by the Board should automatically incorporate a suspension of the mortgagee effective upon receipt of notice.

Response: These regulations provide that the Board may at its option withdraw a mortgagee's approval immediately upon receipt of notice.

Comment: The Board should not enter into a settlement agreement with a mortgagee when the mortgagee's alleged violations indicate that the mortgagee lacks responsibility.

Response: These regulations give the Board full discretion to determine the mortgagees with whom the Department will enter into settlement agreements.

Comment: Should the Board propose to enter into a settlement agreement with a mortgagee, the refusal of the mortgagee to sign such an agreement shall not constitute independent grounds for an administrative action.

Response: These regulations do not incorporate the concept that a mortgagee's refusal to enter into a settlement agreement is independent grounds for an administrative action.

Comment: The failure by a mortgagee to comply with the terms and provisions of a settlement agreement shall be a sufficient cause for suspension or withdrawal only in the event such failure is a material failure to comply with the terms and provisions of the settlement agreement.

Response: It is the Department's position that any breach of a settlement agreement may be sufficient cause for suspension or withdrawal of a mortgagee's approval.

Discussion of Section 25.6 Notice of Violation

Comment: The mortgagee's response to the Board should not be limited as to length.

Response: The Department disagrees, having determined that for the Board members to be in a position effectively to evaluate a mortgagee's response, the response should be limited in length as provided by these regulations.

Discussion of Section 25.7 Notice of Administrative Action

Comment: The Notice of Administrative Action should enumerate the specific reasons upon which an administrative action is based in addition to stating the violations upon which the administrative action is based.

Response: The Department has determined that the wording of these regulations is sufficiently broad to accommodate this comment.

Comment: The provision relating to supplemental notices should be modified to include specific restrictions.

Response: The Department has determined that there is no basis for restricting a supplemental notice, since a mortgagee is provided with the opportunity to submit a written response to the underlying facts that would be set forth in a supplemental notice.

Discussion of Section 25.8 Hearings and Hearing Request

Comment: Hearings on appeals of decisions of the Board are not required to be conducted under the Administrative Procedure Act and before Administrative Law Judges.

Response: The Department agrees with this comment and has revised these regulations accordingly.

Comment: The limitations on discovery are arbitrary and should be eliminated.

Response: The Department has determined that the importance of a hearing within a 30-day period should outweigh the mortgagee's interest in requesting voluminous discovery materials. Excessive discovery requests by the mortgagee would seriously jeopardize the Hearing Officer's ability to schedule a speedy hearing.

Because of the importance of a speedy hearing and the fact that the hearing provided the mortgagee is a trial de novo, the Department has determined that Board members shall not be subject to being deposed.

Comment: The provision that hearings on appeals of Board decisions generally be held in Washington, DC, should be eliminated.

Response: The Department has provided mortgagees the opportunity for a speedy hearing. For this to be accomplished, the hearing site should be Washington, DC, unless, as these regulations provide, extenuating circumstances exist.

Discussion of Section 25.9 Grounds for Administrative Action

Comment: Administrative actions should not be based on violations of HUD Handbooks or Mortgagee Letters.

Response: Since mortgagees have an affirmative obligation to know and follow the Department's requirements set out in HUD Handbooks or Mortgagee Letters, violations of the provisions of either or both are appropriate grounds upon which the Board may base administrative actions.

Comment: The provisions of § 25.9(n) are too broad and subjective.

Response: In response to this comment, the Department has amended 24 CFR 25.9 so that the term "employee" includes only those individuals who are or will be involved in HUD–FHA programs.

Comment: The provisions of § 25.9(p) are too broad and subjective.

Response: The Department does not agree that the provisions of this section of the regulations are too broad and subjective. The Department has given discretion to the members of the Board to make determinations with reference to administrative actions and will rely on the Board to apply the provisions of this section.

Comment: The provisions of § 25.9(y) should be removed as grounds for an administrative action.

Response: The Department has determined that its underwriting standards and requirements are adequately set forth in departmental issuances. Failure to perform underwriting functions properly in accordance with these standards and requirements should constitute grounds for an administrative action.

Comment: The provisions of § 25.9(bb) should be removed as grounds for an administrative action.

Response: The Department considers a Fiduciary duty to be in the nature of an agreement. A breach of any agreement by a mortgagee is potential evidence of the lack of responsibility, which the Board should take into consideration in determining whether an administrative action is appropriate.

Comment: The provision of § 25.9 which states that any one or more of the enumerated mortgagee violations may result in an administrative action is inconsistent with the provision in § 25.5 which states that when the Board determines that a mortgagee has committed a violation which is grounds for an administrative action, the Board shall take one of the enumerated actions.

Response: The Department has considered this comment and has determined that the provisions in these regulations, as currently drafted, are not inconsistent.

Discussion of Section 25.10 Publication in Federal Register of Actions and Section 25.11 Notification to Other Agencies

Comment: The provisions in those sections should be modified to provide specific criteria for disclosing Board actions to the public and other agencies, and such information should only be given after a mortgagee has exhausted all appeals.

Response: The publication in the **Federal Register** and notification to other agencies of Board actions before a mortgagee has exhausted all appeals is consistent with the provisions of these regulations in regard to the Board's statutory mandate to effectuate an administrative action before a mortgagee's appeal.

Discussion of Section 25.12 Cease and Desist Order

Comment: The Secretary should not have the ability to redelegate his or her authority to issue a Cease and Desist Order to the Chairperson of the Board.

Response: The proposed rule is consistent with other provisions in the Department's regulations and the statutory authority given to the Secretary to redelegate his or her authority.

Discussion of Section 25.13 Civil Money Penalties

Comment: The Department does not have authority to impose a civil money penalty solely on the basis of a party's being an affiliate of a mortgagee.

Response: As indicated in the discussion relating to § 25.3, above, the definition of "mortgagee" has been revised to exclude affiliates.

Comment: Civil money penalties should only be imposed for violations of law.

Response: The provisions of this section are consistent with the HUD Reform Act of 1989.

Discussion of Section 25.16 Prohibition Against Modification of Board Orders

Comment: The Department should reconsider the provision removing a Hearing Officer's discretion to modify an Order of the Board if the modification is deemed by the Hearing Officer to be in the best interests of the public.

Response: The Department has determined that it is in the best interest of the public and the Department that a Hearing Officer not be permitted to modify or otherwise disturb an order of the Board pending a final determination of a matter.

Discussion of Section 25.17 Appeal to Secretary—Separation of Functions

Comment: Since the HUD Reform Act of 1989 does not specifically provide for Secretarial review of a Hearing Officer's determination, this provision should be removed.

Response: Section 25.17 is consistent with similar provisions in other regulations of the Department. The Department believes that Secretarial review is in the best interests of the public and the Department.

Discussion of Section 25.18 Retroactive Application of Board Regulations

Comment: Mortgagee violations occurring before the effective date of the HUD Reform Act of 1989 (December 15, 1989) should not be subject to the provisions of these regulations.

Response: This provision is consistent with similar provisions in other HUD Regulations. The Department also believes that the Board should have the discretion to take administrative actions based on mortgagee violations, regardless of the date of occurrence of the violations.

V. Finding and Certifications

Executive Order 12291

This rule does not constitute a "major rule" as that term is defined in § 1(b), of

the Executive Order on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or Local government agencies or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

National Environmental Policy Act

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4331. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Regulatory Flexibility

The Secretary in approving this rule for publication, certifies that under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), this rule does not have a significant economic impact on a substantial number of small entities. The rule implements statutory authority that is intended to protect the Department's programs from abusive practices, but it has no adverse economic impact on small businesses, nor would it be appropriate to provide differing procedures applicable to the practices of small businesses.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule establishes an administrative regime for the prosecution of abuses of HUD programs but it has no impact on the family.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under Section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule does not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government, or on the distribution of power and responsibilities between them and other levels of government. The rule's major effects are on individuals and businesses.

This rule was listed as item number 1114 in the Department's Semiannual Agenda of Regulations published on April 27, 1992 (57 FR 16804, 16816) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 25

Administrative practice and procedure, Loan programs—housing and community development, organization and functions (Government agencies).

24 CFR Part 202

Administrative practice and procedure, approval of lending institutions, Credit insurance, Government contracts, Home improvement, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, 24 CFR parts 25 and 202 are amended as follows: 1. Part 25, (consisting of §§ 25.1 through 25.18) is revised in its entirety, to read as follows:

PART 25—MORTGAGEE REVIEW BOARD

Sec.

25.1 Scope of rules in this part.
25.2 Establishment of Board.
25.3 Definitions.
25.4 Operation of the Mortgagee Review Board.
25.5 Administrative actions.
25.6 Notice of violation.
25.7 Notice of administrative action.
25.8 Hearings and hearing request.
25.9 Grounds for an administrative action.
25.10 Publication in Federal Register of actions.
25.11 Notification to other agencies.
25.12 Cease and desist order.
25.13 Civil money penalties.
25.14 Coordination with GNMA.
25.15 Annual report.
25.16 Prohibition against modification of board orders.
25.17 Appeal to the Secretary.
25.18 Retroactive application of board regulations.

Authority: 12 U.S.C. 1708 (c) and (d), 1709(s), 1715b and 1734(f)–14); 42 U.S.C. 3535(d).

§ 25.1 Scope of rules in this part.

The rules in this part are applicable to the operation of the Mortgagee Review Board and to proceedings arising from administrative actions of the Mortgagee Review Board.

§ 25.2 Establishment of Board.

The Mortgagee Review Board was established in the Federal Housing Administration, which is in the Office of the Assistant Secretary for Housing—Federal Housing Commissioner, by section 202(c)(1) of the National Housing Act, (12 U.S.C. 1708(c)(1)), as added by section 142 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235). Except as limited by this part, the Mortgagee Review Board shall exercise all of the functions of the Secretary with respect to administrative actions against mortgagees and lenders and such other functions as are provided in this part, except the authority to review decisions and orders of a Hearing Officer. The Mortgagee Review Board may, in its discretion, approve the initiation of a suspension or debarment action against a mortgagee or lender by any Suspending or Debarring Official under part 24 of this title. The Mortgagee Review Board shall have all powers necessary and incident to the performance of these functions. The Mortgagee Review Board may redelegate its authority to impose administrative actions on the grounds specified in §§ 25.9(e), (h) and (u) and to take all other nondiscretionary acts. With respect to actions taken against title I lenders, the Mortgagee Review Board may redelegate its authority to take administrative actions on the grounds specified in 24 CFR 202.3(j), 202.5(a), and 202.5(c) of this title (as incorporated in § 202.6(b)(1) of this title).

§ 25.3 Definitions.

Adequate evidence. Information sufficient to support the reasonable belief that a particular act or omission has occurred.

Administrative action. A letter of reprimand, an order of probation, a suspension, a withdrawal of approval of a mortgagee or lender or a settlement agreement between the Mortgagee Review Board and a mortgagee or lender.

Board. The Mortgagee Review Board.

Cease and desist order. A temporary order issued by the Secretary or his or her designee requiring the mortgagee to stop violations as set forth in the order, and to take affirmative action to prevent such violations, or the continuation of such violations pending completion of proceedings of the Board with respect to such violations.

Lender. A financial institution which is approved for credit insurance, holds a valid title I contract of insurance that has not been terminated by the Secretary, and is approved by the Secretary under 24 CFR part 202 to originate and purchase, and to hold, service, and sell title I loans insured

under 24 CFR part 201. In matters involving the imposition of civil money penalties, this term also includes a financial institution whose title I contract of insurance has been terminated, but, with the Secretary's approval, has been permitted to hold, sell or continue to service title I insured loans held in its portfolio prior to the contract's termination.

Letter of reprimand. A letter issued by the Board that explains a violation or violations to the mortgagee and describes the actions the mortgagee should take to correct the violations.

Mortgagee. The original lender under the mortgage (as that term is defined at sections 201(a) and 207(a)(1) of the National Housing Act, (12 U.S.C. 1707(a) and 1713(a)(1)) and its successors and assigns as are approved by the Commissioner. As used in this part, reference to the term *mortgagee* also includes *lender* as defined in this section.

Notice of charges. A notice, issued in conjunction with a cease and desist order of the Secretary pursuant to § 25.12, setting forth all statements and information that are required in a notice of administrative action issued pursuant to § 25.7.

Party. The Department of Housing and Urban Development or the mortgagee.

Person. Any individual, corporation, partnership, association, unit of government or legal entity, however organized.

Probation. A period of time of up to six months during which a mortgagee is allowed under conditions as specified by the Board, to continue to participate in HUD/FHA mortgage insurance programs, while an evaluation is made of the mortgagee's compliance with HUD/FHA, Equal Credit Opportunity Act (ECOA), (15 U.S.C. 1601), Fair Housing Act (42 U.S.C. 3601–3619), or Executive Order 11063 requirements, or an order of the Board.

Reasonable cause. Such grounds as to justify the issuance of a cease and desist order, founded upon circumstances sufficiently strong to warrant a reasonable person to believe that a violation has or will occur.

Secretary. The Secretary of the Department of Housing and Urban Development or a person designated by the Secretary.

Suspension. The exclusion of the mortgagee from HUD/FHA mortgagee insurance programs for a temporary period of time of not less than six months, pending completion of an audit, review, investigation, or other administrative or legal proceedings.

Withdrawal. The exclusion of a mortgagee from participation in HUD/FHA mortgage insurance programs for a specified period of time. The withdrawal shall be not less than one year, and, where the Board has determined that the violation is egregious or willful, the withdrawal shall be permanent.

§ 25.4 Operation of the Mortgagee Review Board.

(a) *Members.* The Board consists of the following voting members: The Assistant Secretary for Housing—Federal Housing Commissioner who serves as chairperson; the General Counsel; the President of the Government National Mortgage Association (GNMA); the Assistant Secretary for Administration; the Chief Financial Officer of the Department; and, in cases involving violations of nondiscrimination requirements, the Assistant Secretary for Fair Housing and Equal Opportunity; or their designees.

(b) *Advisors.* The Inspector General or his or her designee, and the Director of the Office of Mortgagee Activities and Land Sales Registration (or such other position as may be assigned such duties), and such other persons as the Board may appoint, shall serve as nonvoting advisors to the Board.

(c) *Quorum.* Four members of the Board or their designees shall constitute a quorum.

(d) *Determination by the Board.* Any administrative action taken by the Board shall be determined by a majority vote of the quorum.

§ 25.5 Administrative actions.

When any report, audit, investigation or other information before the Board discloses that grounds for an administrative action against a mortgagee exist under § 25.9, the Board, depending upon the nature and extent of the violations, shall take one of the following actions:

(a) *Letter of reprimand.* The Board may issue a letter of reprimand to a mortgagee explaining the existence or occurrence of a violation and describing actions the mortgagee should take to bring and maintain its activities in conformity with all HUD/FHA requirements. The issuance of a letter of reprimand shall be effective upon receipt by the mortgagee in accordance with § 25.7. A letter of reprimand may only be issued once to a mortgagee in regard to specific violations without the Board taking action under paragraphs (b), (c) or (d) of this section in regard to these specific violations. Failure of the mortgagee to comply with a directive in the letter of reprimand may result in any other administrative action under this part that the Board finds appropriate.

(b) *Probation.* The Board may issue an order placing a mortgagee on probation for a specified period of time, not to exceed six months, for the purpose of evaluating the mortgagee's compliance with HUD/FHA requirements, compliance with the Equal Credit Opportunity Act (ECOA), (15 U.S.C. 1601), Fair Housing Act, (42 U.S.C. 3601–3619), Executive Order 11063, or an order of the Board. During a period of probation, the Board may impose reasonable additional requirements on the mortgagee to aid the Board in evaluating the mortgagee. Such additional requirements may include supervision of the mortgagee's activities by HUD/FHA, periodic reporting to HUD/FHA, or submission to HUD/FHA of internal audits, audits by an Independent Public Accountant or order audits or such other provisions as are deemed appropriate by the Board. If the Board determines that a mortgagee has failed to comply with the terms of an order or probation or otherwise commits a violation of HUD/FHA requirements, Equal Credit Opportunity Act, (15 U.S.C. 1601), the Fair Housing Act, (42 U.S.C. 3601–3619) or Executive Order 11063 requirements, the Board may take any other administrative action the Board determines appropriate. The placing of a mortgagee on probation shall be effective upon receipt of notice by the mortgagee.

(c) *Suspension*—(1) *General.* The Board may issue an order suspending a mortgagee's HUD/FHA approval temporarily if there exists adequate evidence of violation(s) under § 25.9, and if continuation of the mortgagee's HUD/FHA approval pending, or at the completion of, any audit, investigation, or other review, or other administrative or legal proceedings as may ensue, would not be in the public interest or in the best interests of the Department. Suspension shall be based upon adequate evidence.

(2) *Duration.* A suspension shall be for a specified period of time but not less than 6 months.

(3) *Effect.* During the period of suspension, the mortgagee is not approved and HUD will not endorse any mortgage originated by the withdrawn mortgagor unless prior to the date of withdrawal a firm commitment has been issued relating to any such mortgage or unless a Direct Endorsement underwriter has approved the mortgagor for any such mortgage.

(4) *Effective date of suspension.* The suspension of a mortgagee's approval shall be effective upon receipt of notice by the mortgagee.

(d) *Withdrawal.* (1) Where the Board makes a determination of a serious violation or a repeated violation by the mortgagee, the Board may issue an order withdrawing the HUD/FHA approval of the mortgagee.

(2) *Duration.* A withdrawal shall be for a reasonable, specified period of time, not less than one year, commensurate with the seriousness of the ground(s) for withdrawal. A withdrawal shall be permanent where the Board has determined that the violation is egregious or willful.

(3) *Effect.* (i) During the period of withdrawal, the mortgagee is not approved and HUD will not endorse any mortgage originated by the withdrawn mortgagor unless prior to the date of withdrawal a firm commitment has been issued relating to any such mortgage or unless a Direct Endorsement underwriter has approved the mortgagor for any such mortgage. The Board may limit the geographical extent of the withdrawal, or limit its scope to either the single family or multifamily activities of the withdrawn mortgagee.

(ii) Upon expiration of a stated period of withdrawal, the mortgagee may file a new application for approval with the Secretary under 24 CFR part 203.

(4) *Effective date of withdrawal.* The withdrawal of a mortgagee's approval shall be effective: (i) upon receipt of notice by the mortgagee if the board determines that continuation of mortgagee approval pending a hearing under § 25.8 would not be in the public interest or in the best interests of the Department;

(ii) At the expiration of the 30-day period specified in § 25.8, if the mortgagee has not requested a hearing; or

(iii) Upon receipt of a final determination under 24 CFR part 26.

(e) *Settlements.* The Board may at any time enter into a settlement agreement with a mortgagee to resolve any outstanding grounds for administrative action. Agreements may include but are not limited to provisions for cessation of any violation; correction or mitigation of the effects of any violation; repayment of sums of money wrongfully or incorrectly paid to the mortgagee by a mortgagor, a seller of HUD; actions to collect sums of money wrongfully or incorrectly paid by the mortgagee to a third party; indemnification of HUD/FHA for mortgage insurance claims on mortgages originated in violation of HUD/FHA requirements; modification of the length of any penalty; implementation of a quality control plan that meets HUD's requirements or other corrective measures acceptable to the Board; or such other provisions as are deemed appropriate by the Board. Failure of a mortgagee to comply with a settlement agreement shall be sufficient cause for suspension or withdrawal.

§ 25.6 Notice of violation.

(a) *General.* The Chairperson of the Board, or the Chairperson's designee, shall issue a written notice to the mortgagee at least thirty days prior to taking any probation, suspension or withdrawal action against a mortgagee. The notice shall state the specific violations that have been alleged, and shall direct the mortgagee to reply in writing to the Board within thirty days after receipt of the notice by the mortgagee. The notice shall also provide the address to which the response shall be sent. If the mortgagee fails to reply during such time period, the Board may make a determination without considering any comments of the mortgagee.

(b) *Mortgagee's response.* The mortgagee's response to the Board shall be in a format prescribed by the Secretary and shall not exceed 15 double-spaced typewritten pages. The response shall include an executive summary, a statement of the facts surrounding the matter, an argument and a conclusion. A more lengthy submission, including documents and other exhibits, may be simultaneously submitted to Board staff for review.

(Approved by the Office of Management and Budget under Control Number 2502–0450.)

§ 25.7 Notice of administrative action.

Whenever the Board takes an action to issue a letter of reprimand, place a mortgagee on probation, or to suspend or withdraw a mortgagee's approval, the Board shall promptly notify the mortgagee in writing of the determination. Except for a letter of reprimand, the notice shall describe the nature and duration of the administrative action, shall specifically state the violations and shall set forth the findings of the Board. The notice shall inform the mortgagee of its right to a hearing pursuant to 24 CFR part 26 and the manner and time in which to request a hearing, as required by § 25.8. The notice shall be served in accordance with 24 CFR 26.15. A supplemental notice may be issued in the discretion of the Board to add or modify the reasons for the action.

§ 25.8 Hearings and hearing request.

(a) *Hearing request.* In the case of probation, suspension or withdrawal action, a mortgagee is entitled to request a hearing before a Departmental Hearing Officer to challenge the action. If, within 30 days of receiving the notice of administrative action, the mortgagee requests a hearing, there shall be a hearing on the record regarding the violations within 30 days of receiving the request from the mortgagee. The mortgagee may voluntarily agree to have the hearing held more than 30 days after the request is received by HUD.

(b) *Procedure for request.* The request for hearing shall be made in writing within 30 days of receipt of the notice of probation, suspension or withdrawal. The request shall be filed in accordance with 24 CFR 26.14, addressed to the Board Docket Clerk, Department of Housing and Urban Development, at the address set out in the notice. Failure to request a hearing within 30 days shall be deemed a waiver of the mortgagee's opportunity for hearing and a waiver of its right to contest the probation, suspension or withdrawal, which shall then become final.

(c) *Procedural rules.* Hearings to challenge a probation, suspension or withdrawal action shall be conducted according to the applicable rules of 24 CFR part 26, except as modified by this part. Because of stringent time deadlines, facsimile machine filing is encouraged, pursuant to the provisions regarding the use of facsimile filing set forth in 24 CFR 30.425(b)(3).

(d) *Hearing location.* Hearings, if held within the 30-day period set forth in paragraph (a) of this section, shall generally be held in Washington, DC, unless undue hardship is otherwise shown. In cases where undue hardship is shown, the Hearing Officer may order the hearing, or a bifurcation of the hearing, in a location other than Washington, DC.

(e) *Limitation of discovery.* Discovery shall be conducted in accordance with subpart E of 24 CFR part 26, except as modified by this part. Discovery shall be limited to exclude requests for answers to interrogatories, requests for admissions, and production of documents that:

(1) Do not pertain to the appealing mortgagee; and

(2) Pertain to reviews or audits conducted by the Department, and administrative actions taken by the Board against mortgagees other than the mortgagee which is a party to the pending administrative action.

Because the hearing provided a mortgagee is a trial *de novo*, the members of the Board shall not be subject to being deposed.

§ 25.9 Grounds for an administrative action.

One or more of the following violations by a mortgagee may result in

an administrative action by the Board under § 25.5. Except in cases where the Board's authority has been delegated in accordance with § 25.2, the Board will consider, among other factors, the seriousness and extent of the violations, the degree of mortgagee responsibility for the occurrences and any mitigating factors, in determining which administrative action, if any, is appropriate. Any administrative action imposed under § 25.5 shall be based upon one or more of the following grounds:

(a) The transfer of an insured mortgage to non-approved mortgagee, except pursuant to 24 CFR 203.433 or 203.435;

(b) The failure of a nonsupervised mortgage to segregate all escrow funds received from mortgagors on account of ground rents, taxes, assessments and insurance premiums, or to deposit such funds in a special account with a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation or by the National Credit Union Administration, except as otherwise provided in writing by the Assistant Secretary for Housing—Federal Housing Commissioner;

(c) The use of escrow funds for any purpose other than that for which they are received;

(d) The termination of a mortgagee's supervision by a governmental agency;

(e) The failure of a nonsupervised mortgagee to submit the required annual audit report of its financial condition prepared in accordance with instructions issued by the Secretary within 90 days of the close of its fiscal year, or such longer period as the Assistant Secretary of Housing—Federal Housing Commissioner may authorize in writing prior to the expiration of 90 days;

(f) The payment by a mortgagee of a referral fee to any person or organization; or payment of any thing of value, directly or indirectly, in connection with any insured mortgage transaction or transactions to any person, including but not limited to an attorney, escrow agent, title company, consultant, mortgage broker, seller, builder or real estate agent, if that person has received any other compensation from the mortgagor, the seller, the builder or any other person for services related to such transactions or from or related to the purchase or sale of the mortgaged property, except compensation paid for the actual performance of such services as may be approved by the Assistant Secretary for Housing—Federal Housing Commissioner;

(g) Failure to comply with any agreement, certification, undertaking, or condition of approval listed on either a mortgagee's application for approval or on an approved mortgagee's branch office notification;

(h) Failure of an approved mortgagee to meet or maintain the net worth in assets required by 24 CFR part 203;

(i) Failure or refusal of an approved mortgagee to comply with an order of the Board, the Secretary or Hearing Officer under this part;

(j) Violation of the requirements of any contract with the Department, or violation of the requirements set forth in any statute, regulation, handbook, mortgagee letter, or other written rule or instruction;

(k) Submission of false information to HUD in connection with any HUD/FHA insured mortgage transaction;

(l) Failure of a mortgagee to respond to inquires from the Board;

(m) Indictment or conviction of a mortgagee or any of its officers, directors, principals or employees for an offense which reflects upon the responsibility, integrity, or ability of the mortgagee to participate in HUD/FHA programs as an approved mortgagee;

(n) Employing or retaining:

(1) An officer, partner, director or principal at such time when such person was suspended, debarred, ineligible, or subject to a limited denial of participation under 24 CFR part 24 or otherwise prohibited from participation in HUD programs, where the mortgagee knew or should have known of the prohibition;

(2) An employee who is not an officer, partner, director, or principal and who is or will be working on HUD/FHA program matters at a time when such person was suspended, debarred, ineligible, or subject to a limited denial of participation under 24 CFR part 24 or otherwise prohibited from participation in HUD programs, where the mortgagee knew or should have known of the prohibition;

(o) Violation by an approved mortgagee of the nondiscrimination requirements of the Equal Credit Opportunity Act (15 U.S.C. 1691–1691f), Fair Housing Act (42 U.S.C. 3601–3619), Executive Order 11063 (27 FR 11527), and all regulations issued pursuant thereto;

(p) Business practices which do not conform to generally accepted practices of prudent lenders or which demonstrate irresponsibility;

(q) Failure to cooperate with an audit or investigation by the Department's Office of Inspector General or an inquiry by HUD/FHA into the conduct of the mortgagee's HUD/FHA insured business or any other failure to provide information to the Secretary or a representative related to the conduct of the mortgagee's HUD/FHA business;

(r) Violation by an approved mortgagee of the requirements or prohibitions of the Real Estate Settlement Procedures Act (12 U.S.C. 2601–2617);

(s) Without regard to the date of the insurance of the mortgage, failure to service an insured mortgage in accordance with the regulations and any other requirements of the Secretary which are in effect at the time the act or omission occurs;

(t) Failure to administer properly an assistance payment contract under section 235 of the National Housing Act (12 U.S.C. 1715z);

(u) Failure to pay the application and annual fees required by 24 CFR 203.2(k);

(v) The failure of a coinsuring mortgagee:

(1) To properly perform underwriting, servicing or property disposition functions in accordance with instructions and standards issued by the Commissioner;

(2) To make full payment to an investing mortgagee as required by 24 CFR part 204;

(3) To discharge responsibilities under a contract for coinsurance;

(4) To comply with restrictions concerning the transfer of a coinsured mortgage to an agency not approved under 24 CFR part 250;

(5) To maintain additional net worth requirements, as applicable;

(w) Any other reasons the Board, Secretary of Hearing Officer, as appropriate, determine to be so serious as to justify an administrative sanction;

(x) Failure to remit, or timely remit mortgage insurance premiums, loan insurance changes, late charges or interest penalties to the Department;

(y) Failure to properly perform underwriting functions in accordance with instructions and standards issued by the Department;

(z) Failure to fund mortgage loans or any other misuse of mortgage loan proceeds;

(aa) Permitting the use of strawbuyer mortgagors in an insured mortgage transaction where the mortgagee knew or should have known of such use of strawbuyers;

(bb) Breach by the mortgagee of a fiduciary duty owed by it to any party, including GNMA and the holder of any mortgage-backed security guaranteed by GNMA, with respect to an insured loan or mortgage transaction.

(cc) Violation by title I lender, of any of the applicable enumerated provisions

as stated in this section, or as stated in 24 CFR 202.6(b).

(dd) Failure to pay any civil money penalty, but only after all administrative appeals requested by the mortgagee have been exhausted.

(Approved by the Office of Management and Budget under Control Number 2502–0450.)

§ 25.10 Publication in Federal Register of actions.

The Secretary shall publish, in the **Federal Register**, a description of and the cause for each administrative action taken by the Board against a mortgagee. Such publication shall be made quarterly or more frequently in the discretion of the Secretary.

§ 25.11 Notification to other agencies.

Whenever the Board has taken any discretionary action to suspend and/or withdraw the approval of a mortgagee, the Secretary shall provide prompt notice of the action and a statement of the reasons for the action to the Secretary of Veterans Affairs; the chief executive officer of the Federal National Mortgage Association; the chief executive officer of the Federal Home Loan Mortgage Corporation; the Administrator of the Farmers Home Administration; the Comptroller of the Currency, if the mortgagee is a National Bank or District Bank or subsidiary or affiliate of such a bank; the Board of Governors of the Federal Reserve System, if the mortgagee is a State bank that is a member of the Federal Reserve System or a subsidiary or affiliate of such a bank, or a bank holding company or a subsidiary or affiliate of such a company; the Board of Directors of the Federal Deposit Insurance Corporation if the mortgagee is a State bank that is not a member of the Federal Reserve System, or is a subsidiary or affiliate of such a bank; and the Director of the Office of Thrift Supervision, if the mortgagee is a Federal or State savings association or a subsidiary or affiliate of a savings association.

§ 25.12 Cease and desist order.

(a) *Issuance of order.* Whenever the Secretary, upon the request of the Board, determines that there is reasonable cause to believe that a mortgagee is violating, has violated, or is about to violate a law, rule, regulation, or any written condition imposed by the Secretary or the Board, and that such violation could result in significant cost to the Federal Government or to the public, the Secretary may issue a temporary order requiring the mortgagee to cease and desist from any such violation, and to take affirmative action to prevent such violation or a continuation of such violation pending completion of proceedings of the Board with respect to such violation. Each cease and desist order shall include a notice of charges and shall be effective upon service on the mortgagee. A cease and desist order shall remain effective and enforceable for a period not to exceed 30 days pending the completion of proceedings of the Board regarding the violation, unless the mortgagee obtains an injunction as described in paragraph (b) of this section. If, after receiving the order, the mortgagee requests a hearing, there shall be a hearing on the record regarding the violation. The opportunity for the hearing before a Hearing Officer shall be provided for the mortgagee as soon as practicable, but no later than 20 days after the order has been served. The mortgagee's request for a hearing shall be filed with the Department within 10 days after the order has been served, otherwise the request shall be void. The request shall be filed with the Board Docket Clerk, Department of Housing and Urban Development, at the address set out in the order. Because of stringent time deadlines, facsimile machine filing is encouraged, pursuant to the provisions regarding the use of facsimile machine filing contained in 24 CFR 30.425(b)(3).

(b) *Application to U.S. District Court by mortgagee.* Within ten days after the mortgagee receives the order, the mortgagee may apply to the United States District Court in the judicial district in which the home office of the mortgagee is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting or suspending the enforcement, operation or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the mortgagee, and such court shall have jurisdiction to issue the injunction.

(c) *Application to U.S. District Court by HUD.* If the mortgagee violates, threatens to violate, or otherwise fails to obey a cease and desist order, the Secretary may apply to the United States District Court, or the United States Court of any territory, within the jurisdiction of which the home office of the mortgagee is located, for an injunction to enforce the order.

(d) *Special definitions.* For the purposes of this section, the term "mortgagee" includes a branch office or subsidiary of a mortgagee, or a director, officer, employee, agent or other person participating in the conduct of the affairs of the mortgagee; and the term "home office" means whatever the mortgagee has shown as its primary business address in its application for HUD/FHA approval.

(e) *Redelegation.* The Secretary may redelegate authority to issue a cease and desist order to the Chairperson of the Board.

(Approved by the Office of Management and Budget under Control Number 2502–0450.)

§ 25.13 Civil money penalties.

The Board is authorized pursuant to section 536 of the National Housing Act (12 U.S.C. 1735(f)–14) to impose civil money penalties on mortgagees and title I lenders, as set forth in 24 CFR part 30. The violations for which a civil money penalty may be imposed are listed at 24 CFR 30.320. Hearings to challenge the imposition of civil money penalties shall be conducted according to the applicable rules of 24 CFR part 30.

§ 25.14 Coordination with GNMA.

(a) *Notification to GNMA.* When the Board issues a notice of violation that could lead to withdrawing a mortgagee's approval, the Board shall:

(1) Notify GNMA in writing within 24 hours of the action taken;

(2) Provide GNMA with the factual basis for the action taken; and

(3) Publish the Board's decision in the **Federal Register** if the mortgagee's approval is withdrawn.

(b) *Notification by GNMA.* When GNMA notifies the Federal Housing Administration of an action that could lead to withdrawal of GNMA approval, the Board shall, within 60 days of receipt of such notice:

(1) Conduct and complete its own investigation;

(2) Provide GNMA written notification of the Board's decision and the factual basis for the decision; and

(3) If the Board withdraws the mortgagee's approval, publish its decision in the **Federal Register**.

(Approved by the Office of Management and Budget under Control Number 2502–0450).

§ 25.15 Annual report.

The Board, in consultation with the Federal Housing Administration Advisory Board, shall recommend annually to the Secretary amendments to statutes and regulations which the Board deems appropriate to ensure the long term financial strength of the Federal Housing Administration fund and adequate support for home mortgage credit.

§ 25.16 Prohibition against modification of board orders.

(a) Policy. The Board, before issuing orders, will carefully examine evidence

and undertake deliberation before reaching a decision.

(b) Modification of orders. Notwithstanding any provision contained in 24 CFR part 26, pending a final determination of a matter brought before a Departmental Hearing Officer, the Hearing Officer shall not modify or otherwise disturb in any way an order of the Board.

(c) In cases involving probation, suspension, or withdrawal actions where a Hearing Officer rules in a final determination that there was no legal basis for the Board's decision to take the administrative action, the Board's action shall be stayed pending an appeal, if any, to the Secretary.

§ 25.17 Appeal to the Secretary.

A party may petition for review of a determination or order of a hearing officer. The Secretary or designee, within 15 days upon receipt of a request for review of the Hearing Officer's determination or order under 24 CFR 26.25, shall issue a determination, in writing, granting or denying the request. The written determination of the Secretary or designee shall be issued within 45 days of receipt of the briefs filed by the opposing parties.

(Approved by the Office of Management and Budget under Control Number 2502–0450).

§ 25.18 Retroactive application of board regulations.

Limitations on participation in HUD mortgage insurance programs proposed or imposed prior to August 12, 1992, under an ancillary procedure shall not be affected by this part. This part shall apply to sanctions initiated after the effective date of the Department of Housing and Urban Development Reform Act of 1989 (December 15, 1989) regardless of the date of the cause giving rise to the sanction.

PART 202—APPROVAL OF LENDING INSTITUTIONS UNDER TITLE I

2. The authority citation for part 202 is revised to read as follows:

Authority: 12 U.S.C. 1703, 1709, 1715b, 1751; 42 U.S.C. 3535(d).

3. Section 202.8 is amended by revising paragraph (a) introductory text, and paragraphs (b)(1), (c), and (d), to read as follows:

§ 202.8 Administrative actions.

(a) *General.* The provisions of 24 CFR part 25 shall be applicable to a lender participating in the Title I program. Administrative actions which may be applied are set forth in 24 CFR 25.5. Civil money penalties may also be taken against Title I lenders pursuant to 24 CFR 25.13 and part 30 of this title.

* * * * *

(b) * * *

(1) Failure to remain in compliance with the requirements for approval of lenders under this part.

* * * * *

(c) *Notice, hearing and hearing requests.* In the case of a probation, suspension or withdrawal action, a lender is entitled to notice and to request a hearing before a Hearing Officer to challenge the action, in accordance with the procedures in 24 CFR part 25. Hearings to challenge a probation, suspension or withdrawal action shall be conducted in accordance with the applicable rules of 24 CFR part 26.

(d) *Settlement agreements.* The Mortgagee Review Board may at any time enter into a settlement agreement with a lender to resolve any outstanding grounds for administrative action. Agreements may include but are not limited to provisions for cessation of any violation; correction or mitigation of the effects of any violation; repayment of sums of money wrongfully or incorrectly paid to the lender by a borrower or by HUD; actions to collect sums of money wrongfully or incorrectly paid by the lender to a third party; indemnification of HUD for insurance claims on title I loans originated in violation of HUD requirements; modification of any penalty; implementation of a quality control plan that meets HUD's requirements or other corrective measures acceptable to the Board; or such other provisions as deemed appropriate by the Board. Failure of a lender to comply with a settlement agreement shall be sufficient cause for suspension or withdrawal.

Dated: July 2, 1992.

Jack Kemp,

Secretary.

[FR Doc. 92–16200 Filed 7–10–92; 8:45 am]

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federal register

Monday
July 13, 1992

Part VI

Environmental Protection Agency

40 CFR Part 51

Vehicle Inspection and Maintenance Requirements for State Implementation Plans; Proposed Rule

Environmental Protection Agency

40 CFR Part 51

[FRL 4154-2]

Vehicle Inspection and Maintenance Requirements for State Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Today's action proposes a rule establishing performance standards and other requirements for basic and enhanced vehicle inspection and maintenance (I/M) programs. Section 182 of the Clean Air Act Amendments of 1990 requires EPA to review, revise, and republish such guidance, taking into consideration investigations and audits of I/M programs, as well as the requirements set out in the Act for such programs.

DATES: Written comments on this proposed rule will be accepted until August 27, 1992. EPA will conduct a public hearing on this Notice of Proposed Rulemaking on August 12 and 13, 1992. The hearing will convene at 9 a.m. on August 12 and continue until 5 p.m. that day; it will resume at 9 a.m. on August 13 and continue until such time as all testimony has been presented. Further information on the public hearing can be found in Section IX, Public Participation.

ADDRESSES: Written comments on this proposed rule should be submitted (in duplicate if possible) to:

Environmental Protection Agency, The Air Docket, room M-1500 (LE-131), Waterside Mall, Attention: Docket No. A-91-75, 401 M Street SW., Washington, DC 20460.

The public hearing will be held in the Washington, DC area. The specific site will be announced in a separate document.

Materials relevant to this proposed rulemaking are contained in Docket No. A-91-75. The docket is located on the first floor of the above address and may be inspected from 8:30 a.m. until noon and from 1:30 p.m. until 3:30 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket material.

Copies of the Regulation: The proposed regulatory text is not being published in today's notice of proposed rulemaking but will be published in a supplemental notice in a few days. In the interim, copies of the proposed regulatory text may be obtained by calling the answering machine at (313) 741-7884 and leaving your name, organization name, address, and phone number. Requests may be faxed to (313) 668-4497 or sent to the address below.

FOR FURTHER INFORMATION CONTACT: Eugene J. Tierney, Office of Mobile Sources, Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. (313) 668-4456.

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II. Summary of Proposal

Motor vehicle inspection and maintenance (I/M) programs are an integral part of the effort to reduce mobile source air pollution. Despite being subject to the most rigorous vehicle pollution control program in the world, cars and trucks still create about half of the ozone air pollution and nearly all of the carbon monoxide air pollution in United States cities, as well as toxic contaminants. Of all highway vehicles, passenger cars and light trucks emit most of the vehicle-related carbon monoxide and ozone-forming hydrocarbons. They also emit substantial amounts of nitrogen oxides and air toxics. Although we have made tremendous progress in reducing emissions of these pollutants, total fleet emissions remain high. This is because the number of vehicle miles travelled on U.S. roads has doubled in the last 20 years to 2 trillion miles per year, offsetting much of the remarkable technological progress in vehicle emission control over the same two decades. Projections indicate that the steady growth in vehicle travel is continuing. Ongoing efforts to reduce emissions from individual vehicles will be necessary to achieve our air quality goals.

Under the Clean Air Act as amended in 1990 (the Act), the U.S. Environmental Protection Agency is pursuing a three-point strategy for achieving major emission reductions from transportation sources. The development and commercialization of cleaner vehicles and cleaner fuels represent the first two points. It will be many years however before these cleaner cars dominate our vehicle fleet and none of these efforts will be successful unless we ensure that cars in use are properly maintained. The focus of today's action is the third point, in-use control, specifically I/M programs. The concept behind I/M is to ensure that cars are properly maintained in customer use. I/M produces emission reduction results soon after the program is put in place. I/M will also be critical if we are to fully realize the benefits of the new clean vehicles and clean fuels programs scheduled for phase-in over the next ten years.

To put I/M in perspective, it is important to understand that today's cars are absolutely dependent on properly functioning emission controls to keep pollution levels low. Minor malfunctions in the emission control system can increase emissions significantly, and the average car on the road emits three to four times the new car standard. Major malfunctions in the emission control system can cause emissions to skyrocket. As a result, 10 to 30 percent of cars are causing the majority of the vehicle-related pollution problem.

Unfortunately, it is rarely obvious which cars fall into this category, as the emissions themselves may not be noticeable and emission control

malfunctions do not necessarily affect vehicle driveability.

Effective I/M programs, however, can identify these problem cars and assure their repair. We project that sophisticated I/M programs in the most polluted cities around the country would cut vehicle emissions by 28 percent, at a cost of about $12.50 per vehicle per year. This represents a major step toward the Act's requirement that the most seriously polluted cities achieve a 24 percent overall emissions reduction by 2000.

The Act requires that most polluted cities adopt either "basic" or "enhanced" I/M programs, depending on the severity of the problem and the population of the area. In total, I/M programs will be required in 162 areas, 54 of which do not now have I/M. The 80 moderate ozone nonattainment areas, plus marginal ozone areas with existing I/M programs, fall under the "basic" I/M requirements. Enhanced programs will be required in serious, severe, and extreme ozone nonattainment areas with urbanized populations of 200,000 or more; CO areas that exceed a 12.7 ppm design value with urbanized populations of 200,000 or more; and all metropolitan statistical areas with a population of 100,000 or more in the Northeast Ozone Transport Region.

Basic and enhanced I/M programs both achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions, and requiring them to be repaired. An "enhanced" program covers more of the vehicles in operation, employs inspection methods which are better at finding high emitting vehicles, and has additional features to better assure that all vehicles are tested properly and effectively repaired.

The Act directs EPA to establish a minimum performance standard for enhanced I/M programs. The standard must be based on the performance achievable by annual inspections in a centralized testing operation. However, neither the Act's language nor EPA's performance standard requires states to implement annual, centralized testing. States have flexibility to design their own programs if they can show that their program is as effective as the "model" program used in the performance standard.

Of course, the more effective the program, the more credit a state will get towards the 24 percent emission reduction requirement discussed above. Furthermore, effective programs help to offset growth in vehicle use and allow for new industrial growth.

EPA and the states have learned a great deal about what makes an I/M program effective since the Clean Air Act, as amended in 1977, first required I/M programs for polluted cities. There are three major keys to an effective program:

- The ability to accurately fail problem cars and pass clean cars requires improved test equipment and procedures, given the advanced state of current vehicle design.
- Comprehensive quality control and aggressive enforcement are essential to assure that testing is done properly.
- Skillful diagnostics and capable mechanics are important to assure that failed cars are fixed properly.

These three factors are lacking in most of today's I/M programs. Specifically, the idle and 2500 rmp/idle short tests used in current I/M programs are not highly effective at identifying and reducing in-use emission from the types of vehicles which now and in the future will comprise the vehicle fleet. Second, covert audits by EPA and state agencies typically discover improper testing 50 percent of the time in test-and-repair stations, indicating that quality control is very poor and enforcement is lacking. Experience has shown that quality control at test-only stations is usually much better. Finally, diagnostics and mechanics education are often poor or nonexistent.

EPA and state audits as well as research at EPA's Motor Vehicle Emission Laboratory have shown that the simple idle test used in today's I/M programs has serious shortcomings. This type of test worked well for pre-1981, carbureted, non-computerized cars because typical emission control problems involved "rich" air/fuel mixtures that affected idle as well as cruising emissions. Today's high-tech cars with sensors and computers that continuously adjust engine operations are more effectively tested with procedures that include cycles of acceleration and deceleration under loaded conditions. Sensor and computer operation and emissions must be tested during the high-emission acceleration and deceleration driving modes to most reliably identify high polluting cars. At the same time, the visual inspection of emission control devices is becoming less relevant. This is because tampering and misfueling rates have declined significantly with the phase-out of leaded gasoline and the difficulty of tampering with today's high-tech cars.

Another shortcoming of current I/M tests is the inability to detect excessive evaporative emissions. Over the last several years, EPA has learned that vapors which escape from various points in the vehicle fuel system present a huge source of hydrocarbon emissions, generally greater than tailpipe exhaust. No existing I/M program is testing for these evaporative emissions.

EPA has developed two new functional tests which can determine whether vehicle evaporative emission control systems are operating properly:

- A simple pressure check to find leaks in the fuel system (e.g., bad gas cap or cracked evaporative system hose). This test is simple and cheap.
- A check of the "purge" system that removes gasoline vapors stored in the charcoal canister and routes them to the engine where they can be burned as fuel. This test is done during transient testing, that is, while the vehicle is in a driving mode. The purge system does not operate during idle.

With these issues in mind, EPA is proposing in today's action, as part of the enhanced I/M program, a high-tech emissions test for today's high-tech cars. The test simulates actual driving and allows accurate measurement of tailpipe emissions and evaporative system purge. It can also accurately measure NO_x emissions. This is especially useful in states where NO_x control is important to address the ozone problem. The test reliably identifies vehicles needing repair.

The high-tech test is so effective that biennial test programs yield almost the same emission reduction benefits as annual programs. In EPA's research, doing the test right has proved much more important than doing it often.

The equipment required for high-tech testing costs about $140,000 per lane (although that estimate may be high), versus $15,000 to $40,000 for today's idle test equipment. The total test time (i.e., the time it takes from when you enter the lane until you leave) is also longer, 10 to 15 minutes versus about five minutes for today's test. But this does not have to translate to higher costs for drivers.

EPA estimates that a high-tech test in a high-volume system will cost about $17 per car, including oversight and administration costs. On a biennial basis though, the cost drops to about $9 per year. That is in line with the average cost of today's programs and is cheaper than many (today's average costs are about $18 for decentralized programs and about $8 for centralized programs). As with today's programs, there is also a cost to repair failed vehicles. But good diagnostics will make repairs efficient, and fuel economy savings of 7 to 13 percent that result from the repairs will largely offset these costs. In addition, manufacturer-provided warranties will cover the cost of repair for some vehicle owners.

Centralized tests are run by states or by a single contractor in an area, while decentralized tests are run by small businesses in the city. High tech I/M testing can be done by independent, small businesses. Of course, since the testing equipment is more expensive, we would expect fewer, higher volume, test-only stations. Some such independent, high volume, test-only stations are now operating in several states (e.g., Texas and California). Regardless of whether the testing is decentralized or centralized, good quality control and enforcement are critical for a fair, effective program.

High-tech I/M is at least three times more effective than even the better-designed and well-run of today's I/M programs and remains much better even if evaporative system pressure checks are added to these existing, better programs. This high-tech program is so effective that it can be performed biennially, cutting testing costs and consumer time in half, while losing only about 3 percentage points of emission reductions.

As mentioned earlier, states with the most polluted cities are facing a Clean Air Act mandate to reduce overall emissions 24 percent by 2000. Effective high-tech I/M programs can make an enormous contribution toward this goal.

Not only is high-tech I/M one of the most effective air pollution control programs we know of, it's also the most cost effective. At $500 per ton on a biennial basis (excluding convenience costs), high-tech I/M is seven times more cost effective than more stringent new car tailpipe standards and at least 10 times more cost effective than additional controls beyond reasonably available control technology (RACT) on small and large industrial sources. It is cost effective even if no value is given to the CO and NO_x reductions obtained. Biennial testing will effectively cut inconvenience costs in half from what they are in I/M programs today. If one assumes an inconvenience cost of $15 per motorist (based on 45 minutes of total time to drive to the station get a test and drive back, and a value of $20 per hour) high-tech I/M is still very cost effective, at $1,600 per ton.

To summarize, high-tech I/M provides many benefits:

- 28 percent reduction in vehicle VOC emissions plus 30 percent reduction in vehicle CO emissions, and 9 percent reduction in vehicle NO_x emissions.
- Cost of $500 per ton, ten times less than most other options (excluding convenience costs).
- Biennial testing with less hassle and lower testing costs for car owners (resulting in an annual cost similar to or lower than today's norm).
- Fuel savings to help offset repair costs.
- A big step toward the minimum 24% overall VOC reduction required for the most polluted cities by 2000 and more room for industrial and vehicle miles travelled growth.

EPA's conclusions about the effectiveness and cost effectiveness of various I/M options are based on nearly 15 years of experience with I/M, along with ongoing research on a wide variety of mobile source emission control programs and technologies.

EPA is proposing today to establish performance standards (benchmark or model programs) for basic and enhanced I/M programs and to establish other requirements related to the design and implementation of I/M programs. The performance standard for basic I/M programs is proposed to remain the same as it has been since initial I/M policy was established in 1978, pursuant to the 1977 amendments to the Clean Air Act. The proposed performance standard for enhanced I/M programs is based on high-tech tests for new technology vehicles (i.e., those with closed-loop control and, especially, fuel-injected engines), including a transient loaded exhaust short test incorporating hydrocarbon (HC), carbon monoxide (CO), and oxides of nitrogen (NO_x) cutpoints, an evaporative system integrity (pressure) test and an evaporative system performance (purge) test. Today's proposal also details various requirements for design and implementation of all I/M programs. These include improved enforcement, quality assurance, quality control, test procedures, on-road testing, and other aspects of the program. Some of these requirements apply to both basic and enhanced programs, and some to only enhanced programs. EPA also proposes in today's action to repeal appendix N, part 51, chapter I, title 40 of the Code of Federal Regulations, which contains obsolete provisions that have not been applied by EPA since the 1970s.

III. Authority

Authority for the actions proposed in this notice is granted to EPA by section 182(a), 182(b), 182(c), 184(b), 187(a) and 118 of the Clean Air Act as amended (42 U.S.C. 7401 et seq.)

IV. Background of Proposed Rule

A. Clean Air Act Amendments of 1990

The Environmental Protection Agency (EPA) has had oversight and policy development responsibility for I/M programs since the passage of the Clean Air Act in 1970, which included I/M as an option for improving air quality. With the passage of the Clean Air Act Amendments of 1977, I/M was mandated for areas with long term air quality problems. EPA first established policy for I/M programs in 1978; this policy addressed the elements to be included in State Implementation Plan (SIP) revisions, minimum emission reduction requirements, administrative requirements, and schedules for implementation. Existing policy falls short of today's I/M program needs, however, due to the increasing sophistication of the vehicle fleet, advances in vehicle testing technology, and failure of established policy to keep pace with growing knowledge about actual program design and implementation.

Congress recognized this gap when developing the Clean Air Act Amendments of 1990, which gives EPA and the States some specific directives with regard to I/M programs. EPA must develop different performance standards for "basic" and "enhanced" I/M programs; enhanced I/M is required by the Act in areas with the worst air quality problems and in the Northeast Ozone Transport Region. The performance standard is the minimum amount of emission reductions, based on a model or benchmark program design, which a program must achieve. In addition to the performance standard, the Act directs EPA to address requirements for specific design elements and program implementation in both basic and enhanced programs.

Section 182(a)(2)(B) states that, within one year of enactment, the Administrator shall review, revise, update, and republish in the **Federal Register** the guidance for the States for motor vehicle inspection and maintenance programs required by this Act, taking into consideration the Administrator's investigations and audits of such programs. The guidance shall, at a minimum, cover the frequency of inspections, the types of vehicles to be inspected (which shall include leased vehicles that are registered in the nonattainment area), vehicle maintenance by owners and operators, audits by the State, the test method and measures, including whether centralized or decentralized, inspection methods and procedures, quality of inspection, components covered, assurance that vehicles subject to a recall notice from a manufacturer have complied with that notice, and effective implementation and enforcement, including ensuring that any retesting of a vehicle after a failure shall include proof of corrective

action and providing for denial of vehicle registration in the case of tampering or misfueling. The guidance which shall be incorporated in the applicable State implementation plans by the States shall provide the States with continued reasonable flexibility to fashion effective, reasonable, and fair programs for the affected consumer.

Section 182(c)(3) requires guidance for enhanced I/M which includes a performance standard achievable by a [model or benchmark] program combining emission testing, including on-road emission testing, with inspection to detect tampering with emission control devices and misfueling for all light-duty vehicles and all light-duty trucks subject to standards under section 202; and program administration features necessary to reasonably assure that adequate management resources, tools, and practices are in place to attain and maintain the performance standard.

The concept of a performance standard provides state flexibility, as long as the numerical goal for emission reductions is attained. A State may choose to vary any of the design elements (except those required by the Act) of the model program provided the overall effectiveness is at least as great as the performance standard.

The Act further specifies that each enhanced I/M program shall include, at minimum, computerized emission analyzers, on-road testing devices, denial of waivers for warranted vehicles or repairs related to tampering, a $450 expenditure to qualify for waivers for emissions-related repairs not covered by warranty, enforcement through registration denial unless an existing program with a different mechanism can be demonstrated to have greater effectiveness, annual inspection unless a State can demonstrate that less frequent testing is equally effective, centralized testing unless the State can demonstrate that decentralized testing is equally effective, and inspection of the emission control diagnostic system. These are required design elements of each enhanced I/M program, not merely of the model or benchmark program. In addition, each enhanced I/M State must biennially submit to EPA a comprehensive evaluation of program effectiveness including an assessment of emission reductions achieved by the program. Enhanced I/M must achieve minimum reductions in HC (or volatile organic compound (VOC)) emissions and in NO_x emissions from vehicles in the affected ozone nonattainment areas, and reduction in CO emissions in the affected CO nonattainment areas; the programs must be "in effect" two years from enactment and must comply in all respects with this rule.

B. Guidance Versus Regulation

In its relations with States under title I of the Act, EPA conventionally uses the term "guidance" to mean informational or interpretive policy adopted apart from notice and comment rulemaking, and lacking a fully binding legal effect. Section 182(a)(2)(B)(ii) requires EPA to issue "guidance" for I/M programs. Section 182(c)(3)(B) requires, however, that state enhanced I/M programs "comply in all respects" with EPA's guidance. Further, "such guidance shall include—(i) a performance standard." EPA interprets this language as requiring EPA, under Section 182(c) and the Administrative Procedures Act, to establish a binding performance standard with which States must comply when designing and implementing I/M programs. This type of binding standard can only be imposed through notice and comment rulemaking. See *PPG Industries* v. *Costle*, 659 F.2d 1239 (D.C. Cir. 1981), holding that EPA violated the Administrative Procedures Act by requiring continuous sulphur dioxide compliance monitoring through guidance without first providing public notice and opportunity for comment. Consequently, EPA today proposes to promulgate regulations defining the performance standard for enhanced I/M programs, and all of the characteristics of an approvable state enhanced I/M program to meet that performance standard.

As discussed earlier, section 182(a)(2)(B) similarly requires EPA to publish "guidance" addressing numerous aspects of basic I/M programs, and also requires states to incorporate the guidance into their SIPs. One interpretation of this requirement would be that EPA could merely publish nonbinding guidance on basic I/M programs. States could then incorporate the guidance into I/M programs by simply addressing the various aspects of the program described in EPA's guidance. Under this approach, states would not be bound to address such aspects in any specific manner. Alternatively, EPA could adopt binding regulations for basic I/M programs as well. Although this is not required by Section 182, EPA has the authority under that section and Section 301 of the Act to promulgate regulations as necessary to implement the statute. The experience over the last 15 years has shown that the lack of federal minimum requirements has led to less than fully effective I/M programs. This problem is discussed in great detail later in this preamble. EPA's Inspector General and the General Accounting Office have both cited the lack of regulations as a primary cause for the operating problems in existing I/M programs. These problems include ineffective testing, poor quality control, inadequate quality assurance, and weak enforcement. While EPA has been diligent about alerting the states to these problems when they are found during audits of operating I/M programs, the response on the part of these agencies has been constrained by resources and legal authority, and has been inadequate to solve the problems, especially in test-and-repair networks. EPA believes the only way to insure that states will implement effective and cost-effective programs is to promulgate binding regulations.

V. Discussion of Major Issues

A. Development of New I/M Tests

Studies conducted by EPA's Office of Mobile Sources, at the National Vehicle and Fuels Emission Laboratory and elsewhere, have shown that the idle and 2500 rpm/idle short tests used in current I/M programs are not highly effective at identifying and reducing in-use emissions from the types of vehicles which now do and in the future will comprise the vehicle fleet. For pre-1981 model year passenger cars, for which the I/M tests currently in use were developed and proven, idle testing worked well; typical problems involved rich air-fuel mixtures that affected idle as well as on-the-road emissions. Today's high-tech cars with sensors and computers that continuously adjust engine operations are most effectively tested with procedures that include cycles of acceleration and deceleration under loaded conditions.

EPA has developed a transient short test, also called the IM240 exhaust test, which more closely reflects how vehicles perform under actual driving conditions than do current idle, 2500 rpm/idle, or loaded steady-state emission tests. The transient test more accurately identifies high emitting vehicles, and provides greater assurance of effective repair. The transient test involves a brief driving cycle which is based upon the Federal Test Procedure (FTP), the driving cycle by which new vehicles are certified. This test is similar to the loaded, steady-state tests used in some I/M programs today, but differs in that emissions are measured during acceleration and deceleration of the vehicle. While no I/M program is currently running this test on a production basis, EPA believes there is no significant practical or technical impediment to wide-scale application of

the test. The transient test also allows accurate emission testing for NO_x (see detailed discussion in the next section). By its nature, the transient test precludes test-defeating strategies that have been observed in I/M programs (e.g., holding down the accelerator pedal slightly during an idle test or disconnecting or crimping vacuum hoses to effect a passing result at idle or other steady-state condition). Such strategies may work with a steady-state test but would generally increase emissions of at least one pollutant on the transient test. As described in detail below, the enhanced I/M performance standard being proposed today assumes use of the transient test.

The performance standard being proposed today also includes tests of the vehicle's evaporative emission control system, an important source of pollutants which is not currently being effectively tested, though some current programs include a visual inspection for canister and gas cap presence. In fact, evaporative emissions rates today are often higher than excess tailpipe emissions. This is not a problem that has arisen on only newer vehicles, but rather its magnitude has only recently been realized through EPA testing. Two new functional tests are proposed to address this problem. The Evaporative System Integrity Test (hereafter referred to as the pressure test) checks whether the system has any leaks, and the Evaporative Performance Test (hereafter referred to as the purge test) checks whether captured fuel vapor is correctly removed from the canister and delivered to the engine during vehicle operation.

Significantly greater emission reductions can be gained through the transient, purge and pressure tests, due to higher identification rates of polluting vehicles and greater assurance of effective repair. Transient, purge and pressure testing may be performed in either centralized or decentralized inspection networks, although the cost per test will vary according to the throughput of vehicles in a station.

The transient test and the evaporative system checks being proposed in today's action represent EPA's best technical judgment on obtaining emission reductions from in-use motor vehicles. Nevertheless, some have suggested that alternative test procedures could conceivably achieve similar emission reductions, possibly at a lower cost. EPA is open to such alternatives and states may seek approval of alternative tests, contingent upon the state demonstrating to EPA that such alternatives are as effective as EPA's recommended tests and thus will achieve the performance standards. In addition to being effective at identifying vehicles for repair and assuring their repair, alternative tests cannot be accepted unless they maintain a low false failure rate similar to EPA's recommended tests and are similarly resistant to test-defeating strategies. It is of critical importance to consumers, motor vehicle manufacturers, EPA, and the States, that any tests employed in an I/M program be accurate, reliable, fair and effective.

One alternative test procedure, a loaded, steady-state purge test, has been of particular interest to several states. EPA staff developed a transient purge test instead of a steady-state test because our best engineering judgment suggests that steady-state purge testing would result in lower emission reduction benefits as well as a higher false failure rate and unnecessary consumer costs. This stems from the fact that purge strategies on high-tech vehicles vary considerably.

A loaded steady-state test has also been suggested as an alternative to the transient exhaust emission test. EPA's mobile source emission factor model includes emission reduction credits for this test for VOC and CO emission reductions. As mentioned above and discussed in detail in the next section, the Clean Air Act requires that enhanced I/M programs in ozone nonattainment areas achieve reductions in NO_x emissions as well. EPA has found that NO_x emission testing (as opposed to visual inspection of emission control devices—is essential for significant NO_x emission reductions. Steady-state loaded testing may identify some high NO_x emitters, and EPA will approve alternative test procedures submitted by states if well supported by data that show they accomplish the objectives stated above and meet the requirements for I/M tests in Section 207(b) of the Clean Air Act. Also, in the section below discussing the enhanced I/M performance standard, EPA requests comments on a model program that would incorporate steady-state tests.

B. Basic I/M Performance Standard

In today's section, EPA is proposing a model program for basic I/M areas that is unchanged from that required pursuant to the Clean Air Act as amended in 1977, and the policy that was in effect prior to enactment of the 1990 Amendments. This performance standard is based on the original I/M program that was operating in New Jersey in the earlier 1970s (see section C. for an explanation of the performance standard concept). The New Jersey program tested only light-duty passenger cars using a simple idle test. Since that time, light-duty trucks have become a significant part of the fleet and are included in nearly all I/M programs, and more sophisticated steady-state tests have been developed and used in I/M programs to improve the emission reduction performance. The basic I/M performance standard requires about a 5% reduction in highway mobile source VOC emissions. The most stringent I/M program can achieve an emission reduction of over 30%. EPA requests public comment on whether the basic I/M performance standard should be strengthened to require additional emission reductions, including whether high-tech tests should be required in basic I/M programs. EPA also requests comment on whether the basic performance standard should be revised to better reflect typical program operation in terms of waivers, compliance and the inclusion of light-duty trucks. Emission reductions from basic I/M programs that exceed those required can be used as offsets for other pollution control efforts.

C. Enhanced I/M Performance Standard

In today's action, EPA is proposing a "model" program for enhanced I/M areas, defined below as a specific set of program elements. It is estimated that a typical urban area adopting the model program described below will experience a 28% reduction in emissions of VOCs, a 31% reduction in CO emissions, and a 9% reduction in NO_x emissions from highway mobile sources by 2000 when compared to what the area would experience without an I/M program. This estimate is based on EPA's most current mobile source emission factor model (MOBILE4.1) and is for illustrative purposes only. As described below, a state will have to use the most current version of EPA's mobile source emission factor model available at the time of SIP submission to demonstrate its program will reduce VOC, NOx, and/or CO emissions to levels that are equal to or less than those that would be achieved by the "model" program. In other words, the performance standard relates to emissions remaining in the fleet in a given year after application of the I/M program (and other strategies) not to reductions from a hypothetical non-I/M baseline. The pollutants for which a performance standard will apply depends upon the air quality classifications of the area, i.e., whether it is nonattainment for ozone, CO, or both. Since the Act requires a NO_x performance standard, inspection

standards for NO_x emissions must be established in enhanced I/M ozone nonattainment areas and in ozone transport regions. If the Administrator finds, under section 182(b)(1)(A)(1) of the Act pertaining to reasonable further progress demonstrations or section 182(f)(1) of the Act pertaining to provisions for major stationary sources, that NO_x emission reductions are not beneficial in a given ozone nonattainment area, then EPA proposes to allow a waiver of the NO_x performance standard requirement for enhanced I/M. EPA believes that a waiver would be appropriate in such areas because it would be unreasonable to require NOx reductions where they would not be beneficial. Although Section 182(c)(3) does not explicitly provide for such a waiver, EPA believes that Congress would not have intended to require NOx reductions where it would serve no purpose or be counterproductive. However, in light of the fact that the statute does not explicitly provide for such an exemption, EPA requests comment on the legality of providing an exemption under these circumstances.

Section 182(b)(1)(A)(i) of the Act requires moderate ozone nonattainment areas to show "reasonable further progress" in achieving emission reductions (later sections of the Act require serious and worse areas to do the same). A 15% reduction in VOC emissions is required by November 15, 1996, the date by which these areas are required to attain the standard. In addition to this requirement, serious or worse ozone nonattainment areas are required under section 182(c)(2) of the Act to provide for an additional 3% reduction each year after 1996 (averaged over each 3 year period after that year). That section also sets milestones of every three years after 1996 for states to demonstrate these reductions are actually occurring. Thus, serious ozone areas must achieve a total of a 24% reduction by November 15, 1999, and severe and extreme areas must continue to obtain a 3% per year reduction after 1999 until the relevant attainment date. Moderate CO areas are required to meet the ambient standards by December 31, 1995 and serious CO areas are required to attain by Decemer 31, 2000. EPA proposes in today's action to set these attainment and progress requirement dates as milestones for states to meet in designing and implementing the I/M program. In other words, a state's preferred I/M program must match the emission levels of the "model" program on each of these milestone dates, except as provided below.

In designing an I/M program to meet the emission targets for all of the milestones that apply, each affected area must determine the local emission levels predicted for the model program on these milestone dates. This is accomplished by selecting in the emission factor model all non-I/M inputs, (i.e., fleet size, fleet composition, ambient temperature, traffic speeds, fuel volatility, fuel reformulation, etc.) to reflect actual, local conditions and evaluating the resulting emission levels, on each milestone date, assuming that the model I/M program is implemented. This process is then repeated with the coal I/M program design and the resulting emission levels are compared to the model program scenario. The emission factor model accounts for other mobile source strategies, such as Tier 1 vehicles, reformulated gasoline, and oxygenated fuels. To the extent that these strategies will reduce emission factors, the model program/performance standard approach automatically accounts for these changes and for updated versions of the model. Once derived, the locally specific emission levels then become the emission targets which the enhanced I/M program areas must achieve or surpass for SIP approval.

Moderate ozone nonattainment areas must meet an emission reduction target for the basic I/M program by November 15, 1996. Serious or worse ozone areas that have to implement enhanced I/M are not required to meet an emission target by November 15, 1996, but they are required to meet various program phase-in schedules (see Implemenation Deadlines). These areas must meet the target on November 15, 1999. Severe and extreme ozone areas will also have to demonstrate that emission targets are being met both by November 15, 1999 and every three years after November 15, 1999 until the attainment date. In CO nonattainment areas, moderate enhanced areas must also meet the same phase-in requirements as enhanced ozone areas and serious CO areas must meet the emission reduction target by December 31, 2000.

The benefit of the model enhanced program has been expressed as a certain quantity of total mobile source VOC emissions, because it better reflects the impact that an effective I/M program can have across the full range of vehicle types and emissions sources. It also relates more closely to the emission reduction goals that nonattainment areas will be pursuing to meet attainment and reasonable further progress milestones.

This way of expressing the performance standard deserves some explanation, however, because the minimum benefit from a basic I/M program has often been expresed in the past as a 25 percent reduction in 1987 exhaust emissions from light-duty vehicles. The similarity between the previous 25 percent VOC reduction target for existing I/M programs and the new illustrative reduction of 28 percent for enhanced programs may cause some confusion. The previous 25 percent reduction figure is relative to a no-I/M baseline that only includes exhaust emissions from light-duty vehicles (passenger cars); the baseline does not include exhaust emissions from light-duty trucks or evaporative emissions from any vehicle category. Expressing the exhaust and evaporative emission reductions from enhanced I/M in terms of reductions in light-duty vehicle exhaust emission yields a benefit of 140 percent for VOCs, 62 percent for CO, and 32 percent for NO_x (note that the VOC reduction is greater than 100 percent because exhaust and evaporative emission reductions from light-duty vehicles and light-duty trucks are being compared to light-duty vehicle exhaust-only emission levels).

In proposing the performance standard for enhanced programs, EPA considered a variety of options for specifying the "model" program which in turn establishes the minimum emission reduction requirement. In recent public meetings, EPA has included low, medium, and high options in the discussion of performance standards. In today's action, a high option program is being proposed for the enhanced I/M performance standard; however, EPA requests public comment on the low and medium options as well. Should public comment lead EPA to conclude that the low or medium option, or a somewhat different high option, would be more appropriate, EPA could proceed directly to final rulemaking on the components of this proposal that reflect those options.

The low, medium, and high options take an incremental approach to advanced technology testing, as did the four earlier options for the enhanced I/M performance standard which were included in the draft guidance document released in April, 1991. The low option is similar to the better programs currently operating pursuant to the 1977 amendments to the Clean Air Act, and yields a 10 percent reduction in highway mobile source VOCs and a 25 percent reduction in highway mobile source CO relative to a non-I/M baseline. The low option, as well as the medium option

discussed next, does not yield a net NO_x emission reduction and these programs could in fact result in an increase in NO_x emissions from in-use motor vehicles (actually, a return to design levels) as a side effect of repairs related to HC and CO failures. This subject is discussed in more detail at the end of this section. The medium option includes pressure testing of the evaporative system in addition to the elements included in the low option, and yields a 20 percent reduction in VOCs and a 25 percent reduction in CO relative to a non-I/M baseline (note that pressure testing is a VOC strategy that yields no CO benefit, making the low and medium options identical for CO). Finally, the high option includes a transient, mass-based, short test incorporating HC, CO, and NO_x cutpoints, and both purge and pressure testing of the evaporative control system. The high option yields a 28 percent reduction in VOCs, a 31 percent reduction in CO, and a 9 percent reduction in No_x relative to a non-I/M baseline. More detailed information about the low and medium options can be found in the technical support document.[1]

Recent testing on five (5) low mileage 1992 model year vehicles by ARCO indicates that a heavy-load, steady-state test may identify excess NO_x emissions and may effectively test for evaporative system purge. ARCO suggests an equipment package consisting of a single power absorption curve dynamometer with no inertia simulation capability, a raw exhaust, concentration-type emission analyzer, and a mass flow measuring device. ARCO has not specified a specific flow measuring device and has suggested that its testing indicates that mass flow measurement may not be essential since an approximation can be made on the basis of engine size and dynamometer power absorption setting. This equipment may be substantially less expensive than the transient test equipment, which could in turn lead to a more cost-effective program, if the emission reduction benefits of the test were found to be comparable. However, a more complete test program will be necessary to assess the effectiveness of the procedure and the equipment arrangement ARCO suggests. The California Air Resources Board is testing this procedure and EPA plans to do so as well. EPA has expanded the test contract in the Arizona I/M program to include evaluation of the ARCO test. The program will be similar to that used for evaluating the IM240, where vehicles coming to the station for a regular I/M test will also be given an ARCO test and an IM240. EPA also plans to evaluate the performance of the test in ensuring adequate repairs.

If EPA concludes that the ARCO procedure is as effective as the IM240 procedure proposed here, the final rule will approve its use as a substitute. Moreover, if the ARCO procedure is somewhat less effective in obtaining emission reductions than the IM240, then EPA will consider the incremental loss in emission reductions, incremental cost difference and the cost-effectiveness of the proposed performance standard in relation to a less stringent performance standard that could be met by the test suggested by ARCO.

To assist it in consideration of this test procedure issue, EPA requests comment and any available test date regarding the feasibility and potential effectiveness of an inspection comprised of steady-state exhaust and steady-state purge tests in a test-only network. It has been suggested that the benefit of such an approach falls somewhere between the medium and high options. EPA believes that it could establish such a performance standard provided the program does produce some NO_x reduction. A variant of this approach would be to combine a steady-state exhaust test, with a transient purge test. EPA requests comments and data on both of the two important aspects of inspection test effectiveness: identification of high emitting vehicles and enforcement of effective repairs. A steady-state loaded emission test might identify high emitters with a success rate of the same magnitude as the transient emission test. However, recent data collected by EPA indicate that the repair enforcement effectiveness assumptions associated with the two-speed and idle tests, and by implication and steady-state test, may be too high and may need to be adjusted.

Although this proposal specifically requests comment on the steady-state test, EPA plans to continue to evaluate the full range of I/M procedures even after issuing a final rule under this proposal, including the IM240 in a test-only format in actual I/M program settings, and, from time to time, will propose any changes to the emission factor model needed to accurately reflect the benefit of I/M on the current fleet.

Section 182(c)(3)(B) requires EPA to establish a performance standard for enhanced I/M programs, but does not specify the level of that performance standard. Both § 182(c)(3)(B) and § (c)(3)(C) provide statutory requirements that enhanced I/M programs must meet, thus establishing a minimum baseline for any performance standard EPA may promulgate. However, beyond that minimum, EPA believes that the statute gives EPA the discretion to establish whatever performance standard it concludes is reasonable and appropriate to produce cost-effective emission reductions while providing for state flexibility in program design and implementation.

The model program for enhanced I/M which EPA is proposing in today's action includes annual, centralized testing of 1968 and later model year light-duty vehicles and light-duty trucks rated up to 8500 pounds gross vehicle weight. It includes the transient IM240 exhaust emission test and the transient purge test on 1986 and later model year vehicles, pressure testing on 1983 and later model year vehicles, two-speed exhaust testing of 1981–1985 model year vehicles, and idle exhaust testing of pre-1981 model year vehicles. The inspection cut points in the model program have been selected to fail vehicles emitting well above (at least twice) their design standards, without failing vehicles that are properly operating.

The Act requires EPA to establish a performance standard based on an annual test program; it should be noted, however, that EPA strongly recommends that states implement biennial test programs that meet the required demonstration, described below. Biennial testing dramatically reduces both the test costs and consumer inconvenience of the I/M program. The Act allows for states to perform a biennial program if a demonstration can be made that such a program (alone or in combination with other features) would be equally effective. This demonstration shall be made using EPA's mobile source emission model which includes biennial and annual program credits. For example, using the current version of the emission factor model and assuming the same average characteristics stated earlier for the annual model program, a biennial program can achieve the 28% VOC reduction achieved by the annual model program by doing transient/purge testing on 1984 and later vehicles and pressure testing on 1971 and later vehicles, in addition to the tests in the model program. Given the added convenience and cost effectiveness of a biennial program, EPA recommends that states adopt the biennial high option since it clearly can achieve reductions equal to that of an annual program

[1] The technical support document is entitled Inspection and Maintenance Costs, Benefits, and Impacts and is included in the docket.

meeting the Act's requirements at a significantly lower cost to the consumers and state government. In addition, initial testing of new vehicles could be delayed until such vehicles are two or three years old, as the percentage of high emitting vehicles among newer cars is relatively small, thus avoiding the cost of testing such vehicles. It should be noted, however, that such a delay would result in less opportunity to make use of the comprehensive performance warranty coverage provided by the Clean Air Act for 2 years and 24,000 miles, although major specified emission control components would still be covered until 8 years and 80,000 miles.

The annual model program also includes a visual inspection of the catalyst and fuel inlet restrictor on 1984 and later vehicles; it should be noted, however, that the transient short test is capable of identifying vehicles that have important emission control components that are missing, disconnected, or inoperative, making a visual check unnecessary. Thus a program can be easily designed to meet the performance standard without employing visual checks, provided sufficient model years are covered by the transient test requirement. States may opt to conduct a visual check on vehicles that fail the tailpipe test for diagnosis or waiver purposes.

The waiver rate for the model program is set at 1% of failed vehicles because enhanced I/M programs may issue cost waivers only after a minimum expenditure of $450, adjusted for inflation, and only with careful administration of the waiver issuance process. Only a small percentage of vehicles failing the inspection are expected to be unrepairable within the $450 waiver cost expenditure requirement. The model program also assumes a high compliance rate of 98% because enhanced programs must adopt registration denial enforcement systems (unless a currently operating alternative system can be shown to be equally effective), and because today's proposal includes quality control and quality assurance requirements to maintain high compliance rates. It is EPA's belief that the states' pre-existing and vested interest in assuring comprehensive and current registration of on-road motor vehicles will support a registration denial enforcement system which can assure a high rate of compliance with inspection requirements.

EPA is requesting comment on whether the assumptions being used in the model program for waiver rate, compliance rate, stringency of emission standards, model year coverage of the various tests, and the like are appropriate. It should be noted that while some programs have excellent enforcement and others have few or no waivers, no existing I/M program currently achieves both a 98% compliance rate and a 2% waiver rate. Likewise, many I/M programs currently cover heavier trucks and more model years of vehicles than the proposed model program.

EPA is proposing in today's action, both in terms of design as well as performance, that enhanced I/M programs must include on-road testing of at least 0.5% of the subject vehicle population, in addition to the normal I/M test, to supplement the periodic inspection requirement. EPA believes this is a feasible first effort for I/M programs and may revise the on-road testing requirement as more experience and knowledge are gained regarding the potential of this approach. This effort could be accomplished through the use of remote sensing devices or through a pullover program that includes emission measurement. Remote sensing devices are emission detection instruments that can be used to estimate emissions from vehicles during operation on city streets. EPA and other organizations have performed evaluation studies that indicate that remote sensing technology is capable of accurately measuring instantaneous CO emissions. Recently, studies by the California Air Resources Board and others indicate that the accuracy of remote sensing devices for measuring hydrocarbon emissions, although, at present less accurate than for CO, is within a practical range for use in roadside monitoring. Development work continues, however, on improving the HC analyzer and on the technology and methods for measuring NO_x emissions (as yet unavailable). EPA believes that remote sensing shows promise as a roadside screening and surveillance tool for use in supplementing periodic inspections, but does not propose that it replace these inspections. A more detailed discussion of this technology is included in the technical support document. EPA requests comments that provide data and experiences with the use of these devices and other technologies that may be useful for on-road testing.

Like on-road testing, onboard diagnostic (OBD) checks (which are discussed further in section IX of this preamble) must be made part of the "model" program and I/M programs must include testing of the vehicle's OBD system once vehicles equipped to meet federal OBD standards are old enough to be scheduled for inspection. EPA will promulgate rules specifying when OBD testing must begin and what OBD codes are grounds for failure and how codes are to be obtained from the OBD system.

Emission reduction credits have not yet been established in EPA's emission factor model for either OBD or on-road testing. EPA's emission factor model will be revised when sufficient data are available with which to establish credits and, in particular, when experience is gained in on-road testing. Meanwhile, since on-road testing and OBD inspections are both performance standard elements and specifically required components of the program, they neither can generate nor make use of emission reduction surpluses relative to the performance standard, i.e., they are not substitutes for achieving required emission reductions but rather supplements.

Today's action also proposes that owners of vehicles in enhanced I/M areas that are subject to EPA ordered or voluntary emissions recalls be required to have recalls completed as part of either the inspection process or the registration process, whichever approach the state chooses. Manufacturers will be required to provide EPA with a list of vehicles that are included in the recalls, as well as updated lists of vehicles that have had the recalls completed. These manufacturer-related requirements will be the subject of a separate rulemaking.

Today's notice is proposing for the first time an I/M performance standard for reducing NO_x emissions from in-use motor vehicles in the more serious ozone nonattainment areas. Historically, I/M programs have been designed to reduce only emissions of VOCs and CO (and exhaust opacity in some areas). The Agency has not previously addressed in a formal way the test procedures and standards which would be necessary to identify high NO_x emitting vehicles or the repairs which would be necessary to return them to lower NO_x emission levels. Today's proposal addresses NO_x reductions because they are required under section 182(c)(3)(A) of the Act for enhanced I/M areas, and because the testing technology has evolved to the point where the Agency feels that a NO_x test on in-use vehicles can effectively be implemented in the field. NO_x testing is also included because it is viewed as increasingly important for ozone attainment. Mobile sources contribute between 30% and 50% of the NO_x emissions in the typical U.S. city.

In-use vehicle emission levels of NO_x have not exceeded new car standards to the degree they have for HC and CO. High NO_x emitters do exist, but not in as great a number nor with as high a magnitude as HC and CO emitters. Of course, this refers to vehicles built to a federal NO_x standard of 1.0 gram per mile for light-duty vehicles. It may be that in-use compliance figures will be worse for cars which are designed to the new NO_x standard of 0.4 grams per mile. In-use data from California would indicate that this is likely.

Measurement of NO_x exhaust emissions requires that a vehicle be driven under load, a procedure which requires a dynamometer. Steady-state loaded testing may identify some of the high emitters, but EPA has found that the transient test proposed for HC and CO measurements is also very effective in identifying vehicles that need NO_x-related repairs.

The California I/M program currently requires a functional inspection of the exhaust gas recirculation (EGR) valve for proper connection. While such inspections should conceivably reduce EGR tampering and identify vehicles with NO_x problems the EGR inspection in California is performed incorrectly more often than the inspection of other emission control components. Statistics from covert audits show that inspectors miss disconnected EGR valves very frequently, and EPA's tampering surveys currently indicate no difference in the rate of EGR tampering between areas which required EGR inspections and those which do not. In enhanced I/M areas, the tailpipe emission test for NO_x will provide for and exceed the reductions the functional check was intended to achieve.

Due to the practical problems with visual or functional EGR inspections, and the lack of historical data which show a benefit, EPA does not include emission reduction credits for EGR inspections in its mobile source emission factor model. A small amount of NO_x reduction is assumed where a program is successful in deterring tampering with three-way catalysts, or finding and fixing existing three-way catalyst tampering. The emission factor model in the past has not addressed the fact that repairs which are aimed at getting vehicles to pass an idle mode retest for HC and/or CO can often cause an increase in a vehicle's NO_x emissions. This "increase" is really a return to the design NO_x emission level, which typically is depressed somewhat by many malfunctions which cause high HC or CO. Repairs to correct HC or CO failures would not generally cause NO_x emissions to increase beyond certification levels.

EPA has included in its study of transient testing for I/M some analysis of potential NO_x cutpoints and of the costs and effectiveness of identifying and repairing high NO_x emitters (as well as assuring that the vehicles which initially fail for HC or CO do not get only repairs which further sacrifice NO_x levels). The test results are included in the technical support document. The current version of the mobile source emission factor model will be modified to properly account for the effect of HC and CO repairs on NO_x emissions in idle mode programs and the impact of including a NO_x component in the transient exhaust test. As noted earlier, the emission reduction from performing a transient test for NO_x, accounting for the increase associated with HC and CO repairs, is about 9% of total highway mobile source NO_x emissions. The cost of NO_x testing is discussed below in the section on Economic Impact.

Finally, it should be emphasized that today's action sets a minimum performance target for I/M programs which states are free to exceed. Additional emission reduction benefits over those required may be candidates for trading. EPA plans to issue guidance in the near future on trading of emission credits between mobile sources and stationary sources. EPA requests comments on innovative ways in which a state may utilize such emission credits trading to improve the overall effectiveness of its I/M program, for example, by instituting programs to facilitate the proper repair of failing autos.

D. Inspection Network Types

Two basic types of inspection networks have existed since the inception of I/M programs. A "centralized" network consists of inspection and retest at high-volume, multi-lane, usually highly automated, test-only stations, run by either a government agency or a single contractor within a defined area. A "decentralized" network consists of inspection and retest at privately owned, licensed facilities, such as gas stations and other shops which may also do repair work. I/M program design is usually determined by elected state or local officials who establish the necessary authorizing legislation. Program management is the responsibility of a State or local motor vehicle department or environmental agency. Many program features, including the system to insure that motorists comply with the testing requirement, the system for issuing waivers, quality assurance and quality control measures, vehicle coverage, emission standards, test procedures, and public information, are influenced by network type.

Recently, other network types have been suggested as alternatives to the traditional centralized and decentralized systems. Two examples of this include medium-to-high volume, test-only stations in decentralized, multi-participant systems, and the multiple contractor system with defined territories recently implemented in the State of Florida. In the decentralized multi-participant format, the high-volume, test-only stations are involved in no other automotive-related businesses or services beyond I/M testing, and are operated as privately owned "franchises" (franchised by the implementing agency) within a decentralized program area. The stations may be individually owned or one owner may own a chain of stations. Individual stations would compete for inspection business based on price, hours, location, and the like. In the Florida case, the State established six regions (one or two counties per region) in the three metropolitan areas involved in the program and eventually awarded contracts to three separate contractors (each with a different fixed fee reflecting the differing cost of inspection in each region). These "hybrid" systems provide alternatives that address many of the quality problems historically found in traditional decentralized inspection programs, which will be discussed in the following sections, yet can provide a means for small, local business participation in an effective I/M network.

The Act addresses the choice of network type for enhanced I/M programs. Section 182(c)(3)(C) states that enhanced programs must include, at a minimum, "operation of the program on a centralized basis, unless the State demonstrates to the satisfaction of the Administrator that a decentralized program will be equally effective." EPA must establish the criteria for such a demonstration, though the Act mentions "an electronically connected testing system, [and] a licensing system * * *" as minimal elements of an approvable program. It is clear that States may meet the performance standard with private or government-run centralized systems. EPA believes that the standard can also be met with test-only, high-volume decentralized multi-participant systems or with Florida-style, test-only, multi-contractor systems. EPA invites comments on the precise definition of "test-only" in the proposed rule, in light

of the various types of automotive and non-automotive businesses that might be interested in pursuing test-only activities at the same location or at other locations. The difficult question EPA has had to address in preparing this proposal is whether the Agency can approve a traditional, test-and-repair decentralized network, and if so, under what conditions.

EPA's emission factor model for I/M programs contains a set of default assumptions reflecting the fact that decentralized test-and-repair programs have in the past been significantly less effective than centralized programs with similar design features in finding and fixing emission problems. EPA believes it could not accept any of the currently operating decentralized programs as equally effective to centralized. With these effectiveness losses, it is not possible for a decentralized test-and-repair program to meet the proposed performance standard for enhanced I/M, regardless of the test type or vehicle class coverage.

Based on past performance, EPA believes that a decentralized test-and-repair program will not achieve emission reductions equal to that of a similarly designed, enhanced, centralized program. The fundamental problems with the test-and-repair approach, especially those related to conflict of interest, have not been successfully controlled in a test-and-repair program, to date. EPA has looked for strategies that would be sufficient to equalize test-and-repair program performance. Some have suggested that better emission analyzers would solve the problem, but it is clear from the experience in programs that have already adopted such equipment that this is not an adequate solution. Similarly, a few states have also implemented rigorous quality assurance programs, but still suffer from significant levels of improper testing. Clearly, performance can be substantially improved in the extremely poorly run test-and-repair programs. Better surveillance, more rigorous enforcement, and the like will reduce the egregious levels of improper testing found in these programs. Today's action establishes requirements to help bring about these improvements. Nevertheless, EPA is not convinced that they will be sufficient to adequately address the problem. On the other hand, Section 182(c) of the Clean Air Act allows a state to make a demonstration that a decentralized (i.e., test-and-repair) program is equally effective for the purposes of meeting the enhanced I/M requirement. EPA has always believed that program effectiveness depends a great deal on the seriousness of the state's intent and not just on the content of the official procedures and program requirements. Therefore, today's action proposes to grant states the opportunity to attempt to make an enhanced, test-and-repair system achieve the performance standard.

Since the first milestone for which a performance standard applies is November 15, 1999, states may choose to make a test-and-repair system demonstration, provided they commit to switch to a test-only network and complete at least one inspection cycle prior to the milestone, if the demonstration fails to show that the performance standard will be achieved. In order to approve a SIP for an enhanced I/M area with a test-and-repair program, EPA proposes to require the SIP to contain a legally enforceable back-up program. Specifically, the SIP would have to contain legislation signed by the Governor and fully adopted rules, regulations, and procedures that require a switch to a test-only network if the evaluation program required by these regulations does not show that the test-and-repair system is adequate (see Section J.8. for further discussion of program evaluation).

An enhanced, test-and-repair program would have to be operational by July of 1994, along with an approved evaluation system. In particular, vehicles of each model year must be subject from that date to final test procedures and emission standards with which the State proposed to achieve the performance standard. By July of 1996 (or July 1995 for an annual program), the State must begin to collect mass IM240 emission test data (or equivalent) on a representative, random sample of at least 0.1% of the fleet, in the second cycle but prior to repair. To insure objectivity, participation in the evaluation program would have to be mandatory. This sample would be used to assess emission rates from the subject fleet. By no later than January of 1997, the evaluation results must show the enhanced, test-and-repair system will achieve the performance standard. If an evaluation has not shown that program effectiveness, as indicated by the emission levels being achieved, is sufficient to meet the performance standard, then the contingent legal authority in the SIP would automatically trigger the switch to a test-only system by no later than January 1, 1999 (January 1, 1998, if biennial). The test-only program would become mandatory on that date and would have to be stringent enough to achieve the emission reductions required to meet the performance standard by November 1999. In the event that the effectiveness of the test-and-repair network was sufficiently close to that of a test-only system, EPA could allow the State to close the gap with I/M program coverage or stringency changes that could be demonstrated to ensure that the performance standard would be achieved by November 1999. Such changes could include expanded model year or vehicle class coverage (if available). Another option would be to address malmaintenance in the fleet through a scrappage program. EPA requests comment on whether other measures that would directly affect the in-use vehicle emissions, sufficient to make up any short-fall in any I/M program and not otherwise required in an area, such as reformulated gasoline or inherently low polluting vehicle requirements, should also be allowed to complement the back-up program or act as a fix in test-only programs.

With regard to reasonable further progress requirements under Section 182(b)(1)(A)(i) of the Act, EPA proposes to provide credit for alternative systems, based on actual performance demonstrated.

EPA requests comments on whether the demonstration option for test-and-repair decentralized programs is consistent with the requirements of the Clean Air Act for enhanced I/M areas.

Basic I/M areas are not required to be test-only, and the performance standard is such that a reasonably comprehensive, conventional test-and-repair system can meet the target. Most basic areas must achieve the ambient air quality standards either by 1993 (marginal areas) or by 1996 (moderate areas). Given the short time frame available to upgrade and implement basic I/M programs, there is not enough time for a state to run a demonstration program in a test-and-repair format and then switch to test-only in time to improve emission reductions by the 1996 milestone. For the purposes of submitting a SIP that meets the performance standard, today's action proposes to allow an area to claim additional credit beyond the default level assigned to test-and-repair programs, if past performance can be shown to exceed default performance levels.

E. Convenience Issues

One issue consistently raised in EPA's pre-proposal discussions of I/M policy with interested parties is that of motorist convenience. I/M programs need to be accepted and supported by

the public to be successful; therefore, public inconvenience associated with I/M programs needs to be minimized. Several features of an I/M program may affect convenience. As mentioned above, test frequency is the single most significant factor influencing I/M convenience. If motorists only have to get tested every other year instead of annually, inconvenience is cut in half. Apart from test frequency, other influential features include: cost, driving distance, certainty of service, hours of operation, wait times, and necessity for multiple trips. Each of these factors can be influenced to some degree by network type, i.e., whether the program is decentralized or centralized.

Decentralized networks usually have large numbers of gas stations, car dealerships, repair shops, and similar automotive service-related businesses which are licensed by the State to perform emissions testing. Typically, there are hundreds or thousands of stations, depending on the number of vehicles subject to the I/M requirement and the size of the program. The station-to-vehicle ratio in service station based networks is typically on the order of 1 to 1,000; e.g., in the New York City metropolitan area, 4,300 stations test approximately 4,600,000 vehicles annually. Typically, less than half of licensed test stations have the repair technician expertise to repair the vehicle engine and emission controls if the vehicle fails the test. At the stations that do have an engine/emission repair capability, the vehicle very often can complete the test-repair-retest process in one trip.

In existing centralized networks, performing steady-state emission tests and tampering checks, the ratio of test lanes to annual vehicles tested is about 1 to 35,000. Typically, these test facilities are strategically sited, fully automated, and designed to handle the high volumes of vehicles seeking inspection during peak times of the test cycle without long queues. Vehicle repairs or other business besides testing is not performed or permitted. Centralized systems are operated by government agencies or, more frequently, by a contractor that wins exclusive rights to provide testing services for an entire metropolitan area or state, in a bidding process that factors in convenience, as well as price and technical competence. Convenient, contractor-run, centralized programs are currently being operated in a wide range of large and small cities and result from good network design, contractual requirements to insure convenience, and competition in the bidding process.

Centralized programs necessarily require owners of failed vehicles to make an extra trip to obtain repairs; the percentage of owners so affected ranges between 10% and 20%. Some States use a hybrid system that allows decentralized retests after the centralized initial test for vehicles that fail and need repair. This eliminates the need to go back to the central test station if a repair shop is chosen that also is licensed to test. This approach increases the administrative burden and cost of the program, as well as the potential for losing emission reductions if repairs are not performed properly.

There are potential problems that arise with convenience in both centralized and decentralized test systems. There are some centralized systems that are not convenient to the motorist. In nearly all cases, this has been in government-run centralized systems. The problem occurs as the result of a combination of factors: Inadequate numbers of stations or lanes to handle peak volumes, poor station siting, under staffing so that all lanes cannot be opened when needed, insufficient resources, and inadequate equipment and technical expertise. For the most part, these safety inspection systems, to which emission testing were later added, were put into place decades ago and were not sufficiently upgraded over the years to handle more vehicles. EPA does not recommend the creation of any other government-run systems and has in the past encouraged existing systems to consider privatization. One other case of a centralized system which was reportedly perceived as inconvenient was the centralized change-of-ownership program in the South Coast Air Basin in California. Because the program inspected only about one-sixth of the vehicle population each year, stations were sited far apart to serve wider areas, resulting in longer trip times and long waits for vehicle owners. Extensive experience in designing convenient systems has been gained since that time.

In decentralized systems, convenience problems include having to wait excessive amounts of time for a test (excessive waits also occur in poorly designed centralized programs), having to leave the vehicle behind because testing on demand is not available, being refused testing, and having to return at another time or go to another station. Decentralized stations rarely originally designed for the purposes of testing and the manual nature of many of the operations that go on in the process can result in a much longer wait time than is generally supposed.

Adequate numbers of licensed test stations have been a problem in some decentralized programs, but this is mainly a function of the limited fee that a station in these programs has been allowed to charge the motorist for doing a test. Often the test includes safety as well as emission-related inspections and, when performed correctly, these tests can take as much as 20–30 minutes. Given the rise in shop labor rates over time, doing inspections in such state programs became a money loser for good repair shops that could better spend their time on higher value services. Thus, insufficient numbers of stations signed up to do testing. In States where there is no test fee cap, such as California, there is a lower vehicle-to-station ratio, indicating that there are more suppliers willing to enter the market.

In both centralized and decentralized systems, it is possible to design and run the systems such that a high level of convenience is maintained. While convenience is often a prospective concern of residents of an area about to implement a centralized program, once operating, most vehicle owners' actual experience is satisfactory to them. A majority of motorists in a recent survey reported that testing centers were conveniently located in both centralized and decentralized networks (Riter Research, "Attitudes and Opinions Regarding Vehicle Emission Testing," conducted for the Coalition for Safer Cleaner Vehicles, September 1991). EPA encourages State and local governments to build into the program design features necessary to insure motorist convenience. EPA has traditionally left it to the States to address these issues. Today's proposal includes specific recommendations to address convenience issues, but because of its importance, EPA is requesting comment on whether the I/M regulation should specify mandatory program design features that would help insure that convenient testing systems are established. For example, in high-volume test systems, EPA recommends and in the final rule could require that contracts include minimum design features for station siting such that 80% of all motorists are within 5 miles of a test facility, and 95% are within 12 miles of a test facility. Contracts should also include operational features that insure service delivery, including a provision that when there are more than 4 vehicles in a queue waiting to be tested, spare lanes be opened and additional staff employed to reduce wait times. Another feature of high-volume systems should be hot lines that motorists can call and

get information on station locations, hours of operation, current wait times and the like.

Another motorist convenience issue is the fact that in test-only networks motorists must go to separate facilities for tests and repairs. The next section discusses variety of approaches to encourage that repair facilities provide customers with the most convenient service possible, including taking the vehicle for initial testing and, if it fails, back to the test center for the retest after repairs. Included in this discussion are proposals to allow repair facilities to obtain free retests for their customers, to provide diagnostic assistance to repair facilities, and to give repair technicians priority access to test facilities, thereby allowing them to obtain a retest as quickly as possible. These ideas are discussed in more detail below, but they are intended to maximize convenience and ensure that motorists get effective repairs on their vehicles with a minimum of inconvenience.

It has been suggested to EPA that siting test facilities in densely populated areas, especially in the northeast United States where most enhanced I/M programs are located and in the Los Angeles area, might be impossible or very expensive. Experience to date has not indicated a problem in this regard. In centralized, contractor-run programs, the contractor purchases or leases the land upon which stations are built. The cost to the I/M program is the carrying cost of that property; the contractor will eventually recoup the value of the land at resale after the contract expires. Thus, the per-vehicle test cost is indicative of carrying the cost of the land, as well as the other costs associated with the program. The average cost of a test in a centralized system in the U.S. is $8.50; and that includes large cities such as Chicago, Miami, and Minneapolis. Probably the most recent example is the program in Vancouver, British Columbia. Vancouver is a densely populated, high land cost city, much like those in the northeast. A centralized, contractor-run program is being implemented there that will feature a wide variety of sophisticated tests that will result in lower through put than we find in typical I/M programs. The winning bid for the Vancouver program was for under $15 (U.S.) per test, indicating that even though some very expensive real estate is involved the impact on test fees does not result in prohibitively expensive testing.

F. Mitigating the Motorist Impact of I/M Enhancements

The high-tech testing system and administrative requirements in enhanced I/M areas need to be carefully designed and implemented to avoid or mitigate any adverse impacts that conceivably may occur from changing over an existing inspection network of starting a new one. The potential problems fall into two basic categories, one relating to the existing test industry, which will be dealt with in the next section, and the other relating to vehicle owners.

1. Ping-Pong Effect

In a high-tech test system, repair technicians will be faced with a more rigorous exhaust emission test procedure in the transient emission test. The procedure is more rigorous than the idle, two-speed or loaded steady-state tests now used in I/M programs in three respects. First, the transient emissions test more accurately and selectively determines which vehicles need repair. The steady-state tests pass more gross emitters and fail more vehicles that are close to or below the standards for which the vehicles were originally designed, than the transient test. Second, the transient test cannot be "fooled" by strategies aimed merely at passing a test, such as doping the gasoline with additives or disconnecting vacuum hoses. Third, typical repairs in responding to steady-state tests may not always sufficiently reduce emissions to allow a vehicle to pass a transient test. For example, vehicles without a catalyst or with an empty shell of a catalyst can pass a steady-state test if they are operating in a lean condition during the particular test mode. In actuality, however, such vehicles are gross emitters and could not pass the transient test. The real defects in the emission control system will have to be repaired in a transient test program.

Repairs to pass the transient test may require greater diagnostic proficiency on the part of technicians than what is generally needed in response to a steady-state test failure. Furthermore, some repair facilities may return a vehicle to its owner without verifying that it actually passes the transient exhaust test, due to lack of test equipment or unwillingness to get the vehicle retested at the State inspection station prior to owner pick-up. There is a risk that if the repair industry as a whole is unprepared or not able to respond adequately and in a timely manner to the challenge, motorists will be put in the awkward position of failing the retest at higher than necessary rates, requiring yet another trip to the repair facility and then to retest; this is often referred to as ping-ponging.

The other dimension to this problem is the cost to the motorist. The Clean Air Act requires that in enhanced I/M programs a minimum of $450 be spent on repairs which produce emission reductions before the I/M requirement may be waived. This is substantially higher than existing cost waivers in I/M programs, which are typically $50 to $75, although some range as high as $400. The potential exists for some motorists to be vulnerable for repair bills of $450 for repairs that were not actually needed. In rare cases, the repair that is needed to allow a vehicle to pass may be significantly more expensive than $450 and the owner would face the choice of paying for that repair or allowing or encouraging the technician to bill for $450 of repairs that were not helpful. (The cost waiver issue is discussed in more detail at the end of this section.)

A variety of strategies have been suggested as ways of dealing with ping-ponging. First and foremost is improving the capability of the repair industry. Today's proposal includes a wide range of requirements and recommendations related to improving repair effectiveness. Most states do not have repair technician certification programs; formation of such programs is a fundamental step that would provide recognition and support for qualified repair technicians. The repair community supports this step and EPA recommends that I/M programs establish a certification program that includes testing and training of repair technicians in the kinds of repairs needed to correct I/M failures.

Another problem has been the lack of adequate training available to independent repair technicians in I/M areas. Some existing I/M programs have worked with community colleges to run classes but others have not, and the technical level of these classes has not always been sufficient to meet the needs of the technician. Some I/M programs have established a technical assistance program to provide repair technicians with help in diagnosing or repairing specific problems. These programs typically have involved hot line services, newsletters, and other outreach programs. Today's proposal includes a requirement to establish technician outreach programs that provide a rapid source of technical assistance (telephone hot line) as well as routine informational programs (newsletters, workshops, etc.). Today's proposal also includes a technician

performance monitoring program that would track the effectiveness of repairs performed by repair technicians in an I/M area. The purpose of this program is to provide the public, as well as technicians themselves, with objective information on the performance of the various repair facilities. Louisville, Kentucky has used such a system with positive results. EPA requests comments on whether a fair and simple system could be designed to achieve these objectives.

Another effective feature of some existing I/M programs has been the establishment of a monitoring or "report card" system of repair technician performance as measured by the test results of vehicles they have repaired and a feedback mechanism to let them know how well they are doing and to provide the public with objective information on repair performance of technicians in the area. Today's proposal requires all enhanced I/M programs to operate such a monitoring system.

In some areas, motorists that fail the test are given a variety of information, including a list of certified technicians, warranty information, and other consumer information. Some programs also provide motorists that fail the test a description of the possible causes of the particular failures that occurred based on an interpretation of the test results. Today's proposal includes requirements for providing this type of consumer information, especially the basic diagnostic information about what may be wrong with the vehicle. EPA would also like comment on whether to require that I/M programs supply more detailed diagnostic information upon request based on additional examination of the vehicle. This might involve down loading and interpreting diagnostic information stored in onboard computers on vehicles not already subject to an onboard diagnostic check (pre-1994 vehicles). It could also include an analysis of various engine functions using a standard engine analysis system. The motorist could use this information in repairing the vehicle or could provide it to a technician chosen to repair the vehicle. These additional services could be provided at inspection stations for free or for a fee, or the state could license or approve independent diagnostic facilities in the private sector. EPA would be interested in other ideas for providing consumers with objective information of this type.

As discussed earlier, EPA is in the process of developing final regulations requiring vehicles to be equipped with OBD systems. As these systems provide repair technicians with additional valuable diagnostic capability, repair of OBD-equipped vehicles will be easier. Also, as part of these OBD regulations, manufacturers are being required to improve the distribution of repair information necessary to make effective emission-related repairs. Improved information in the hands of repair technicians should greatly enhance their ability to make the most effective repairs and at the least cost to the consumer.

EPA believes the elements discussed above and proposed in today's action will go a long way towards improving repair effectiveness; but, the full impact of them may take time to be realized. Therefore, EPA would like suggestions for additional strategies for further mitigating impacts in the short or long term and requests comments on the following possible approaches.

The first approach would be to require that I/M programs establish special diagnostic centers which would be available to repair technicians. These centers would be staffed by expert repair technicians that are aware of failure and repair trends in the I/M program and are fully up-to-date on the latest repair and diagnostic techniques and problems being found among vehicles that fail the I/M tests. These technicians could access databases accumulated by the program on the kinds of repairs previously performed on particular vehicles in the program. The centers would include a full range of diagnostic and I/M test equipment and a library of diagnostic and repair aides, including service manuals, recall information, and technical service bulletins from vehicle manufacturers. In the event that a technician is having difficulty repairing a vehicle and the hot line service is not adequate to solve the problem, the technician could take the car to the diagnostic center and get help from the expert staff. These facilities might be State-run and staffed or might be contractor operated. The focus of the service would be to help repair technicians achieve the most cost-effective repairs possible on vehicles. These facilities could also serve other purposes, including training centers for mechanics, and waiver processing facilities.

Given the expense and spatial requirements for conducting highly accurate, transient emission tests, it is unlikely that many repair facilities would find it cost-effective to establish an in-house capability that would absolutely confirm the effectiveness of repairs. There are many ways for a technician to tell whether the true problem has been found and fixed short of replicating the test, such as reading all electronic trouble codes, observing idle and 2500 rpm emissions, and performing normal engine diagnostic procedures. Also, EPA believes that service equipment vendors will develop and sell simplified transient test equipment which will be adequate for use by repair facilities; EPA estimates that the cost could be as little as $15,000–$20,000 and that facilities' current exhaust analysis equipment could be incorporated into the new system.

The final assurance, of course, comes from passing the transient test itself. Consumers would be better served in the test-and-repair process if the repair technician had easy access to the official test equipment to verify that repairs were effective. If free retests were available to repair technicians, then repair shops would be more likely to provide the additional service of taking the vehicle to the station for a retest to verify the repairs were effective and at the same time obtain a certificate of compliance for the vehicle owner. In addition to a free test, if repair technicians had priority access to test facilities this might further encourage the retest service. This would help technicians refine their repair strategies by giving them direct feedback on the success of the repairs performed.

Free retesting for technicians might change the way testing costs are distributed in I/M programs, but the impact would likely be very low. The cost of the first retest is already included in the price of inspection in nearly all I/M programs, and the ongoing failure rate of a mature program with effective repairs should be quite low, about 9% per year. Since first attempts to repair the vehicles will be successful in the overwhelming majority of cases, the demand for extra retests should also be low. In multiple, independent-supplier networks, some mechanism might be needed to reimburse individual test facility owners that got more than a fair share of repair technicians requesting free retests.

Finally, there could be a mechanism to address the possibility that some vehicles may still have high tailpipe emissions after being repaired by a certified technician, even after the technician has performed all emission-related repairs identified as needed at the official diagnostic center discussed above and the vehicles pass all physical and functional checks. The mechanism in this case would be simple: if the vehicle had high tailpipe emissions in the retest, passed the physical and

function checks, and the official diagnostic center could not identify additional useful repairs, the owner would be given a certificate of compliance. Such vehicles would probably tend to be very close to the standards and even if repair had been possible, would yield little emission reduction benefit. In subsequent cycles, if the vehicle failed the initial test, it could go directly to the diagnostic center to see if updated techniques could identify effective repairs or if other problems had developed that need attention. EPA believes that this approach is consistent with the requirement to spend $450 prior to receiving a waiver for emission related repairs, without regard to the cost of repairs in this case, because the program could not identify any additional emission related repairs that could be performed. Thus, the vehicle would have made all appropriate repairs and would therefore not need a waiver for emission-related repairs. Rather, the performance standard would be set at a level that could accommodate retesting such vehicles only with the physical and functional tests, and not with the emission test.

In the long term, these systems should be adequate to protect individual owners from ping-ponging. It may be that additional protections are desired in the short term before it is known how quickly the repair industry will respond to the challenge. EPA is requesting comment on two mechanisms that would cover owners for the first cycle in a program's existence. These mechanisms may appear to conflict with the requirement of a $450 expenditure before a repair cost waiver can be granted. There is some possibility for abuse of this system due to collusion between motorists and repair technicians. EPA is requesting comments on how it could support the alternative in this respect.

In the first mechanism, owners who received repairs from a certified technician who provided a statement that the vehicle had been repaired to pass a state-approved test at the repair facility would receive a certificate of compliance upon official retest at the test-only station regardless of the outcome of that test. Since all retests would be conducted within the official system, it would be possible to monitor the performance of individual repair providers and to monitor the emission reduction impact of including this provision. It might turn out that repair providers would only infrequently send failing vehicles back for official retests, so that this system could be maintained over time without significantly reducing the program's emission reduction potential. Clearly, the I/M program would need to monitor technician performance and take action where problems arose, including training, disciplinary action, and ultimately decertification.

A second mechanism for the first cycle would be to license repair facilities to conduct a retest which would itself qualify the owner for a certificate of compliance. The requirements for obtaining such a license would include employing one or more certified repair technicians and having the capability to conduct a steady-state test meeting program specifications. The advantage to the vehicle owner is real, but there would also likely be some significant loss in program effectiveness, since the repair facility would not be conducting a transient exhaust or a purge test. For that reason, it would not be appropriate to continue this option beyond the first inspection cycle without making an explicit accounting of the emission reduction loss. If a program wanted to continue this option beyond the first cycle, the impact could be reduced by limiting the opportunity only to vehicles which were not showing a pattern of repeat failure at the initial test in each cycle. Programs adopting this approach would have to demonstrate that the program continues to meet the performance standard.

2. Repair Costs and Cost Waivers

Based on the testing programs it has conducted over the past few years, EPA estimates that the average cost of repairs for transient test failures will be $120, and the average cost for repairs to the evaporative control system will be $38 to $70 for pressure and purge failures respectively. These costs are not excessive in the context of current vehicle maintenance expenses and are offset significantly by the reduction in fuel consumption that is associated with repairs to malfunctioning high-tech systems. EPA believes, however, that it is important to consider the potential for adverse impact on two smaller segments of the vehicle population: those vehicles which are so old that the repair cost may exceed the blue book value, and those which cannot be repaired effectively within the waiver cost limits.

EPA specifically requests comment on whether the States should be required to establish programs to purchase and scrap vehicles that may not be cost effective to repair. There has been considerable interest around the country recently in scrappage programs for older vehicles. In 1991, UNOCAL ran a pilot program in Southern California which demonstrated the feasibility of such programs. To understand how such a program would work, consider a vehicle with a low market value that fails the test. If repairing the vehicle to pass or to qualify for the waiver would cost more than the market value of the vehicle, the owner would normally have three options: (1) Scrap the vehicle, (2) purchase repairs (at least to qualify for the waiver), or (3) sell the vehicle outside the I/M area. Owners of such vehicles might see these options as presenting severe economic hardship. Since such vehicles are also likely to be very high-emitting vehicles, the air quality benefit of removing these vehicles from the fleet is great and all participants in the air pollution control program would benefit. To address the difficulty of equitably disposing of such vehicles, the I/M program could have a standing offer to purchase and scrap older, high emitting vehicles, possibly at a set price of $400, for example. This buy-and-scrap program might be financed by a modest increase in the test fee or possibly through a market-based, privately-financed offset purchase program. Offsets especially from older vehicles could be attractive since such vehicles are typically emitting much more pollution than new vehicles. If such vehicles are assumed to otherwise receive waivers and continue to operate at high emission levels, offsets would appear appropriate. To avoid abuse, vehicles could be required to be driveable and to have been registered in the area for some minimum period (e.g., at least a couple of years) to qualify for the program.

While most vehicles which initially fail an I/M test can be repaired to meet emission standards with relatively inexpensive repairs, a small portion of the vehicle population might be faced with substantially higher cost repairs as discussed above. This might result from a variety of causes, including: the vehicle may need a variety of repairs that together amount to a substantial expense; the engine may need a major repair that is very costly, such as a valve job; or, the owner might have obtained ineffective repairs from an incompetent or unscrupulous repair provider. In the past, for these vehicles, most programs have provided for waivers, which allow vehicles that fail the emission test to comply with the I/M program requirement. Waivers, however, can be a significant source of emission reduction loss, as well as a potential escape route for any motorist wishing to circumvent the system. Many I/M programs have not controlled

waivers sufficiently. The problems include low cost limits which do not allow for meaningful repairs, improperly issuing waivers; cost limits based on estimates for work not yet actually performed which leads to inflated estimates in some cases, and applying repairs unrelated to the emission failure to the cost limit. Repairs attempted by unqualified mechanics or vehicle owners may also qualify a vehicle for a cost waiver without contributing to emissions reductions. The proposed regulations establish requirements for the issuance of waivers in order to address many of the problems identified: any available warranty coverage must be used to obtain repairs before expenditures can be counted towards the waiver; waivers must not be issued to vehicles with missing or disconnected emission control devices; and, repairs must be performed by recognized technicians (e.g., one employed by a going concern or in the yellow pages) and visually confirmed by the administering agency. Requirements are also included in today's proposal which are aimed at improving repair technician performance and consumer protection for motor vehicle owners.

The Act requires that in enhanced programs, motorists spend a minimum of $450 on repairs related to the emission test failure before being eligible to receive a waiver. This amount is to be adjusted annually based on the Consumer Price Index; EPA will annually notify states of the adjusted amount. The legislative history of the Act (Report of the Committee on Energy and Commerce on H.R. 3030, Report 101–490, pages 240–241) further supports this when it states "If waivers are otherwise allowed, the program must require a minimum expenditure of $450 for repairs, to be adjusted periodically for inflation." The legislative history indicates that the decision was based at least in part on past experience with cost waiver limits that were "often inadequate to ensure that vehicles received the basic repairs needed to bring the vehicle into compliance." The legislative history further clarifies Congress' position, stating that "poorly maintained vehicles that pollute, no matter how old, should be required, at a minimum, to meet the standards applicable to them when they were manufactured. If repairs are needed, they should be made."

EPA believes that the very large majority of vehicles will be repairable for much less than $450. As the Act states the $450 minimum was set by Congress "in view of the air quality purpose of the program." The challenge for EPA and the States is to determine how to best achieve significant air quality benefits in an equitable and cost-effective manner. The $450 minimum is not as significant an issue for newer vehicles which are more likely to be under warranty, fail less often, and have a high market value. It may, however, pose a greater hardship on owners of older vehicles. Therefore, EPA requests comment on whether programs should be allowed to offer a well-controlled, non-renewable, time extension beyond the scheduled compliance deadline, to give motorists additional time to pass the inspection or to sell the vehicle. This time extension is not a waiver—the vehicle owner is not in compliance until the repairs are made—it is just a question of timing. Neither the Act nor the legislative history addresses the question of extensions, even though the Act does specify various details about waiver requirements. Historically, EPA's I/M guidance has provided for time extensions to allow vehicle owners to make repairs or test vehicles. Section 182(a)(2)(B) appears to ratify EPA's past I/M guidance. Nothing in the amended Act leads EPA to conclude that this guidance should be changed. EPA believes that it is appropriate to interpret the Act as allowing EPA to provide a reasonable amount of time for motorists to comply with the $450 waiver requirement. EPA would require that, as a condition for such an extension, a designated State official shall make a thorough diagnosis and inspection of the vehicle, determine that all reasonable cost repairs have been properly performed, and confirm that reasonable additional repairs are not available to correct the inspection failure or further reduce on-road emissions for less than the $450 limit. EPA also requests comments on this proposed method for overseeing the issuance of such one-time extensions.

Based on experience with cost limits which are too low to effect meaningful repairs, EPA proposes in today's action that minimum cost expenditures be set for waivers in basic programs as well. In the regulations, EPA proposes to require a $75 minimum expenditure for pre-1981 vehicles and a $200 minimum expenditure for 1981 and later vehicles. Many operating programs already meet or exceed these minimums and have proven their practicality and public acceptability.

G. Mitigating the Impact of Enhanced I/M on Existing Stations

EPA also recognizes the need to mitigate impacts of implementing a high-tech test program on existing I/M stations in decentralized programs. These test stations have been in the emission test business for as long as 10 years and some derive a substantial portion of their revenue, either directly or indirectly, from emission testing. An investment was made in emission test equipment that may or may not be fully amortized. In any case, EPA is committed to assisting these businesses in making the transition to the high-tech test format and the additional repair business that will result from it.

Three potential approaches to resolve this transition problem are presented here. EPA requests comment on these and other possible approaches. The first approach would provide direct financial assistance to stations that might be adversely affected by the transition to a high-tech system, either in the form of cash for recently purchased test equipment or in the form of subsidized software or peripherals to give that equipment new functionality. The second would be to design the enhanced program to include transitional mechanisms to soften the impacts of the new system. The third would be for States to establish programs to assist stations and inspectors through retraining and retooling programs. The previous section discussed various strategies to encourage continuation of one-stop test-and-repair, where repair facilities could take vehicles to test facilities for initial tests and would be given free retests and priority access to retest lanes, as well as diagnostic and repair assistance. These strategies would also help existing I/M stations make the transition to a new program design.

The typical decentralized I/M test program is composed of a variety of facilities, including car dealerships, gasoline stations, and repair shops of different kinds. Dealerships are usually heavily involved in the general repair business and the inspection business represents a relatively small portion of total revenue. Gas stations and repair shops tend to vary widely in terms of the mix of revenue derived from inspection and repair. Some stations are not involved in engine repair and simply provide testing for the test revenue itself and have other business that provides significant income. Some repair shops, like dealerships, are heavily involved in sophisticated engine repair and offer testing mostly as a convenience to their customers. Then there are those in between that do some repairs but are generally not capable of performing the more sophisticated repairs. In some cases, stations exist whose only service is the inspection itself.

The transition to a high-tech, high-volume, test-only system would mean that many stations would have to give up testing. This would result in the loss of direct testing revenue, perhaps the loss of ancillary business, and perhaps investment in test equipment not yet fully depreciated.

In some States that are currently decentralized and will have to implement enhanced I/M, analyzers have been in use for 8 years or more and generally have little or no residual value. In States that upgraded to BAR90 equipment (California and New York), the equipment was purchased since 1990, and has years of useful life left. One mechanism to address the impact of switching to the high-tech tests would be to set up some type of State-supported analyzer buy-back program for stations that were no longer going to participate in either the test or repair business, possibly using funds obtained from inspection fees. BAR90 analyzers would be needed in the repair business both for diagnostic and repair work as well as to check whether repairs on old technology vehicles were effective. BAR90 analyzers could also be used to test older technology vehicles in test-only stations. Where such equipment were applicable to the enhance I/M role of the business, buy-backs would not be needed. However, this concept would allow stations that were planning to leave the I/M business to recover all or part of their capital investment for equipment that could not be used for diagnostics and repair. Such a buy-back program might allow a smoother transition to test-only status. The final section of this preamble discusses the potential number of facilities that might benefit from a buy-back program.

A related strategy would be for EPA, the states, and industry to support the development of new and improved uses for BAR90 analyzers so that current as well as future analyzer owners can use this technology more effectively in the repair process. In particular, it was California's intent in developing the BAR90 specification for the computer in the analyzer, which is an IBM-compatible 386 DOS-based system, to become a platform for vehicle diagnosis and repair databases and other technical assistance software. EPA, the states, and industry could potentially provide technical and financial support to speed the development of such software. They also could potentially subsidize the purchase of required peripherals, such as CD-ROM players and disks of service manuals and the like. This would not only make better use of the equipment in the field but would serve as an excellent mechanism for providing critical technical assistance and training to the repair community. Another expanded function for a BAR90 analyzer would be to serve as controller and analytical bench in a repair-shop level transient test system consisting of a simple dynamometer and exhaust collection device, adequate to judge the success of repairs in most cases. Such a system would not have to be as accurate as the actual test equipment required for the official test, only accurate and repeatable enough to be a good indicator of the effectiveness of repairs.

The second way to mitigate the impacts is to design transitional features into the program. One approach would be to allow test-and-repair shops to continue to do testing on vehicles not subject to the transient/purge test for some transitional period (note that EPA's recommended enhanced program would require biennial, transient/purge tests on 1984 and later model year vehicles, and biennial steady-state tests on older vehicles). Today's proposal would permit a phase-out of the decentralized test-and-repair portion of the program during 1994 and 1995 such that all vehicles would be inspected in test-only stations starting with the next inspection after January 1, 1996. This would allow these decentralized, test-and-repair stations to continue to obtain revenue to recover the investment made in testing equipment and to plan other strategies to replace the income to be lost from testing. Another approach, mentioned also in the previous section, is to allow vehicles that have failed initial inspections in test-only stations to be retested in existing test-and-repair stations using conventional test techniques during the first test-only inspection cycle. This would allow those stations to attract customers, perform repairs, and charge for a retest with the added benefit of sparing the customer from returning to the test-only station for the retest.

A third strategy would be to provide targeted assistance to stations to assure they were able to provide high-tech repair services. This would require pre-program start-up training to bring repair technicians in these stations up to speed on the high-tech tests, vehicle diagnosis, and engine repair. It might mean tuition grants or other financial assistance to make training feasible. This approach might also include financial assistance to stations for the purchase of equipment to perform sophisticated diagnosis and repair on new technology vehicles or to upgrade tools and equipment for more sophisticated diagnosis and repair.

EPA encourages all affected areas to consider these approaches and requests comments and recommendations for additional options that may mitigate the transition problem.

H. Areas of Applicability

I/M programs, either basic or enhanced, are required in both ozone and CO nonattainment areas, depending upon population and nonattainment classification and design value.

States or areas within an ozone transport region must implement enhanced I/M programs in any metropolitan statistical area (MSA), or portion of an MSA, with a population of 100,000 or more as defined by the Office of Management and Budget, regardless of the area's attainment classification. Any area in the nation designated as serious or worse ozone nonattainment, or as moderate or serious CO nonattainment with a design value greater than 12.7 ppm, and having a 1980 Census-defined urbanized area population of 200,000 or more, must implement enhanced I/M in the urbanized area. Serious or worse ozone nonattainment areas which have urbanized areas which were smaller than 200,000 population in 1980 must implement the basic I/M program required in moderate areas. EPA recommends that states expand geographic coverage of the program beyond urbanized area boundaries, to include areas that contribute in a significant way to the mobile source emission inventory in the nonattainment area.

All areas designated as marginal ozone nonattainment or moderate CO nonattainment with a design value less than 12.7 ppm must continue operating existing I/M programs (that is, those operating or part of an approved State Implementation Plan as of November 15, 1990) and must update those programs as necessary to meet the basic I/M program requirements of this regulation. In addition, all marginal ozone nonattainment areas required by the Act as amended in 1977 to have an I/M program must implement a basic program. Finally, any moderate ozone nonattainment area outside of an ozone transport region must implement a basic I/M program meeting the requirements of this regulation.

The statutory requirements for I/M programs are comprehensive but not without the need for interpretation when determining the applicability to specific types of areas. The discussions which follow detail the reasons that EPA has

chosen the interpretations in today's proposal.

1. Moderate Ozone Areas

Section 182(b)(4) calls for basic I/M in "all" moderate ozone areas, and the legislative history of the House Bill (Report of the Committee on Energy and Commerce on H.R. 3030, Report 101–490, page 237) uses the term "without exception" to indicate that even moderate ozone areas presently without programs must implement I/M. This differs from EPA's 1978 policy of requiring I/M as a condition of an attainment date extension to 1987 (old section 172(B)(11)(b)) and only in urbanized areas as defined by the Census Bureau with a population of 200,000 or more. It also differs from EPA's post-1982 policy of accepting SIPs lacking I/M from some non-extension areas that did not attain by 1982. Despite the use of the phrase "all Moderate Areas," however, EPA believes that Congress did not intend to include rural moderate ozone nonattainment counties which contain no urbanized areas of any size. Section 182(b)(4) requires all moderate ozone nonattainment areas to adopt an I/M program "as described in subsection (182)(a)(2)(B)." That section requires certain marginal ozone nonattainment areas to adopt an I/M program of at least the stringency of the program required by the 1977 amendments to the Clean Air Act, "as interpreted in guidance issued by the Administrator" prior to the 1990 amendments to the Act. EPA's pre-1990 I/M guidance had required I/M programs only in urbanized areas. Thus, EPA believes that by referring to EPA's pre-1990 guidance, Congress ratified EPA's approach of requiring I/M programs only in urbanized areas. Further, enhanced I/M programs, which are based solely on statutory language rather than ratified agency guidance, are explicitly permitted to exclude surrounding rural portions of their nonattainment areas. EPA believes that it is consistent with Congressional intent to allow exclusion of rural moderate ozone nonattainment counties, and is, therefore, proposing that basic I/M programs be required in any 1990 Census-defined urbanized area in all moderate ozone nonattainment areas. This requirement is broader than previous basic I/M policy because it does not contain a population threshold. At the same time, the Act does not envision I/M programs in completely rural counties.

2. Census-Defined Urbanized Area Boundaries

In today's action, EPA proposes that basic I/M programs be required in all Census-defined urbanized areas in the affected nonattainment areas, based on the 1990 Census. This Act is clear in requiring that outside an ozone transport region, enhanced programs are required in areas that were defined by the Bureau of Census as urbanized areas with a population of 200,000 or more in 1980. EPA believes this criterion must be used to determine which urbanized areas are affected, but not the actual program boundaries themselves within those areas. To determine program boundaries, EPA proposes to use the more current 1990 Census data which better represent current urban land-use boundaries as affected by growth since 1980 and consequently the area making the greatest contribution to mobile source pollution.

3. Ozone Transport Regions

Section 184(b)(1)(A) contains somewhat different language on I/M program coverage in ozone transport regions. It states that "each area" in a region "that is a metropolitan statistical area or part thereof with a population of 100,000 or more [must] comply with the provisions of section 182(c)(2)(A) [sic] (pertaining to enhanced vehicle inspection and maintenance programs) * * *" (The incorrect reference should refer to Section 182(c)(3)). The legislative history uses slightly different wording in saying enhanced I/M is required "*in* metropolitan statistical areas" (emphasis added) and goes on to say "whether or not the areas are in nonattainment." In establishing the ozone transport region provisions, it seems that Congress intended to address emissions that could contribute to a violation of the standard anywhere in a region. Thus, it included attainment MSAs as well as nonattainment areas. Broad, sparsely settled rural areas with no MSAs or only MSAs under 100,000 population were not included, however, indicating an intent to balance the small emission reductions possible from these areas and the greater difficulty of implementing I/M programs in such areas.

EPA proposes that in an ozone transport region, enhanced I/M programs are required in areas that were designated as MSAs with a population of 100,000 or more in 1990. In the case of MSAs that cross an ozone transport region boundary (and are not otherwise required to implement enhanced I/M by virtue of air quality classification and population), enhanced I/M is required if the population of the MSA within the ozone transport region was at least 100,000 in 1990. The statutory language does not explicitly state that the MSA boundary must be the I/M coverage boundaries for MSAs over 100,000 in population. Consequently, EPA has considered various interpretations to see how well they fit with the intent of the ozone transport region provisions. EPA considered the urbanized area boundary approach, proposed for areas outside an ozone transport region. It does not seem consistent with an ozone transport region concept to limit the I/M program to this degree. For example, in the Northeast Ozone Transport Region (the only one established by the Act), there are MSAs with populations well above 100,000 that contain no urbanized areas or contain only a small portion of an adjacent MSAs urbanized area. EPA also considered requiring enhanced I/M throughout the entire MSA if it had a 1990 population of 100,000 or more. This would, however, result in the inclusion of some large, sparsely-settled rural counties in some MSAs. EPA believes it would not be cost effective to require I/M in such rural territory and their inclusion would contribute very little emission reduction benefit. Past EPA policy on I/M has provided for the exclusion of such rural areas even within a nonattainment area, and by establishing the criterion of 100,000 people or more in an MSA, the Act excludes many large rural areas in an ozone transport region. Further Section 184(b)(1)(A) requires transport areas to have the I/M program described in Section 182(c)(3), which is a program that applies only in urbanized areas. Therefore, EPA believes it is consistent with Congressional intent to propose that the enhanced I/M program be required in the entire MSA, except that largely rural counties with fewer than 200 persons per square mile.

4. Multi-State Areas

The Act does not address multi-state urbanized areas. Past de facto practice by EPA exempted portions of urbanized areas in bordering states if the urban population in that State were under 200,000. Multi-state moderate ozone nonattainment areas have portions that vary from under 50,000 to as much as 100,000 or more. In multi-state urbanized areas, EPA proposes that the appropriate level I/M program (as determined by the classification and population of the urbanized area as a whole) be required in the urbanized area within each of the affected states provided that the urbanized area

population within the state is 50,000 or more, as defined by the Bureau of Census in 1990.

I. Geographic Coverage

EPA's I/M policy prior to enactment of the amended Act included a "geographic bubble" that allowed programs to claim emission reduction credits for expanding the testing requirement to include non-urban portions of the nonattainment area surrounding the urbanized area. The extra emission reduction credits could be applied toward the minimum performance standard the program had to meet. The bubble was calculated using human population data instead of motor vehicle population because a reliable source of disaggregate data for the latter was not generally available. Thus, the bubble was defined as the number of people included in the actual I/M area divided by the number of people in the urbanized area. This calculation yielded a bubble factor that was multiplied by the emission reduction benefit of the program to account for the added benefit from testing non-urban vehicles. Due to the way urbanized areas and nonattainment areas are defined, the geographic bubble factors that are available are quite varied and frequently quite large, i.e., factors of 2 to 4. With such large bubbles, some I/M programs were designed to meet emission reduction requirements through broad geographic coverage, but had a very weak program design. Other areas had a strong design intent but were able to meet the minimum performance standard in operation despite serious operating problems. In essence, the geographic bubble effectively lowers the performance standard for areas which have large MSAs in relation to the urbanized area EPA does not believe that such weakening of the performance standard is consistent with the Act's intent of establishing more effective I/M programs. Therefore, in today's action EPA proposes that credit from expanding program coverage beyond the minimum required area boundaries can only be applied toward the "reasonable further progress" requirement or can be used as an offset, provided that the covered vehicles are operated in the nonattainment area.

Similarly, EPA's policy prior to enactment of the Act included a "geographic debubble" policy that allowed parts of an urban area to be excluded from the program as long as the emission reduction loss was made up in some other way. The purpose of this policy was to allow States to confine the program to county boundaries. Urbanized area boundaries do not correspond to county boundaries, making it difficult to establish a coherent administrative area based on the urban area. Also, in some cases, a very small fraction of a county might be included in the definition of an urbanized area. General practice has been to exclude these portions of the urbanized area to avoid having to include the entire county. In most cases, programs made up for these exclusions by including the non-urban portions of the counties central to the area, thereby effecting a one-to-one trade in population covered. In today's action, EPA proposes that exclusion of some urban population from I/M requirements continue to be allowed, as long as an equivalent number of contiguous non-urban residents who live within the same MSA are included in the program to compensate for the exclusion. EPA believes that it is appropriate to allow this bubble in recognition of administrative needs since such nearby non-urban vehicles can be expected to drive in the urbanized area and thus, emission reductions within the urbanized area will occur. EPA encourages States to rationalize their I/M boundaries by making them broader (especially to county lines) rather than narrower. This will contribute additional emission reductions and help insure expeditious attainment.

J. Administrative Program Requirements

1. Background

EPA has accumulated much information since the 1977 Amendments to the Act regarding effective design and implementation of I/M programs through audits, day-to-day work with I/M program managers and officials, roadside emission and tampering surveys, in-depth analyses of test data, and various studies by individual States and EPA. In 1984, EPA began auditing I/M programs as part of the National Air Audit System, using procedures developed jointly by EPA, the State and Territorial Air Pollution Program Administrators (STAPPA), and the Association of Local Air Pollution Control Officials (ALAPCO). These procedures are detailed in the National Air Audit System Guidance (EPA–450/2–88–002). To date, EPA has conducted 96 I/M program audits totaling 320 person days of on-site visits and several thousand person days of related activities.

This experience has shown that significant problems can exist in I/M programs which adversely impact the magnitude of air quality benefits that programs achieve. These problems include excessive waivers, motorist noncompliance, inadequate quality assurance and quality control measures, outdated test procedures, insufficient enforcement against inspectors that violate regulations, inadequate data collection and analysis, inadequate resources, and improper testing (see I/M Network Type: Effects on Emission Reductions, Cost, and Convenience, EPA–AA–TSS–I/M–89–2 in the docket). These problems reduce the emission reduction effectiveness of these programs, but generally do not reduce test costs. The intent of this proposed regulation is to address these problems, and insure to the extent possible that vehicles are tested accurately and repaired correctly, thus achieving the best emission reduction at the lowest possible cost.

The General Accounting Office has audited the I/M program several times and has consistently concluded that these problems exist and that tougher requirements are needed to correct the problems. EPA's Inspector General has also audited the I/M program and has come to similar conclusions. Both have strongly recommended the establishment of regulations, as opposed to guidance, as a means to address these problems. Reports by these organizations are included in the docket.

The intent of this proposed regulation is to address these problems, and insure to the extent possible that vehicles are tested accurately and repaired correctly, thus achieving the best emission reduction at the lowest possible cost.

In the past, decentralized programs have not been as effective as centralized programs in achieving emission reductions from inspection of motor vehicles. This inequality became apparent to EPA in a variety of ways. For example, EPA tampering surveys have shown existing decentralized programs to be less effective than centralized at preventing tampering. Of I/M areas, decentralized program areas have had the highest overall tampering rates, and centralized program areas have had the lowest rates. Analysis of the data for 1975–1983 model year vehicles in the 1987, 1988 and 1989 tampering surveys showed decentralized areas with rates 20% to 50% higher than centralized areas on fuel switching, catalyst, inlet, evaporative canister, and air system tampering, even though many centralized programs do not check underhood components. This suggests that centralized programs are more effective than decentralized programs at deterring tampering.

Further, covert audits of decentralized programs, performed by States and by EPA, have shown that improper inspections occur routinely when vehicles are presented for inspection in decentralized programs and that these problems have not been fully resolved despite determined efforts by some states. In covert audits performed between January and April of 1991, in California and New York (programs which have BAR 90 type analyzers) inspectors passed failing vehicles 20% and 38% of the time, respectively. Even with advanced analyzer technology and the most intensive management of any decentralized program in the country, California has not been able to completely resolve its improper inspection problem. Preliminary data from the second round of self-evaluation required under California law show 30% of the vehicles being passed when they should fail at the first Smog Check station which is visited. Covert audits performed by decentralized programs with BAR84 test equipment typically show even higher numbers of inspectors passing failing vehicles, with rates between 34% and 82%. The limited number of covert visits EPA is able to make during program audits show similar results; between 8% and 75% of inspectors passed vehicles which should have failed in the six audits of decentralized programs performed in 1990. The number of inspectors performing some element of the test incorrectly, whether or not it resulted in a false pass, was much higher, between 25% and 100%.

In the audits and studies summarized here, the false passes most often involved incorrect visual or functional inspections of emission components, since defects in these are the easiest for enforcement agencies to introduce into audit vehicles. However, incorrect tailpipe testing is both technically possible and has been observed in audits as well. EPA believes it would be even more common in many decentralized programs than it is at present, except for the fact that a low cost waiver limit, loose control of compliance documents, and other laxities provide alternate means for owners to avoid repairs of cars that would fail a properly performed test or retest. As discussed previously, the Clean Air Act prohibits low cost waivers for enhanced I/M programs.

Centralized programs are not completely immune to these problems. Due to the automation in centralized systems, as well as on-site supervision, it is virtually impossible to improperly test a vehicle for tailpipe emissions. However, improper testing has been found on the visual emission control device checks in centralized programs. The important feature which sets centralized programs apart is the demonstrated ability to correct problems once found. When problems have been found in well-run centralized systems, the response by program management has led to virtual elimination of the problem in a relatively short period of time. The limited scope of the quality assurance problem, as compared to a decentralized system, makes this feasible. Of course, the durability of this improved performance must be ensured by continual monitoring. Suffice it to say that an effective on-going quality assurance program is equally essential in a centralized system and this action proposes to set minimum requirements to that end.

Covert audits with a vehicle set to fail the exhaust emissions test or the emission control device visual inspection show, to some degree, how actual initial testing takes place. They do not, however, provide realistic information on the objectivity and impartiality of retests. Based on overt audit findings and data analysis, EPA believes that improper testing in test-and-repair decentralized programs occurs more often on retest than on initial test. First, the option of an improper retest removes most of the incentive there might be for an improper initial test. Second, stations are aware that States use initial test failure rates to screen stations for additional surveillance; those with low initial failure rates are targeted for covert audits or other investigation. EPA believes that inspectors are ofte#n too ready to please a customer or unwilling to admit that the vehicle does not pass, even after repairs. In traditional centralized programs, the opportunity for a motorist to "shop around" for a false passing result or for an inspector to probe a clean vehicle or otherwise falsify the tailpipe emission test essentially does not exist. The tailpipe test is automated, inspectors are well supervised and have no stake in repairs, and the single contractor is assured of the test business regardless of test outcome. A multi-supplier test-only system should significantly reduce this problem as well.

To address these types of problems, the proposed regulations included in today's action set out specific requirements for both basic and enhanced areas for data collection and analysis, enforcement against stations and inspectors, and quality assurance. Today's action also proposes to require that all test systems in fully implemented enhanced I/M programs be electronically connected to allow real-time data transfer between stations and a host computer. It also requires computerized (BAR–90 quality) analyzers in basic I/M programs. EPA requests comments on whether the quality control, quality assurance and reporting requirements of the proposed rule could be met by upgrading existing (BAR84) computerized analyzers.

2. Data Collection and Analysis

EPA audits have indicated that problems exist with oversight, management, and test procedures in some I/M programs. Inspectors often perform inspections incorrectly even when they are aware of being observed by auditors. Auditors have also found missing stickers, lack of certificate security, poor record-keeping, and other administrative problems. Evidence of improper testing often appears in subsequent review of paperwork and records, in the count of stickers or certificates issued but not accounted for, and suspicious information in waiver and repair records.

For example, a station may claim to have charged the same amount for almost all repairs performed, or the same repair may be documented for most vehicles. Records also have shown very short times between tests and the same emission results on a series of tests, indicating that the same vehicle may have been tested repeatedly to provide passing results for a number of vehicles that need repair. Vehicle information (i.e., vehicle type or model year) may be changed between failing and passing tests on the same vehicle, indicating that the inspector changed the standards so the vehicle could pass. Again, the proposed regulations set out requirements for data collection and analysis to better address these types of problems.

Inconsistent data collection has often hampered analysis of program operation; some programs are unable to calculate basic statistics such as the number of vehicles tested and failed because of incomplete data collection. Of those programs that do collect data, some have not used data analysis extensively, despite the fact that it is important in managing program operations. In some cases the quality of the data collected is inferior, as a result of errors on the part of the inspector in entering data into the computer. Typically, data collection problems are more serious in decentralized programs, due to numerous, widely dispersed

stations, and varying levels of analyzer sophistication and maintenance. Therefore, the regulation being proposed today sets out specific data collection reqirements; the test data must clearly link specific test results to specific vehicles, vehicle owners, test sites, inspectors, and test parameters. Further, specific data reports on testing, quality assurance, quality control, and enforcement are required to insure adequate monitoring and evaluation of program operation.

3. Quality Assurance Audits

Experience has shown that quality assurance is an essential element of program management, particularly in decentralized systems, which involve numerous stations and inspectors. With a large, dispersed source of inspections, close management is both time consuming and labor intensive, and close attention to detail on the part of the program staff is required. Typically, adequate funding has not been available to carry out the level of quality assurance necessary to oversee the program, particularly in large decentralized networks. In today's proposed regulation, specific quality assurance objectives and requirements are set out, including regular overt and covert audits to determine whether procedures are being followed correctly, whether records are being maintained adequately, whether equipment is functioning properly, and whether other problems exist which hinder the effectiveness of the program.

4. Funding

Lack of adequate funding for management and oversight has hampered the effectiveness of many programs, and has been especially problematic in decentralized and government-run centralized programs. Underfunding tends to negatively impact all aspects of the program, and is one of the problems that is most difficult to address. Without adequate resources to hire personnel, purchase equipment, monitor stations, follow up on enforcement, conduct data analysis, and perform numerous other necessary functions, the efficiency of many programs has suffered. Therefore, the proposed regulation requires a demonstration that sufficient resources necessary to meet the quality assurance objectives and requirements of the I/M regulation are available. One critical factor in funding is the amount spent on quality assurance activities. Centralized programs currently spend about $1 to $2 per vehicle on all oversight related costs. Decentralized programs spend anywhere from 50¢ to $6 per vehicle, but they all suffer from quality control problems. California recently increased the amount it is spending from $6 per vehicle to $7 in an ongoing effort to address operating problems in the program.

5. Equipment Quality Control

The ability to insure good equipment quality control has also varied with network type, due to oversight capability, available resources, and equipment sophistication. EPA's audits have shown that analyzers frequently fail calibration and leak checks in decentralized networks, while these problems are rarely found in most centralized programs. The goal of the quality control requirements included in the proposed regulation is to insure that test equipment is calibrated and maintained properly, and that inspection and calibration records are created, recorded, and maintained accurately. These requirements include preventive maintenance of equipment; frequent checks on the sampling system; analyzer calibration; dynamometer and constant volume sampler calibration, if applicable; and document security measures.

6. Enforcing Motorist Compliance

Both centralized and decentralized programs have experienced problems, to varying degrees, with all of the approaches traditionally used to insure that motorists participate in the I/M program. The extent of the problem, however, is often difficult to quantify. For many programs, it is difficult to estimate the number of vehicles requiring testing due to problems in obtaining registration data for a defined area from the agency that collects it and with the quality of that data. It can also be difficult to determine how many vehicles have complied. The number of vehicles which programs report were tested may be overstated due to multiple initial tests, in decentralized programs especially. Data loss can also result in reported test rates that are incorrect.

Registration denial enforcement systems have been viewed as effective for the most part, although potentially significant problems do exist. For example, programs that are not state wide have reported problems with people registering vehicles with an address outside the subject area in order to avoid inspection. Similarly, in programs that do not test all vehicles, motorists may falsely register the vehicle with a weight rating, fuel type or model year that is not required to be tested. Test certificates are sometimes counterfeited, allowing people to escape program requirements. Most I/M programs do not have an effective means of auditing the registration denial process; this makes it difficult to monitor which clerks have been correctly rejecting applications not accompanied by the required test certificate. Registration denial enforcement has been found to be less effective in States in which a decentralized registration issuance system exists. As with emission testing, it is difficult to insure that registrations are properly denied when issued without unified control.

Sticker enforced programs have historically performed poorly, for a variety of reasons. Enforcement against motorists without stickers requires a substantial amount of effort and commitment from police departments, which have never placed I/M sticker enforcement as a priority. Unless sticker accountability is very tight, motorists can obtain a sticker without having an inspection at all. Also, counterfeiting has been found in most sticker enforced programs. If a program is not state wide, it is often impossible to determine whether a vehicle without a sticker is in fact subject to the I/M test without a police officer calling in the registration. Similarly, vehicle types and model years which are not required to be in the program may be difficult to distinguish from subject vehicles. Finally, the penalty for driving without a valid sticker is often not sufficient to deter non-compliance or is waived after compliance, thereby eliminating deterrence effects.

Computer matching systems have been successfully implemented in several areas, but experience shows that this approach can suffer from problems as well, especially in decentralized systems because of faulty data transfer from inspection stations to the enforcement agency. An effective approach requires sophisticated computer hardware and software and a substantial commitment of resources to operate the system. Program managers must also be willing and able to follow through and take whatever enforcement actions are available to ensure motorist compliance, without political interference.

The sections of the proposed regulation covering motorist compliance address the range of problems that programs may encounter in assuring that vehicles comply with the testing requirements. The Act requires that motorist compliance be ensured through the denial of motor vehicle registration in enhanced I/M programs; enhanced programs may use an existing alternative if it can demonstrate that the

alternative is "more effective" than registration denial. For newly implementing enhanced areas, the Act does not provide any alternatives to registration denial enforcement. EPA policy has always required that alternative mechanisms be "as effective" as registration denial and that requirement is retained for basic I/M programs. The proposed regulation specifies the measures necessary to make such determinations. All programs must develop a system which insures that subject vehicles are easily identified, must adopt a test schedule which clearly determines when a vehicle is required to be tested, and must systematically enforce the program. The program also must develop quality assurance and quality control measures to monitor the effectiveness of the enforcement system.

7. Inspector and Station Enforcement

Lack of adequate enforcement authority against stations and inspectors has historically been a major stumbling block in attempts to implement effective programs, especially in decentralized systems. Even when programs have an effective effort to discover improper testing by stations and inspectors, there is rarely an adequate system in place to prevent the problem from continuing or recurring. Lack of authority, low fines or penalties, and lack of consistent and systematic penalty schedules have appeared as serious impediments to program enforcement in audits of decentralized programs across the country. Therefore, EPA proposes that all inspectors must receive formal training and be licensed or certified to perform inspections, and that such certification be a privilege rather than a right; in effect, programs must insure that inspectors who do not follow program requirements will be penalized fairly and systematically, and will lose their license or certification to perform inspections if problems are not corrected satisfactorily.

In sum, EPA believes that significant changes are needed in the design and oversight of decentralized programs. One factor in improving the performance of decentralized I/M programs can be separation of the test and repair function; historically, some evidence suggests that tests were more likely to be performed correctly if the testing agent did not have any interest or involvement in the repair of vehicles. Another important consideration is oversight of the multitude of stations found in low volume decentralized programs. Extensive quality assurance efforts are necessary due to the greater number of stations and inspectors, limited oversight capability, greater incentive for improper testing, and lack of effective enforcement mechanisms in many programs. Even very tightly designed and run quality assurance schemes in decentralized systems have not insured that proper inspections take place, that forms are adequately controlled, or that the program actually achieves estimated emission reductions. While advanced analyzer technology, such as BAR 90 systems, may improve the effectiveness of decentralized testing, the analyzer alone cannot eliminate the incentive for private station owners to perform tests improperly, or solve the quality assurance and oversight problems repeatedly identified in decentralized programs. Therefore, the additional measures listed above are needed to insure that claimed levels of emission reductions are actually achieved. While the proposed rule requires additional efforts in each of these areas, it generally allows States flexibility in the specific design of the I/M program.

8. Program Effectiveness Evaluations

To provide assurance that the in-use vehicle emission levels projected to be achieved by a given program are, in fact, being achieved, today's action proposes the implementation of a continuous, State-run effectiveness evaluation program for all I/M programs. The effectiveness evaluation would need to include, at a minimum, the special testing of a representative, random sample of the fleet, consisting of at least 0.1% of the subject vehicle population. That sample would be required to receive a State-administered or monitored IM240 transient exhaust test, purge test, and pressure test, or another test protocol approved by the Administrator as equivalent for the purposes of evaluation. This testing would take place at the time of these vehicles' scheduled initial inspections, before any repair. EPA believes this could be accomplished in a program which routinely requires IM240 testing by State personnel randomly visiting stations, double checking quality control, performing or closely observing the testing of vehicles which arrive for an initial inspection during the day, and flagging those vehicles tested as "evaluation" cars. Vehicles required to pass only a steady-state test (i.e., older cars) would need to also receive a transient IM240 test, or other approved test protocol, to accurately characterize tailpipe emissions. Test data from these vehicles would document the true state of maintenance and emissions performance of the in-use fleet. In a program in which not all stations are equipped for performing the required battery of evaluation tests a different approach would be needed. In this case, a random sample of vehicle owners would need to be notified in advance of their regularly scheduled inspection and required to report to a station which does have that capability and which will be state operated or monitored as previously described.

While the requirement for continuous evaluation covers all I/M programs, including centralized and test-only, multiple supplier systems in both basic and enhanced areas, it is especially important in enhanced I/M areas that choose test-and-repair, decentralized systems. In the event that the effectiveness of the test-and-repair network was sufficiently close to that of a test-only system, EPA could allow the State to close the gap with I/M program coverage or stringency changes that could be demonstrated to ensure that the performance standard would be achieved by November 1999. Otherwise, if the effectiveness evaluation revealed that the enhanced program were achieving less than full compliance with the performance standard the State would be required to implement a back-up test-only program. EPA believes such a back-up program with full legal authority in the SIP are necessary to allow provisional approval of a decentralized test-and-repair network.

The evaluation program described above would also determine the amount of emission reductions the state can credit retrospectively toward the reasonable further progress requirements discussed previously. The I/M performance target is to achieve a specific fleet-wide emission level (in grams per mile) after I/M and other mobile source strategies are implemented.

To isolate the impact of the performance of I/M programs, as opposed to other strategies such as new car standards or reformulated gasoline, EPA will evaluate the performance of centralized, test-only systems (the standard established by the Act) to determine the actual effectiveness of the program. This evaluation will be used to update the emission factor model which states will use to conduct the evaluation of the test-and-repair system. Thus, if any given mobile source strategy is more or less effective than MOBILE5 predicts, EPA's evaluation and model modifications will take that into consideration. For example, if reformulated gasoline is found to be more effective, the emission credits in the model will be adjusted accordingly. So, when an area using reformulated gas

evaluates fleetwide emissions, using the revised model will properly account for the actual effect of the program.

K. State Implementation Plan (SIP) Submissions

In today's action, EPA proposes that in order to be considered complete and fully approvable, I/M SIP submittals must include an analysis of the program using the most current EPA mobile source emission model demonstrating that the program meets the applicable performance standard; a description of the geographic coverage of the program; a detailed discussion of each required program element; the legal authority related to the implementation and operation of the I/M program; and the text of all implementing regulations, interagency agreements and memoranda of understanding. The following two deadlines are relevant to the SIP submittal process: by November 15, 1992, States must submit a plan which includes a formal commitment to the adoption and implementation of an I/M program meeting all the requirements of this action, including a schedule of program implementation milestones addressing the promulgation of draft and final regulations, the issuance of final specifications and procedures, the issuance of final Request for Proposals (where applicable), and all other relevant dates, including mandatory test dates. EPA will conditionally approve all such submittals under Section 110(k)(4). EPA believes that conditional approvals are appropriate in these circumstances because states cannot be expected to begin developing I/M programs meeting the requirements of these regulations until the regulations are finally adopted. EPA does, however, believe that states can adopt and implement I/M programs within one year of making the commitment described above. Therefore, as a condition of EPA's approval EPA proposes to require that by November 15, 1993, a complete SIP revision must be submitted which contains all of the elements listed above, including authorizing legislation and implementing regulations. Since EPA is not required to conditionally approve SIP revisions but merely has the discretionary authority to do so, EPA believes that in conditionally approving a SIP EPA has the authority to limit the time within which states must commit to submit fully approvable SIPs containing all necessary legislation and regulations. EPA believes that in balancing the congressional desire for promptly effective I/M programs with state needs to have EPA/s final I/M regulations prior to adopting and implementing programs, November 15, 1993 is a reasonable date to require submission of fully approvable I/M plans.

Various nonattainment areas were required to correct deficiencies in operating I/M programs. These areas must submit commitments to adopt needed changes as soon as possible but no later than the above SIP submittal schedule. The Act also requires basic I/M areas to continue to operate programs at least as stringent as what was in the SIP at the time of passage of the amended Act or the minimum basic requirement, whichever was greater. Today's action requires that areas meet this requirement but allows for changes in program design, as long as those changes result in a program that achieves at least as much or more reduction as the SIP-approved program at the time of passage of the amended Act or the minimum basic program required by these regulations, whichever is greater.

L. Implementation Deadlines

Basic I/M programs must be implemented as expeditiously as practicable, with full implementation by July 1, 1993, for decentralized programs or by January 1, 1994, for centralized programs. Additional phase-in time may be taken if the area opts to do an enhanced I/M program instead.

Today's action proposes that the enhanced I/M program requirements must be fully implemented with respect to all administrative details, such as enforcement and waivers, by July 1, 1994. However, today's action proposes that states have the option to phase in high-tech testing. The proposal calls for high-tech testing to start in July 1994, and to cover at least 30% of the vehicle model years present in the fleet at the time which according to the program design will eventually be subject to the high-tech test in order to meet the November 1999 milestone. The proposal also calls for all affected vehicles to be inspected using high-tech tests by January 1, 1996. Another phase-in proposal in today's action is to allow States to begin high-tech testing with looser cutpoints to allow the test system and repair tech tests by January 1, 1996. Another phase-in proposal in today's action is to allow States to begin high-tech testing with looser cutpoints to allow the test system and repair industry to adjust to the new requirement. This is important to allow the repair industry to build the skills necessary to fix vehicles that will fail the high-tech procedure. Full cutpoint phase-in for these vehicles must be completed by January 1, 1988. EPA is also concerned about the time that may be needed for programs which have established test-and-repair networks to make a transition to a test-only format without causing some portion of the currently licensed inspection stations to lose their investment in new I/M analyzers. Today's action proposes to allow enhanced I/M areas to continue testing vehicles, which are not among the 30% phased in to test-only, in a test-and-repair network until January 1, 1996, when the test-only system would be fully phased-in. EPA requests comment on alternative phase-in schedules. In states that attempt to demonstrate that a test-and-repair network is equally effective, full implementation of the program must occur by July of 1994 due to the time needed to assess the effectiveness of the program, and if needed, switch to a test-only system by January 1998 in biennial systems and January 1999 in annual systems.

Section 182(c)(3)(B) of the Act requires that enhanced I/M programs "take effect" by November 15, 1992, in compliance with EPA's enhanced I/M guidance. Had the Agency been able to promulgate full guidance by even the statutory date of November 15, 1991, states and local jurisdictions would still have been extremely hard pressed to enact legal authority, adopt rules, license or contract for the building of test-only facilities, and complete the myriad of tasks that are required to fully implement an effective program by November 15, 1992. It is clear that this date is now impossible to meet.

On the other hand, the sense of urgency incorporated in the statutory date is well justified, and the Agency has attempted to craft a combination of required SIP submittal dates and testing phase-in schedules which will require enhanced I/M areas to make an immediate commitment to a fully effective program and to proceed expeditiously with its dates and testing phase-in schedules which will require enhanced I/M areas to make an immediate commitment to a fully effective program and to proceed expeditiously with its implementation. The SIP commitment and schedule which must be submitted by November 15, 1992, will be enforceable by EPA and the courts. The subsequent submittal dates represent a significant challenge and will require priority focus on implementation of the enhanced I/M program. As stated above in the section on SIP submittal deadlines, EPA believes that states will need one year from initial SIP commitment submission to adopt all necessary statutory and regulatory authority. Once this is done, EPA concludes that the statutory

requirement to have programs "take effect" will be satisfied. The implementation phase-in dates provide states the time needed to construct testing facilities and get the program fully operational.

VI. Environmental and Health Benefits

This rule will provide environmental and health benefits by decreasing in-use motor vehicle emissions of VOCs, CO, and NO_x. In 1985, motor vehicles were responsible for 70 percent of the nation's CO, 45 percent of the NO_x, and 34 percent of the VOCs. Ozone, the major component of smog, is produced by the photochemical reaction of VOC and NO_x emissions. Motor vehicles are also a significant source of toxic air pollutants. Their contribution to toxics is decreased as hydrocarbon levels are lowered. All of these pollutants have significant adverse effects on human health and the environment.

Cabon monoxide interferes with the oxygen-carrying capacity of the blood. Exposure aggravates angina and other aspects of coronary heart disease and decreases exercise tolerance in persons with cardiovascular problems. Infants, fetuses, elderly persons, and individuals with respiratory diseases are also particularly susceptible to CO poisoning.

Nitrogen oxides, a family of gases including nitrogen dioxide (NO_2) and nitric oxide (NO), irritate the lungs, lower resistance to respiratory infections, and contribute to the development of emphysema, including nitrogen dioxide (NO_2) and nitric oxide (NO), irritate the lungs, lower resistance to respiratory infections, and contribute to the development of emphysema, bronchitis, and pneumonia. NO_x contributes to ozone formation and can also react chemically in the air to form nitric acid.

HC emissions include VOC, which react with NO_x to form ozone and other photochemical oxidants. Some VOCs, including benzene, formaldehyde, and 1,3-butadiene, are air toxics. They cause cancer and other adverse health effects, as well as toxic deposition in lakes and coastal waters.

As shown in the following table, when compared to the no-I/M case, current I/M programs obtain estimated total annual emission reductions of 116,000 tons of VOC and 1,566,000 tons of CO. Implementation of the (biennial high option) requirements of this proposed action would yield estimated annual emission reductions of 384,000 tons of VOC and 2,345,000 tons of CO from enhanced I/M programs, and 36,000 tons of VOC and 500,000 tons of CO from basic programs, as compared to the no-I/M case. Enhanced I/M programs would also reduce NO_x emissions. The transient test with NO_x cutpoints designed to fail 10% to 20% of the vehicles would yield estimated NO_x reductions of 9% relative to emission levels with no program in place.

NATIONAL BENEFITS OF I/M

[Annual tons of emission reductions in 2000 compared to the no-I/M case]

	VOC	CO
Reductions from continuing I/M unchanged:		
Centralized	55,540	775,228
Decentralized	60,476	791,167
Current total	116,016	1,566,395
Expected reductions from proposal:		
Enhanced areas	384,130	2,345,278
Basic areas:		
Centralized	23,289	326,290
Decentralized	12,996	174,186
Basic total	36,285	500,476
Total future benefit	420,415	2,845,754

Thus, enhanced I/M and improvements to existing and new I/M programs will result in national emission reductions substantially greater than current I/M programs.

VII. Economic Costs and Benefits

A. Impacts on Motorists

EPA has developed estimates of inspection and repair costs in a "high-tech" I/M program. The derivation of these estimates is detailed in the Regulatory Impact Analysis, included in the technical support documents for this rulemaking. A conventional steady-state I/M test including emission control device checks currently costs about $8.50 per vehicle on average in a centralized program, and $17.70 on average in decentralized programs. The test proposed for 1986 and later vehicles in today's action, including transient, purge, and pressure testing, is expected to cost approximately $17 per vehicle in an efficiently run, high-volume program. If the inspection were performed biennially (and extended to 1984 and 1985 vehicles) the estimated annual per vehicle cost would be about $9.

The cost to fix a transient test failure that would also fail the 2500/idle test is estimated at $75. The average cost to repair vehicles failing the transient test that would not fail the 2500/idle test is estimated to be $150. The overall average repair cost for transient failures is estimated to be $120. Average repair costs for pressure and purge test failures are estimated to be $38 and $70, respectively. Repairs for NO_x failures are estimated to cost approximately $100 per vehicle. Data from a pilot program in Indiana indicate that it would be very rare for one vehicle to need all three of these repair costs. Also, some vehicles will be repaired at no charge to the owner, due to warranty coverage provided by the manufacturer.

These repairs have been found to produce fuel economy benefits that will at least partially offset the cost of repairs. Fuel economy improvements of 6.1% for repair of pressure test failures and 5.7% for repair of purge test failures were observed. Vehicles that failed the transient short test at the proposed cutpoints were found to enjoy a fuel economy improvement of 12.6% as a result of repairs. Fuel economy improvements persist beyond the year of the test.

Currently, there are an estimated 64 million vehicles subject to I/M nationwide. Of these, 24 million are in centralized programs and 40 million are in decentralized programs; some of these are annual programs and a few are biennial. EPA estimated the economic impact of continuing these programs as they exist today and evaluated this in the year 2000. Inspection fees would total an estimated $747 million annually, $182 million in centralized programs, and $153 million in decentralized programs. These costs are expressed in 1990 dollars but are not discounted since the costs and benefits of I/M accrue during each year the program is in operation.

As shown in the table below, estimates using EPA's cost effectiveness model show that total inspection costs in the year 2000 is enhanced I/M programs accounting for growth in the size of the inspected vehicle fleet due to expanded and additional program areas are expected to be $451 million, with repairs totaling $710 million assuming that programs are biennial. Fuel economy benefits are expected to total $825 million, with $617 million attributable to the tailpipe emissions test and $208 million due to the functional evaporative tests.

In basic I/M programs, total annual inspection costs in the year 2000 are estimated at $162 million, and repair costs are expected to be approximately $113 million.

Thus, despite significant increases in repair expenditures as a result of the program, the switch to biennial testing and the improved fuel economy benefits will result in a lower national annual cost of the inspection program.

If EPA were to establish the low option as the performance standard, states could continue the kinds of programs we see being run today. EPA

believes that this would result in significantly higher direct and indirect costs to the nation. There would be the direct cost, discussed above, of about $350 million that would be avoided by the changes called for in today's action. The indirect cost has to do with the cost of achieving the emission reductions forgone by establishing the low option standard. EPA believes that alternative VOC emission reduction strategies will, on the margin, cost about $5000 per ton. Given this, the cost of getting the additional tons of benefit that the high option offers from these more expensive sources amounts to about $1.25 billion. Thus, the total cost of implementing a low option I/M program may be as much as $1.6 billion more than the approach proposed in today's action.

PROGRAM COSTS AND ECONOMIC BENEFITS

[Millions of annual dollars in 2000]

	Test cost	Emission test repair cost	Evap repair cost	Emission test fuel economy savings	Evap fuel economy savings	Net cost*
Costs and Economic Benefits of Continuing I/M Unchanged						
Central	$182	140	na	($92)	na	$230
Decentral	$565	$252	na	($153)	na	$664
Total	$747	$392		($245)		$894
Expected Costs and Economic Benefits From Proposal						
Enhanced Areas	$451	$489	$221	($617)	($208)	$336
Basic Areas:						
Central	$67	$60	na	($39)	na	$88
Decentral	$95	$53	na	($31)	na	$117
Total	$162	$113		($70)		$205
Grand total	$613	$602	$221	($687)	($208)	$541

*Net cost is derived by adding inspection and repair costs and subtracting fuel economy benefits.

B. Impacts on the Inspection and Repair Industry

EPA has determined that the regulations proposed today may have a significant impact on a substantial number of the small businesses that own and operate emission test facilities in states that currently have decentralized test networks and are required to implement enhanced I/M. Testing revenues in such states are currently about $300 million. In states which choose a multiple-independent supplier, test-only format for inspections, this impact will involve the small businesses having to choose between providing inspection-only services and repair-only services, and the associated costs of making such a transition. In some cases, the businesses may not be able to make the investment to become a test-only station, but may also be unable or unwilling to compete successfully in the high-tech repair market. The impact of this rule could potentially mean closure for some of these businesses that are otherwise marginal. This is discussed in more detail later in this section. EPA has outlined a set of mitigating measures, discussed in detail previously, as well as later in this section, intended to ease the transition to an enhanced I/M program that separates test and repair functions. Given the phase-in of I/M requirements that is proposed above, EPA anticipates any negative impacts will be ameliorated, if not eliminated. By contrast, many small businesses will be positively affected by the major increase in repair activity expected as a result of today's action. The volume of repair expenditures is expected to increase from current levels of about $392 million to approximately $823 million. This includes an increase of $211 million in areas that currently have decentralized programs, $100 million in areas that currently have centralized programs, and $120 million in areas that are not currently operating I/M programs but are required to by the Act.

The types of businesses that currently do inspections in decentralized I/M programs include car dealerships, service stations, general and specialized repair shops, and similar businesses. Equipment manufacturers were not examined here because such firms do not constitute small entities. In general, inspections are just one of many services these businesses provide, although some inspection stations are set up for the sole purpose of performing inspections and provide no other services. The average inspection station in decentralized programs tests about 1,025 vehicles per year. An average station has gross receipts of between $5,000 and $30,000 per year from providing emission testing services, depending on the allowable test fee in the state. After accounting for costs associated with purchasing and maintaining the analyzer, the test stations are left with a net gain of between $2,000 and $8,000 per year. Thus, it is clear that inspection services do not, by themselves, yield significantly high profit to the average inspection station. Even if the inspection labor is that of the owner of the station, which is often the case, an average test volume alone would not sustain the business by itself.

While the average profit is low, the distribution of inspection volume varies considerably, with some stations typically performing virtually no inspections at all ranging to some that perform over twice the average number of inspections. The best data available to EPA on this comes from California where equipment costs are high due to the transition to BAR90 analyzers in 1990 and inspection fees are high, as well. Obviously, the stations in California that report no inspection activity in a quarter (about 22% of the total) are losing money on the equipment and related costs of maintaining it (estimated loss of about $5,000 per year), and may be ready to abandon the test program in any case. Based on available information from California, net profit in stations that do over twice the average inspection volume (18% of the stations) in California is estimated to average about $29,000 per year.

As mentioned above, the adoption of test-only stations in enhanced I/M programs would force existing test-and-repair stations in decentralized programs to choose between the test business and the repair business. To opt for the test business, an investment of about $140,000 will be needed for the

equipment to perform the tests (EPA based this estimate on conversations with equipment manufacturers over the past year; however, more recent data indicate that a lower figure is more likely). This is a much larger investment than the $6,000–$8,000 cost of equipment in most current decentralized programs, and very large even compared to the cost of BAR90 analyzers which are about $10,000–$15,000. The stations that are most likely to opt for the test business are those that currently derive substantial profit from the test business and little or none from repairs. For the purposes of this analysis, it is assumed that the 23% of stations performing over 150% of the average test volume might opt into the test-only business, or, to the same effect, that there is a new entrant to the test-only business for each of these 23% that chooses to pursue the repair-only business instead. After withdrawals by other stations, as explained below, these stations would each do about 4,100 tests annually on average.

Car dealerships and repair shops, especially those that specialize in engine repair, will probably opt out of the test business but will compete for the additional repair business that enhanced I/M will create. Data available indicate that roughly 50% of test stations in current I/M programs fall into the dealership and engine-repair category. These stations also tend to do fewer tests than average because of their focus on repair, and some of them likely fall into the 22% of stations that report no test activity. For the purposes of this analysis, it is assumed that half of the licensed stations that do virtually no testing are repair-oriented shops. Much of the emission repair business for dealerships and repair shops is referrals from stations that do little or no emissions-related repair (data indicate that about half of the motorists that fail a test in a decentralized program go to another facility for repair). These businesses will be faced with the need to upgrade repair technician skills and to obtain equipment necessary to perform effective repairs on new technology vehicles. The emission analyzers owned by these stations will be useful in testing vehicles that will still be subject to steady-state testing and may also provide an indicator of repair success on vehicles receiving a transient emission test. In the case of BAR90 analyzers, this equipment was designed to down load OBD fault codes and to act as a platform for diagnosis of vehicle problems. The degree to which these businesses need to upgrade their skills and equipment will affect the number that can afford to perform emissions repairs and depends much upon the current resources employed.

The remaining 27% of the licensed station population (i.e., 100%—50% dealer/repair shops—23% high-volume test shops) are a mix of: service stations some of which do some engine repairs including I/M repairs on some of the cars they test, in addition to gasoline sales; non-engine service or repair shops, such as brake and muffler shops; and retailers. Assuming that the other half of the 22% of stations that show virtually no test activity fall into this group, then 16% of the licensed stations (27%—11%) in decentralized programs are now active and may opt not to engage in the test business (which would preclude their repair business) and also opt not to make up for the lost test revenue by seriously competing for some of the increased I/M-generated engine repair business. The 11% in this group that did no test business during the survey period are assumed to be unlikely to be adversely affected by this regulation since they are deriving no income from the inspection business at this time. The 16% that are doing test business all currently have other sources of income other than the inspection business, including non-emission related engine repairs, non-engine repairs, gasoline sales, and merchandising. Data are not available on the contribution of test business and associated repairs to total revenue in these businesses. Since these stations by definition perform less than 150% of the annual inspection volume, the lost profit should be less than $12,000 for inspections, plus about $5,000 from at most 200 I/M repairs each year. If 10% of the 16% of the stations comprising this category were so marginally profitable that the loss of inspection and associated repair revenue forced closure of the business it would amount to a total of 400 stations in enhanced inspection programs nationwide that would close as a result of this action. The discussion in Section V. F., above on mitigating impacts on inspection stations is especially intended to address the impact on this group of station owners.

If a state required to implement enhanced I/M chose to attempt to demonstrate that a test-and-repair program would be equally effective, the inspection and repair industry would be presented with a different set of choices with different ramifications. Under this scenario, existing test stations and other businesses in the repair industry would have to decide whether to enter or remain in the test business. To be competitive in the enhanced test-and-repair business, the station would require substantial resources to purchase sophisticated test equipment. As discussed above the equipment costs for transient, mass emission testing would be about $140,000 per lane; the alternative test suggested by ARCO (discussed above) would require an equipment investment of about $40,000, plus substantial operating expenses. In either case, some stations in existing test-and-repair networks would likely drop out of the system because they could not afford the investment in equipment (or could not qualify for a loan) or would have test-volumes too low to justify the expense. Thus, the impact of enhanced I/M on stations in the test-and-repair scenario may tend to fall more heavily on smaller, independent stations while car dealerships and chain-stores (such as Sears and Precision Tune) will be more likely to have the resources to make the investment and the marketing capability to insure a good return on that investment. It is likely that the stations that drop out of the test business would lose more than just the inspection and repair business related to the I/M test, but they may also lose business that occurs at the same time motorists get inspections (e.g., periodic servicing). Similarly, repair shops that are not official test stations and that currently do I/M-related repairs may loose more than just the I/M-related repair business if they do not opt into the test business. Overall, the impact of the test-and-repair option may tend to concentrate repair activity in a smaller range of shops, by virtue of better capitalized operations or high volumes (test or repair), such as car dealerships and chains.

If a single contractor, centralized program were instituted in an area where a decentralized program is currently operating, the option to become a test-only station would not be available to the 23% of the station population that would be likely to pursue it. Members of this group without profitable alternatives would also face the risk of closure.

The likelihood of closure would depend upon the fraction of incomes derived from inspections. Data on this is not available. Since many of these stations have other lines of business, such as gasoline sales, auto parts sales, or various types of vehicle repair and servicing, the loss of inspection business will not necessarily mean closure. As before, if 10% of these stations might close as a result of a switch to a single-contractor, centralized system, as well

as 10% of the 16% of stations identified previously as being at risk, then 977 stations might close nationwide if all decentralized programs in enhanced I/M areas switched to centralized, single-contractor systems. If the areas containing half of the current inspection stations were to switch to a single-contractor, centralized system, then potential closures would number about 489.

The most severely impacted would be the test-only stations, which in California comprise 2% of the test stations (about 160 stations in California). EPA believes California probably has many more test-only stations than other decentralized I/M states due to the fact that average test fees are higher making it feasible to have testing as a sole source of income (there is no cap on test fees in California, as there is in most other states). Given that they have no other lines of business to compensate for the loss of inspection revenue, these test-only stations would almost certainly close if the area were to switch to a centralized single contractor system, unless these stations were able to win the contract (some of these businesses have made it clear to EPA that they intend to do this).

Section V. F., above, regarding mitigating impacts on existing test stations, details ways states could minimize or eliminate the loss of jobs or closure of small businesses. EPA proposes a phase-in of the test-only requirement, by January 1996, to allow adequate time for small businesses to make the transition. As discussed in the section on mitigation, EPA requests comments on an analyzer buy-back program, software development to expand uses of existing equipment, hardware development to allow use of existing equipment for repair effectiveness testing, retesting at repair shops during a transition period, and programs to assist stations and inspectors through retraining and retooling.

These losses to the small business community and to labor would be offset by the increase in jobs resulting from a test-only program. Repair shop business is likely to increase and would require the services of additional mechanics, and test-only inspection stations would need additional inspectors. The $431 million in extra repair expenditures estimated in the section on Economic Costs is comprised of about 40% parts cost and the remainder for labor, profit and overhead. The additional parts demand has potential economic benefits for the parts manufacturers as well as retailers in the local community. The 60% remainder is estimated to be about 50% profit and overhead at the repair shop and 50% labor (for about $130 million total). EPA estimates that in a high volume enhanced I/M lane, 3–4 inspectors would be needed per lane instead of the 1–2 typically employed in current high volume systems. The table below shows that current jobs in I/M areas are about 11,400, with approximately 9,100 in the inspection sector and 2,300 in the repair sector. As a result of today's proposal EPA expects the total number of jobs in the repair sector to increase to 6,200 jobs for a gain of 3,900 repair technician jobs. The change in inspector jobs depends upon the type of systems states choose to implement. If states choose the decentralized, test-only approach with multiple, independent suppliers, it is expected that more jobs would result, a total of 10,500 inspectors would be required in addition to the 2,700 inspector jobs in basic I/M programs. If states chose a single-supplier contractor approach, then about 2,700 inspector jobs would be needed in enhanced I/M areas. Thus, total future inspector jobs would range from 5,400 to 13,200. In addition to inspector and repair technician jobs, the increased expenditure for auto parts and for setting up and servicing test-only stations, will result in construction industry jobs, parts manufacturing jobs, and service industry jobs. EPA estimates a total of 3,600 additional jobs in these sectors. Overall, EPA estimates that today's action will result in between 3,800 and 11,600 additional jobs, directly or indirectly related to testing and repair of motor vehicles as a result of the program. It is important to note that these may not represent a net increase in nationwide employment overall. The resources allocated to test and repair services may otherwise have been spent on other goods and services in the economy. Thus, it may be that other sectors of the economy would incur in employment loss.

Changes in jobs as a result of proposal

	FTE
Current Test and Repair Jobs	
Inspector jobs:	
Decentralized programs	6,600
Centralized programs	2,500
Repair jobs:	
Decentralized programs	800
Centralized programs	1,500
Total Current Jobs	11,400

Changes in jobs as a result of proposal—Continued

	FTE
Future Test and Repair Jobs	
Enhanced I/M programs inspector jobs:	
Multiple independent supplier	10,500
Single contractor program	2,700
Inspector job subtotal	2,700–10,500
Repair jobs	5,500
Basic I/M programs:	
Inspector jobs	2,700
Repair jobs	700
Total future inspection and repair jobs	11,600–9,400
Other job gains:	
Equipment manufacturing	(1)
Parts manufacturing	1,000
Construction	1,800
Small business services	800
Total net gain in jobs	3,800–11,600

EPA is requesting comments on three aspects of the foregoing analysis. First, EPA requests comments on the question of motorist inconvenience, especially as it relates to test-only versus test-and-repair networks. Second, EPA requests comment on the repair cost estimates used in the analysis. Finally, EPA requests comment on the repair effectiveness estimates as they relate to fuel economy benefits from the various I/M tests.

In conclusion, today's action may cause significant shifts in business opportunities. Small businesses that currently do both inspections and repairs in decentralized I/M programs may have to choose between the two. Significant new opportunities will exist in these areas for small businesses to continue to participate in the inspection and repair industry. This will mean shifts in jobs but an overall increase in jobs in the repair sector and a small to potentially large increase in the inspection sector, depending on state choices. Up to four years is provided by today's proposal for this transition. EPA believes this will provide ample time for these businesses and individuals to take advantage of the new program. In addition, EPA believes there are several other ways states can help test stations, inspectors, and repair technicians make the transition to an enhanced I/M program.

VIII. Cost-Effectiveness

Based upon the inspection and repair costs and fuel economy benefits described above, a biennial high-tech I/M program satisfying the requirements

of this rule has an estimated net annual cost of $5,400,000 per year per million vehicles. If all program costs are allocated to VOC reductions the biennial high-tech program has an annual cost effectiveness of $880 per ton of VOC (without inconvenience assumptions); if performed annually the cost effectiveness of the high-tech program is $1,700 per ton of VOC. This compares with a cost effectiveness of $5,400 per ton for basic I/M, $4,400 per ton for the Low Option, and $2,600 for the Medium Option. If all of the program costs were allocated to CO, the biennial high option program would have a cost-effectiveness of $143 per ton, while the basic program would be $334 per ton. If all of the costs were allocated to NO_x reductions (which only occur in the high option program), then the cost per ton for the annual high-tech program would be $6,298 per ton and for the biennial high-tech program $3,267 per ton of NO_x benefit.

If program costs are allocated among all three pollutants as described in "Enhanced I/M Costs and Benefits," costs per ton of VOC reduction are estimated at $4,500 for Basic I/M, $3,700 for the Low Option, $2,200 for the Medium Option and $500 for the biennial high-tech program. If the high-tech program were performed on an annual basis, the cost effectiveness would be $1,300 per ton.

The cost-effectiveness estimates discussed above do not include the cost associated with the time it takes for a motorist to get through the inspection process (to allow for straightforward comparisons among I/M options). In a well-designed, high-volume system (the type being proposed here), the time to drive to the station, get tested, and drive home is estimated to be about 45 minutes. Assuming a time value of $20 per hour, that would add $15 to the cost. Assuming this, the biennial high-tech program would have a cost-effectiveness of $1,600 per ton, rather than $500 per ton (with cost split among the three pollutants). If all costs were allocated to VOC, then the cost effectiveness including the inconvenience assumption is $2,000 per ton of VOC (as opposed to $880 per ton of VOC without the inconvenience assumption).

IX. Relationship to Other In-Use Control Strategies

Considerable emission control development effort has been expended in the last two decades by both the vehicle manufacturers and the federal government, and each new vehicle produced represents a monetary investment in terms of emission control components. These efforts and investment have caused the passenger cars and light-duty trucks produced in recent years to be much lower emitting than their predecessors, provided that they are properly operating and that the conditions of temperature, traffic speeds, etc. they encounter are the same as the conditions of the EPA compliance test. However, a large body of evidence has been accumulated showing that current generation vehicles are not all operating properly in actual service. Moreover, they are often used under other temperature and driving conditions, and significant excess emissions are released as a result. These facts have been true of every generation of vehicles to some extent and have always been recognized by policy makers and professionals in the field of motor vehicle emission control. However, as nearly total control over the emissions of properly functioning vehicles under standard test conditions has been achieved, the lack of equivalent control over malfunctions and during non-standard conditions has become more evident to all. The Clean Air Act Amendments of 1990 reflect a renewed realization of these two problems. The Amendments contain several provisions aimed at reducing them. This section explains these provisions and their interrelationships.

The Amendments address emissions performance under non-standard conditions by directing EPA to revise the procedures under which compliance is determined, for both exhaust and evaporative emissions. EPA is in the process of doing so, and has underway a number of studies and rulemakings in this area, some begun prior to the 1990 Amendments. When completed, these actions will ensure that properly functioning vehicles maintain excellent control of emissions at colder and hotter temperatures than now used in compliance testing, when left parked for several days, and in driving patterns that play a significant role in everyday traffic. For vehicles produced before these new requirements take effect, it is generally true that in-use strategies aimed at prevention or correction of malfunctions (discussed below) will achieve emission reductions even under conditions not well represented by the pre-amendment test procedures.

The problem of excess emissions due to in-use malfunctions is addressed by several provisions of the 1990 Amendments. First, the Amendments extend the useful life of light-duty vehicles to ten years or 100,000 miles. Manufacturers are responsible for recalling their vehicles of a given model when emissions testing performed within the first 7 years or 75,000 miles reveals that a substantial number of properly maintained vehicles fail to comply with standards. Previously, the useful life has been only 5 years or 50,000 miles. EPA believes that the extension of the recall period will lead to emission control systems that are more durable, with less frequent malfunctions. An extension of the emissions warranty period for catalysts and on-board emission control computers to 8 years or 80,000 miles will also lead to more durable designs for these components and to more frequent action by owners to have them replaced when needed. (The 1990 Amendments reduce the warranty coverage period for other components, striking a balance between the emissions control advantages of long warranty coverage and the disadvantages of the same in terms of competition in the vehicle service and repair markets.)

Second, section 182(c)(3) of the Act directs EPA to revise its I/M policy to achieve an enhanced level of effectiveness in certain metropolitan areas. EPA is also directed to enforce the requirement for a "basic" I/M program in more areas, and to reconsider its previous policy for the design and operation of such programs. Basic and enhanced I/M programs both achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions, and requiring them to be repaired. An "enhanced" program is enhanced in the sense that it must cover more of the vehicles in operation than has been the case to date in many metropolitan areas, must employ inspection methods which are better at finding all high emitting vehicles, and must have additional features to better ensure that all vehicles are tested properly and properly repaired if failed by the tests. EPA in this notice is proposing specific requirements for each type of program in terms of vehicle coverage, test methods used to identify high emitting vehicles, etc.

Third, section 202(m) of the amended Act directs EPA to promulgate regulations requiring new vehicles to be equipped with on-board diagnostic (OBD) systems. On-board diagnostic systems have been incorporated into some vehicles at the manufacturers' initiative since 1980. The new regulations will require all manufacturers to install equipment that will monitor the performance of emission control equipment, the vehicle's fuel metering system and ignition system, and other equipment

and operating parameters for the purpose of detecting malfunction or deterioration in performance that would be expected to cause a vehicle to fail emission standards. When such problems are detected, a malfunction indicator lamp located in the dashboard of the vehicle will be illuminated, instructing the vehicle driver to "Service Engine Soon." Codes indicating the likely problem will also be stored in the vehicle's onboard computer for ready access by the servicing technician to aid in proper diagnosis and repair of the vehicle. The Agency has proposed onboard diagnostics regulations (September 24, 1991; FR48272) that would be phased in beginning with the 1994 model year. In accordance with section 202(m), the EPA proposal allows the opportunity for case-by-case waivers until the 1996 model year.

OBD systems will have their greatest benefit when the vehicle owner observes the warning signal and on his or her initiative obtains appropriate emission system repair promptly. Prompt action minimizes the time the vehicle is operated in a higher polluting condition, and the possibility of a prolonged malfunction in one component or subsystem causing secondary damage to another. EPA is hopeful that many owners will take such prompt voluntary action. There is, of course, no way to ensure that they do. Another way that OBD systems will have an emissions benefit is that vehicle repair technicians may access the OBD codes when vehicles are presented to them with symptoms of poor driveability or even just for routine servicing, and thereby discover emission malfunctions of which the owner was unaware. EPA hopes that in many such cases the owner will consent to an appropriate repair of the vehicle.

An appropriately designed OBD system also presents an opportunity to include a scan of the stored malfunction codes at the time of the periodic I/M test, to identify vehicles whose owners did not seek repairs when the warning signal first occurred. The presence of one or more codes in a vehicle indicates the current or recent existence of a malfunction with the potential to cause high emissions. Such a car should be failed and required to return after repair. Code inspections can be viewed as a supplement to the inspection regime which improves its effectiveness in finding high emitting vehicles, but also as a possible long-term replacement to the other tests for identifying high emitting vehicles. With the rapid connection and data transfer capabilities which have been developed by industry and are required by EPA's proposed OBD regulation, code inspections would not add significantly if at all to the time or cost for an inspection. The Act requires EPA to promulgate a rule which will require all I/M programs to include code inspections. Today's notice makes note here of this requirement, but does not actually propose that rule currently. EPA believes it would be inappropriate to do so prior to final adoption of OBD rules. EPA expects to make such a proposal on OBD inspection simultaneously with or soon after finalizing the regulation which requires OBD systems to be installed on new vehicles.

OBD systems, in addition to improving the identification of high emitting vehicles in an I/M program will also be of great utility in the repair of vehicles which fail the inspection, including the exhaust emission test. OBD will speed identification of the responsible component, and help avoid trial and error replacement of components which the repair technician cannot evaluate otherwise. The Clean Air Act requires that OBD inspections be performed in I/M programs once vehicles with mandated OBD systems become part of the fleet. At this point, EPA believes it is too early to be absolutely certain about the potential for OBD to replace existing or proposed test procedures or how long it will take to refine the technology to the point where it could substitute.

Fourth, the Act requires the sale of reformulated gasoline in many of the worst ozone nonattainment areas, with the option for others to elect to be subject to the program also. The Act also requires the sale of oxygenated gasoline in all carbon monoxide nonattainment areas. These special fuels will reduce the emissions of vehicles that are not operating properly due to a malfunction, as well as emissions from properly functioning vehicles. Reformulated fuels will only partially soften the effect of a malfunction in the emission control system. Similarly, changes in certification test procedures and new vehicle standards will not eliminate the need to inspect and repair in-use vehicles.

Finally, EPA is undertaking an initiative in response to the Act which may reduce the need for certain enhanced I/M emission checks. On October 3, 1991 (56 FR 50196), EPA proposed a program in which EPA would, at the manufacturer's option, certify specific vehicle models as "inherently low emitting vehicles" (ILEVs). The inherently low emitting character of these vehicles would arise mostly in regard to their evaporative emissions, which are required to remain very low even under malfunction conditions. EPA requests comments on whether such vehicles should be exempted from the evaporative system tests in enhanced I/M programs. EPA also requests comments on what exhaust-related certification requirements might be imposed for ILEVs which would make it appropriate to exempt them from exhaust testing also.

X. Other Issues

Since the publication of EPA's draft I/M guidance in April 1991, the Agency has been made aware of a unique situation which concerns air quality planning for the City and County of El Paso, Texas. El Paso lies across the Rio from Ciudad Juarez, Mexico. The 1990 populations of the two cities are about 592,000 and 798,000 respectively. Efforts are underway to develop an emissions inventory for Ciudad Juarez and to execute an Integrated Border Environmental Plan (IBEP) involving both the United States and Mexico over the next few years. Although the emission inventories are not yet complete, it is believed that the mobile source contribution from Ciudad Juarez is greater than that from El Paso County.

El Paso is a serious ozone nonattainment area, which makes it subject to the enhanced I/M provisions of the Act. Its required attainment date for ozone is November 15, 1999, by which time it must also achieve a 24 percent reduction in adjusted 1990 baseline emissions in order to comply with the reasonable further progress requirements of Section 182(c)(2). Because of the influence of emissions from Ciudad Juarez, ozone attainment in El Paso is believed to be impossible without very significant new controls in that city, which despite progress on the IBEP are uncertain in the 1999 time frame. In recognition of this, Congress provided in § 179B for approval of plans from an area like El Paso that would otherwise be satisfactory to achieve attainment but for emissions emanating from outside the United States.

Nevertheless, the goal for El Paso should be to make as much progress as possible in reducing ambient ozone concentrations by 1999 and thereafter. In doing so, El Paso will also face additional obstacles due to the difficult economic situation in the area, the relatively long period for which vehicles are used before being retired, and the importance of vehicle emissions to the total inventory on the El Paso side of the

border. Because of its special circumstances, EPA believes that El Paso should be allowed to use its limited resources with as much flexibility as possible in how they are applied to the ambient ozone problem, subject to the Act's reasonable further progress requirements. EPA therefore has explored whether and how it might establish a unique requirement for enhanced I/M in El Paso, within the range of discretion it has under the Act in defining enhanced I/M in general. Specifically, EPA is proposing that provided the area can demonstrate that the 24% reasonable further progress requirement is being met, then the enhanced I/M program in El Paso should meet a performance standard which is achievable by a model program that is identical to that for other areas except in the following ways: the transient emission test and transient purge test are conducted on 1990 and later model year vehicles, two speed testing on 1981–89 model year vehicles, idle testing on 1968–81 model year vehicles, and pressure testing on 1971 and later model year vehicles. El Paso must match the emission reductions from this program in November 1999, and every three years thereafter until its attainment year. El Paso must meet the same SIP submittal deadlines discussed above as established for all other areas.

XI. Public Participation

A. Comments and the Public Docket

EPA welcomes comments on all aspects of this proposed rulemaking. While EPA is not publishing the text of the proposed regulation, EPA welcomes comments on it. EPA will be sending copies of the regulation to those people on the I/M mailing list but invites others to request a copy immediately. Copies of the regulation may be obtained by calling the answering machine at (313) 741–7884 and leaving your name, organization name, address, and phone number. One can also request a copy in writing to EPA (see "**FOR FURTHER INFORMATION CONTACT**") or by sending a fax to (313) 668–4497. Commenters are especially encouraged to give suggestions for improving the convenience and cost-effectiveness of I/M programs. All comments, with the exception of proprietary information, should be directed to the EPA Air Docket Section, Docket No. A–91–75 (see "**ADDRESSES**").

Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments by—

- Labeling proprietary information "Confidential Business Information" and
- Sending proprietary information directly to the contact person listed (see "**FOR FURTHER INFORMATION CONTACT**") and not to the public docket.

This will help insure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use a submission labeled as confidential business information as part of the basis for the final rule, then a nonconfidential version of the document, which summarizes the key data or information, should be sent to the docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, the submission may be made available to the public without notifying the commenters.

B. Public Hearing

Anyone wishing to present testimony about this proposal at the public hearing (see "**DATES**") should, if possible, notify the contact person (see "**FOR FURTHER INFORMATION CONTACT**") at least seven days prior to the day of the hearing. The contact person should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling those who have not notified the contact earlier. This testimony will be scheduled on a first-come, first-serve basis to follow the previously scheduled testimony.

EPA requests that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, EPA would find it helpful to receive an advance copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date. This is to give EPA staff adequate time to review such material before the hearing. Such advance copies should be submitted to the contact person listed.

The official records of the hearing will be kept open for 30 days following the hearing to allow submission of rebuttal and supplementary testimony. All such submittals should be directed to the Air Docket, Docket No. A–91–75 (see "**ADDRESSES**").

The hearing will be conducted informally, and technical rules of evidence will not apply. A written transcript of the hearing will be placed in the above docket for review. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding.

XII. Administrative Requirements

A. Administrative Designation

Under Executive Order 12291, EPA has determined that this regulation is major. A Regulatory Impact Analysis has been prepared and is available from the address provided under "**FOR MORE INFORMATION CONTACT.**"

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any EPA response to those comments are in the public docket for this rulemaking.

B. Reporting and Record Keeping Requirement

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been prepared by EPA (ICR No. 1613.01) and a copy may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M St., SW. (PM–223Y); Washington, DC 20460 or by calling Sandy Farmer, (202) 260–2740.

Public reporting burden for this collection of information is estimated to vary from 43 to 127 hours per response with an average of 85 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing 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 Chief, Information Policy Branch; EPA; 401 M St., SW. (PM–223Y); Washington, DC 20460; and the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final Rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires federal agencies to identify potentially adverse impacts of federal regulations upon small entities. In instances where significant impacts are

possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis. This analysis has been completed and is included in the docket. Issues related to this analysis have been addressed in various sections of this preamble.

Dated: July 9, 1992.

William K. Reilly,

Administrator.

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LIST OF PUBLIC LAWS

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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1, 2 (2 Reserved)	(869-017-00001-9)	$13.00	Jan. 1, 1992
3 (1991 Compilation and Parts 100 and 101)	(869-017-00002-7)	17.00	[1] Jan. 1, 1992
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1200-End, 6 (6 Reserved)	(869-017-00006-0)	19.00	Jan. 1, 1992
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46-51	(869-017-00009-4)	18.00	Jan. 1, 1992
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1991. The CFR volume issued January 1, 1987, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1991. The CFR volume issued July 1, 1989, should be retained.

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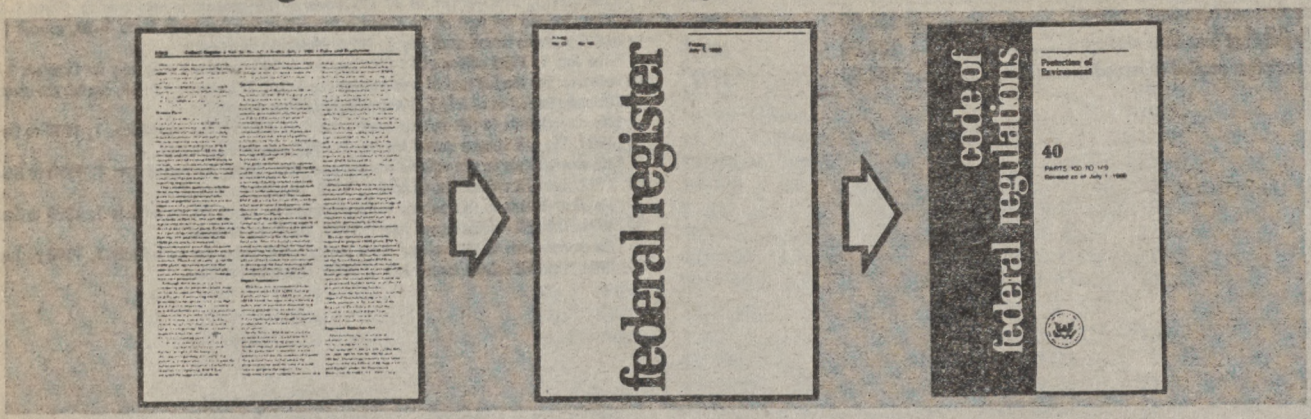

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Of significant historical interest is Appendix C, which lists the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

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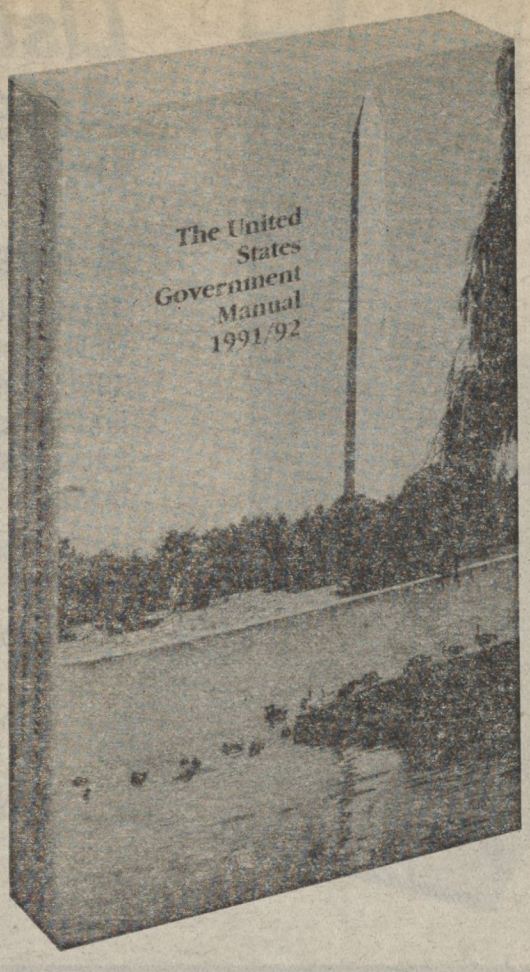

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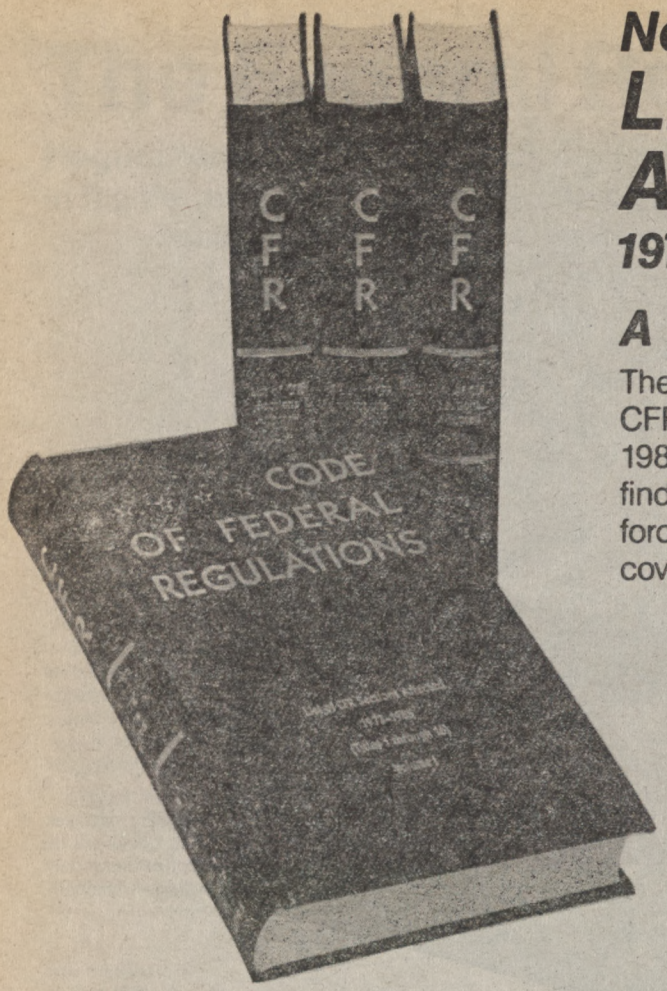

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