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Briefing on How To Use the Federal Register
For information on briefings in San Francisco, CA and Seattle, WA, see announcement on the inside cover of this issue.

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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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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.

OFFICE OF THE FEDERAL REGISTER

1 CFR Part 51

Change of the Office of the Federal Register's Address for Inspection of Materials Incorporated by Reference

AGENCY: Office of the Federal Register, NARA.

ACTION: Technical amendment.

SUMMARY: The procedures for incorporation by reference appear at 1 CFR part 51. This document changes the address of the Office of the Federal Register listed as an inspection location for materials incorporated by reference throughout titles 1 through 50 of the Code of Federal Regulations. The change is made necessary by the relocation of the Office of the Federal Register. This document also announces the July 20, 1992 date of the relocation.

EFFECTIVE DATE: July 20, 1992.

ADDRESSES: The new address for the Office of the Federal Register will be 800 North Capitol Street, NW., suite 700, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Sandra M. Jablonski at (202) 523–4534.

SUPPLEMENTARY INFORMATION: The Office of the Federal Register is relocating to 800 North Capitol Street, NW., suite 700, Washington, DC and will be open for business at the new location on July 20, 1992. Services will be provided at 1100 L Street, NW., Washington, DC through July 17, 1992. The Office of the Federal Register's mailing address will continue to be: Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

Under the Freedom of Information Act, 5 U.S.C. 552(a), the Director of the Federal Register has the responsibility for approval of materials incorporated by reference into the Federal Register system. Currently, the address of the Office of the Federal Register appears as an inspection location for all materials that are incorporated by reference.

This document changes the address of the Office of the Federal Register wherever it appears in titles 1 through 50 of the Code of Federal Regulations as the inspection address for incorporated materials. As each title is revised, the editors will amend this Office's inspection address for materials that are incorporated by reference.

List of Subjects in 1 CFR Part 51

Administrative practice and procedure, Incorporation by reference.

For the reasons discussed in the preamble, and under the authority 5 U.S.C. 552(a), the Director of the Office of the Federal Register amends titles 1 through 50 of the Code of Federal Regulations as set forth below:

The Office of the Federal Register's address for inspection of materials incorporated by reference, "1100 L Street, NW., room 8401, Washington, DC" is revised to read "800 North Capitol Street, NW., suite 700, Washington, DC" wherever it appears in titles 1 through 50.

Dated: July 14, 1992.

Richard L. Claypoole,

Deputy Director of the Federal Register.

[FR Doc. 92–16858 Filed 7–17–92; 8:45 am]

BILLING CODE 1505–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket 91–121–2]

Mexican Fruit Fly; Removal From Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the Mexican fruit fly regulations by removing the Texas counties of Brooks, Dimmit, Jim Hogg, Jim Wells, La Salle, Starr, Webb, and Zapata from the list of regulated areas. We have determined that the Mexican fruit fly does not exist in these areas and that restrictions are no longer necessary. This action relieves unnecessary restrictions on the interstate movement of regulated articles from these areas.

EFFECTIVE DATE: August 19, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 640, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

The regulations contained in 7 CFR 301.64 (referred to below as the regulations) impose restrictions on the interstate movement of regulated articles from regulated areas in quarantined States in order to prevent the artificial spread of the Mexican fruit fly, *Anastrepha ludens* (Loew), to noninfested areas. Regulated articles include citrus fruit, avocados, apples, peaches, pears, plums, prunes, and pomegranates.

In an interim rule published in the Federal Register and effective September 10, 1991 (56 FR 46107–46108, Docket Number 91–121), we amended the regulations by removing the Texas counties of Brooks, Dimmit, Jim Hogg, Jim Wells, La Salle, Starr, Webb, and Zapata from the list of regulated areas. We required that comments on the interim rule be received on or before November 12, 1991. The one letter of comment that we received, which was from the Texas Department of Agriculture, supported the interim rule. The facts presented in the interim rule still provide a basis for the rule. Executive Order 12291 and Regulatory Flexibility Act.

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause 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.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This rule removes restrictions on the interstate movement of regulated articles from eight counts in Texas. Within the previously regulated areas there are approximately 59 entities that will be affected, including 23 fruit/produce markets, 16 nurseries, 7 flea markets, 8 packing sheds, and 5 commercial growers of peaches and apples. These entities comprise less than one percent of the total number of similar enterprises operating in the State of Texas.

Most of these entities handle regulated articles primarily for local movement, so their distribution of those articles was not affected by the regulatory provisions we are removing. Entities that do handle regulated articles for interstate movement could move most articles without significant added costs under specific conditions set forth in the regulations. Additionally, many of these entities also handle items other than the previously regulated articles. For these reasons we expect that any effect that this rule might have on these entities is minimal.

Under these circumstances, the Administrator of the animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

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.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is 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 inconsistent 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.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Mexican fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule amending 7 CFR 301.64–3 that was published at 56 FR 46107–46108 on September 10, 1991.

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 15th day of July 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–17022 Filed 7–17–92; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 1209

[FV–91–404]

RIN 0581–AA49

Procedures for the Conduct of Referenda in Connection With the Mushroom Promotion, Research, and Consumer Information Order and Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From Such Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Mushroom Promotion, Research, and Consumer Information Act of 1990 authorizes a program of promotion, research, and consumer information to be developed through the promulgation of an order. The U.S. Department of Agriculture recently issued a proposed order and announced a producer and importer referendum. To become effective the proposed order must be approved by mushroom producers and importers in a referendum. This rule establishes procedures for the conduct of the initial referendum to determine if producers and importers favor implementation of the proposed order. These procedures will also apply to any subsequent referenda to amend, continue, or terminate the order should it be implemented. In addition to referenda procedures, this rule contains rules of practice governing proceedings on petitions to modify or to be exempted from the order.

EFFECTIVE DATE: July 20, 1992.

ADDRESSES: Richard Schultz, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2533–S, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Richard Schultz at the above address or telephone (202) 720–5976.

SUPPLEMENTARY INFORMATION: This final rule, authorized under the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101–6112), hereinafter referred to as the Act, establishes the procedures for the conduct of the initial referendum and any subsequent referenda applicable to the Mushroom Promotion, Research and Consumer Information Order (order). In addition, this action also establishes the Rules of Practice Governing Proceedings on Petitions to Modify or to be Exempted from Such Order.

This final rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. Section 1930 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to mushroom promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State.

The Act further provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1927 of the Act, a person subject to the order may file with the Secretary of Agriculture (Secretary) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or an exemption from the order. The petitioner is afforded the opportunity for a hearing on the petition. After such hearing, the Secretary will make a ruling on the petition, which will be final if in accordance with the law. The Act provides that the district courts of the United States in any district in which a person who is a petitioner resides or carries on business are vested with jurisdiction to review the ruling on such person's petition, if a complaint for that

purpose is filed within 20 days after the date of the entry of such ruling of the Secretary.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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

The most recent Department estimate of mushroom growers in the United States indicates that there are 460 domestic growers. Between 100 and 150 of these growers would fall under the definition of "producer" as defined in the Act and be subject to the provisions of the order. A minority of these producers would be classified as small entities. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms, which include mushroom handlers and importers, have been defined as those having annual receipts of less than $3,500,000. There are approximately 100 handlers, including producers who are also handlers, who would be subject to the provisions of the order. A majority of these handlers would be classified as small entities. There are no more than 3 importers, out of approximately 30 importers, who would be subject to the provisions of the order. A majority of these importers would be classified as small entities.

During the period from July 1, 1990, through June 30, 1991, Department statistics indicate that 756 million pounds of mushrooms were produced in the United States. Of this total production, 518 million pounds were for fresh market. During this same period, Department statistics indicate that 3.5 million pounds of fresh mushrooms were imported into the United States. Major exporting countries, as a percentage of total fresh mushroom imports, were Canada (93.9%), Thailand (2.0%), Japan (1.9%), and Taiwan (1.0%).

The order would require each mushroom producer and importer who produces or imports, on average, more than 500,000 pounds of fresh mushrooms annually to pay an assessment which could be incrementally increased to a maximum rate of one cent per pound. Such a maximum assessment rate could not be realized until the fourth year of the order. In addition, the order would require an estimated 100 first handlers of fresh mushrooms, a majority of whom would be classified as small entities, to collect and remit such assessments.

This rule establishes procedures for the initial referendum to determine whether the order will go into effect. Such a referendum is required by the Act. These procedures also apply to any subsequent referenda to amend, continue, or terminate the order should it be implemented. In addition to referenda procedures, this rule contains rules of practice governing proceedings on petitions to modify or to be exempted from the order. The Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection requirements contained in this action have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0581–0093, except for the Council nominee background statement form which is assigned OMB control number 0505–0001. It is estimated that up to 153 mushroom producers and importers will be eligible to vote in the initial referendum and that it will take an average of 6 minutes for each producer and importer to complete the referendum ballot.

Background

The Act authorizes the development of a nationally coordinated program of promotion, research, consumer information, and industry information designed to strengthen the mushroom industry's position in the marketplace; maintain and expand existing markets and uses for mushrooms; and develop new markets and uses for mushrooms. An order implementing the program must first be approved by producers and importers voting in a referendum.

Persons voting in the initial referendum and subsequent referenda will certify their eligibility to vote and will designate their status as either a mushroom producer or importer. Only current producers or importers who either produced or imported, on average, over 500,000 pounds of mushrooms annually during the representative period will be eligible to vote in such referenda. Producers and importers will be required to certify the pounds of mushrooms they either produced or imported during the representative period. These figures will be used to determine the results of the voting based on the volume of mushrooms produced and imported by those eligible and voting.

In addition to referenda procedures, this rule contains rules of practice for proceedings on petitions to modify or be exempted from an order. Section 1927 of the Act provides that any person subject to an order may file a written petition with the Secretary stating that such order or any provision of such order is not in accordance with law. The person may request a modification of such order or an exemption from certain provisions or obligations of such order. The person shall be given an opportunity for a hearing on the petition, in accordance with regulations prescribed by the Secretary.

A proposed rule on the referenda and petition filing procedures was published in the January 29, 1992, issue of the **Federal Register** (57 FR 3360). Interested persons were invited to submit comments on the proposal until February 29, 1992. Two comments were received in response to the proposed rule. One comment was received jointly from the American Mushroom Institute and the Mushroom Council (AMI) and another from the Pictsweet Mushroom Farms Division of United Foods, Inc. (United).

Comments from the AMI suggested certain changes to § 1209.303 of the proposed rule which would specifically grant the right to cast ballots by mail. Proposed § 1209.303(b) provides that the referendum agent shall determine the voting method. The provision gives the referendum agent the latitude to determine whether ballots may be cast by mail, at polling places, or by a combination of the two. In addition, the Administrator of the AMS is authorized to prescribe additional instructions concerning how a referendum is to be conducted. This latitude is needed in order to effectively conduct impartial referenda. Therefore, the comment is denied.

The AMI requested that a procedure be added to the referendum rules to permit public challenges to the qualifications of those casting votes. To this end, the AMI specifically requested that the referendum agent make available for public inspection, for 10 days following the voting period, a list of each person casting a vote in the referendum. The change requested by the AMI would be inconsistent with the confidentiality provisions of the proposed order and regulations. The AMS and the referendum agent will take the appropriate steps necessary to ascertain the validity of the ballots which are cast in the referendum.

Anyone has a right to challenge the validity of any ballot. If a challenge is brought to the attention of the referendum agent, such investigation as is necessary will be made to determine the validity of the ballot.

The AMI commented that the term "trusts" should be added to proposed § 1209.302(b) since the administrators, executors, or trustees of eligible producing or importing estates would be eligible to cast ballots on behalf of such estates. The term "trusts" is not mentioned in this section. In response to the comment, the Department has decided to clarify the language in § 1209.302(b) of this rule by changing the term "estate" to "entity."

The AMI also commented that the definition of "representative period" in proposed § 1209.301(d) should be revised to reflect the fact that such period would allow for averaging production, such as a rolling two-year period. The definition of "representative period" is consistent with other such definitions in research and promotion orders administered by the Department. In selecting the period for the purposes of the initial referendum, the Secretary will take into account the provisions and requirements of the Act, including the provision that production and importation be determined on an average annual basis.

The AMI addressed the issue of a definition for "fresh market" which is similar to its comment on the proposed order. This comment has already been considered in the analysis of comments on the proposed order and will not be addressed in this rulemaking procedure.

Finally, the AMI provided supplemental comments on the comments submitted with regard to the proposed order rulemaking by the Office of Advocacy, which is part of the Small Business Administration. These supplemental comments will be considered part of the rulemaking record but will not be addressed in this rulemaking procedure.

Several comments from United indicate that United may have misinterpreted certain provisions of the proposed rule.

United expressed concern that private parties could be allowed to act as referendum agents in the conduct of referenda. The Department does not intend that private parties should act as referendum agents in the conduct of referenda. Referendum agents will be Department employees not private parties. Such agents will conduct referenda in accordance with the procedures contained in this rule and pursuant to Department policy and practice.

United also expressed concern that the proposed rule did not set out any meaningful requirements for publicizing referenda. The Department does not agree with this comment. Proposed § 1209.303(d) states that the referendum agent will give reasonable advance public notice of the referendum "by utilizing available media or public information sources * * * Such sources of publicity may include, but are not limited to, print and radio; and by such other means as the agent may deem advisable."

United commented on the Department's ability to notify mushroom growers and importers of the initial referendum. The Department has developed an extensive voter list containing the names of known mushroom growers and importers. Due to the eligibility requirements specified in the Act and proposed order, a majority of the persons on this list will not be eligible to vote in the referendum. On January 23, 1992, the Department mailed out information to all persons on this list regarding the issuance and content of a proposed order and notice of a public meeting to discuss such order. Such mailings amply demonstrate the Department's ability to effectively and fairly notify affected and interested persons.

United further commented that if the Department has developed any type of voter list, then the Department should make such a list publicly available at least 90 days before a referendum in order to ensure informed producer and importer participation. The Department does not agree with this comment. The release of such a list involves the issue of an individual's right to privacy. Furthermore, the Department has demonstrated its capability to effectively and fairly inform voters on the proposed order. The public availability of such a list prior to a referendum would duplicate the Department's efforts and is not expected to significantly increase voter participation in a referendum.

United also commented that the proposed rule did not provide specific information regarding the voter package to be used in the initial referendum. The AMS has developed a uniform voter package to be used in the conduct of referenda relating to research and promotion programs. This package can be readily altered to accommodate the particulars of individual programs. It was not the intent of the Department to include the details of such a package as a part of the proposed rule.

United suggested that voters be given three options when voting in any referendum. It was recommended that the ballot allow voters a vote of: "yes," "no," or "no preference." The Department does not agree with the inclusion of the language "no preference" on the ballot. The purposes for holding a referendum are to determine whether an order will be implemented, continued, amended, or terminated by those voting in the referendum. Consequently, such a determination can be fairly concluded by a "yes" or "no" vote. Therefore, the comment is denied.

United also suggested that in order to ensure maximum participation among eligible voters in a referendum, voting should be done through the mail and by secret ballot. The Department agrees with this comment in regard to the initial referendum. However, voting in subsequent referenda, as provided in final § 1209.303(b), may be undertaken by mail, at polling places, or any combination of the two.

United expressed concern that the proposed rule did not set out criteria to verify the eligibility of persons voting in referenda. The Department has developed appropriate safeguards to verify voter eligibility in the initial referendum and subsequent referenda. It was not the intent of the Department to include the specifics of such safeguards as part of the rule.

United further commented that the proposed rule did not provide any procedures to challenge ballots or to appeal decisions to strike ballots. The issue on public challenges to ballots is addressed in the Department's response to the AMI's comment on this subject.

In regard to United's comment concerning appealing the Department's invalidation of an individual's ballot, any individual voter may request to see how their own ballot was handled by the referendum agent. Further, by the time ballots for the referendum are mailed, detailed referendum procedures for handling and tabulating ballots will be available to the public on request. It should be noted that all ballots are kept in a locked box until the voting period is over. At that time an auditor from the Office of Audit, which is part of the Office of the Inspector General, will observe the opening of all ballots and the subsequent validation and tabulation of the votes. This is standard practice for referenda conducted by the Fruit and Vegetable Division. Therefore, the comment to include these additional safeguards, including United's suggestion of using an independent auditor to monitor voting and assess results, is denied.

United further stated that since the order is not yet effective, the definitions

of key terms, such as "producer," "importer," or "mushrooms," are still subject to change. This final rule will be issued after the issuance of a proposed order which is subject to approval by producers and importers in the initial referendum. Only after it is approved can the order become effective. However, it will be final insofar as its terms and definitions are concerned prior to the referendum conducted in accordance with these rules. Further, the phrase "on average" has been added for clarity to the definitions of "eligible producer" and "eligible importer" in this rule and for the same reason in the definition of "eligible producer" the term "lessor-lessee" has been changed to "landlord-tenant."

United commented that the proposed rule did not provide for the establishment of a representative period. United further commented that it was unclear who may vote in the initial referendum. It was not the Department's intent to establish a representative period in the proposed rule. Such a period is specified in a proposed rule and referendum order to establish a Mushroom Promotion, Research, and Consumer Information Order. A proposed rule containing a proposed order and referendum order was published in the June 10, 1992, issue of the **Federal Register** (57 FR 24720).

In the aforementioned proposed rule, the representative period will be a specified two-year period. The Department will determine a person's eligibility to vote in the initial referendum and any subsequent referenda by averaging such person's total fresh market production or importation over the specified period. In addition, any person voting in the initial referendum must satisfy the proposed order's definition of "producer" or "importer" on the actual date that their ballot is completed. Such persons must certify their volume of production or importation on the ballot which is subject to verification.

United also commented that the definition of "eligible importer" provides no justification to allow persons, such as agents and brokers, to vote on behalf of actual importers. The Department does not agree with this comment. The definition of "importer" in the Act and in the proposed order is used in general terms to mean any person who imports. It is intended that this term should include any person who imports, as a principle or as an agent, broker, or consignee, mushrooms from outside of the United States for marketing in the United States. Due to the modest quantity of imported fresh market mushrooms, the estimated number of eligible importers voting in the initial referendum will not exceed 3 percent of the estimated number of eligible producers voting in the referendum. Such a percentage is not expected to skew the vote nor result in mushrooms being double-counted, as United contends.

Other comments submitted by United were related to the order and will be addressed in the final decision on a proposed order. Thus, these comments will not be discussed in connection with this rulemaking action.

After considerations of all relevant material presented, including the comments received and other available information, it is found that this action, and all of terms and conditions thereof, tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. A proposed rule containing a proposed order and referendum order was published in the June 10, 1992, issue of the **Federal Register** (57 FR 24720). To become effective, the proposed order must be approved by mushroom producers and importers in referendum. In order to conduct a referendum in a timely manner, this rule should be made effective as soon as possible. Further, interested persons were afforded a 30-day comment period, and no useful purpose would be served in delaying the effective date. Therefore, this final rule is effective on the date of publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1209

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Mushrooms, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, chapter XI of title 7, is amended by adding part 1209 to read as follows:

PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER

Subparts A–B—[Reserved]

Subpart C—Procedure for the Conduct of Referenda in Connection With the Mushroom Promotion, Research, and Consumer Information Order

Sec.

1209.300 General.
1209.301 Definitions.
1209.302 Voting.
1209.303 Instructions.
1209.304 Subagents.
1209.305 Ballots.
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1209.307 Confidential information.

Subpart D—Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From the Mushroom Promotion, Research, and Consumer Information Order

1209.400 Words in the singular form.
1209.401 Definitions.
1209.402 Institution of proceeding.

Authority: 7 U.S.C. 6101 *et seq.*

Subparts A–B—[Reserved]

Subpart C—Procedure for the Conduct of Referenda in Connection With the Mushroom Promotion, Research, and Consumer Information Order

§ 1209.300 General.

Referenda to determine whether eligible producers and importers favor the issuance, continuance, termination, or suspension of a Mushroom Promotion, Research, and Consumer Information Order shall be conducted in accordance with this subpart.

§ 1209.301 Definitions.

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Order* means the Mushroom Promotion, Research, and Consumer Information Order, including an amendment to the Order, with respect to which the Secretary has directed that a referendum be conducted.

(c) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(d) *Representative period* means the period designated by the Secretary.

(e) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. For the purpose of this definition, the term "partnership" includes, but is not limited to:

(1) A husband and wife who has title to, or leasehold interest in, mushroom production facilities and equipment as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property, and

(2) So-called "joint ventures" wherein one or more parties to the agreement, informal or otherwise, contributed

capital and others contributed labor, management, equipment, or other services, or any variation of such contributions by two or more parties so that it results in the production or importation of mushrooms and the authority to transfer title to the mushrooms so produced or imported.

(f) *Eligible producer* means any person defined as a producer who produces, on average, over 500,000 pounds of mushrooms annually during the representative period and who:

(1) Owns or shares in the ownership of mushroom production facilities and equipment resulting in the ownership of the mushrooms produced;

(2) Rents mushroom production facilities and equipment resulting in the ownership of all or a portion of the mushrooms produced;

(3) Owns mushroom production facilities and equipment but does not manage them and, as compensation, obtains the ownership of a portion of the mushrooms produced; or

(4) Is a party in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce mushrooms who share the risk of loss and receive a share of the mushrooms produced. No other acquisition of legal title to mushrooms shall be deemed to result in persons becoming eligible producers.

(g) *Eligible importer* means any person defined as an importer in the Order who imports, on average, over 500,000 pounds annually during the representative period. Importation occurs when commodities originating outside the United States are entered or withdrawn from the U.S. Customs Service for consumption in the United States. Included are persons who hold title to foreign-produced mushrooms immediately upon release by the U.S. Customs Service, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of mushrooms from the U.S. Customs Service when such mushrooms are entered or withdrawn for consumption in the United States.

(h) *Act* means the Mushroom Promotion, Research, and Consumer Information Act of 1990, *Subtitle B of Title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, 7 U.S.C. 6101–6112,* and any amendments thereto.

(i) *Commerce* means interstate, foreign, and intrastate commerce.

(j) *Council* means the administrative body referred to as the Mushroom Council established under § 1925(b) of the Act.

(k) *Department* means the United States Department of Agriculture.

(l) *Fiscal Year* means the 12-month period from January 1 through December 31 each year, or such period as recommended by the Council and approved by the Secretary.

(m) *Importer* means any person who imports, on average, over 500,000 pounds of mushrooms annually from outside the United States.

(n) *Mushrooms* means all varieties of cultivated mushrooms grown within the United States and marketed for the fresh market, or imported into the United States and marketed for the fresh market, except such term shall not include mushrooms that are commercially marinated, canned, frozen, cooked, blanched, dried, packaged in brine, or otherwise processed in such manner as the Council, with the approval of the Secretary, may determine.

(o) *On average* means a rolling average of production or imports during the last two fiscal years, or such other period as may be determined by the Secretary.

(p) *Producer* means any person engaged in the production of mushrooms who owns or shares the ownership and risk of loss of such mushrooms and who produces, on average, over 500,000 pounds of mushrooms per year.

(q) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the Department of whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

(r) *State* means any of the several States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

(s) *To market* means to sell or otherwise dispose of mushrooms in any channel of commerce.

(t) *United States* means collectively the several States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 1209.302 Voting.

(a) Each person who is an eligible producer or importer, as defined in this subpart, at the time of the referendum and during the representative period, shall be entitled to cast only one ballot in the referendum. However, each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce mushrooms, in which more than one of the parties is a producer, shall be entitled to cast one ballot in the referendum covering only such producer's share of the ownership.

(b) Proxy voting is not authorized, but an officer or employee of an eligible corporate producer or importer, or an administrator, executor, or trustee of an eligible producing or importing entity may cast a ballot on behalf of such producer, importer, or entity. Any individual so voting in a referendum shall certify that such individual is an officer or employee of the eligible producer or importer, or an administrator, executor, or trustee of an eligible producing or importing entity, and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

§ 1209.303 Instructions.

The referendum agent shall conduct the referendum, in the manner herein provided, under supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the time of commencement and termination of the period of the referendum, and the time when all ballots may be cast.

(b) Determine whether ballots may be cast by mail, at polling places, or by any combination of the foregoing.

(c) Provide ballots and related material to be used in the referendum. Ballot material shall provide for recording essential information including that needed for ascertaining:

(1) Whether the person voting, or on whose behalf the vote is cast, is an eligible voter.

(2) The total volume of mushrooms produced by the voting producer during the representative period.

(3) The total volume of mushrooms imported by the voting importer during the representative period, and

(4) In a joint venture, names of the parties and each party's share of ownership.

(d) Give reasonable advance public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, methods of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as the agent may deem advisable.

(e) Make available to eligible producers and importers the instructions on voting, appropriate ballot and certification forms, and, except in the case of a referendum on the termination or continuance of the Order, the terms and conditions of the Order. No person who claims to be eligible to vote shall be refused a ballot.

(f) If ballots are to be cast by mail, cause all the material specified in paragraph (e) of this section to be mailed to each eligible producer and importer whose name and address is known to the referendum agent.

(g) If ballots are to be cast at polling places, determine the necessary number of polling places, designate them, announce the hours during which each polling place will be open, provide the material specified in paragraph (e) of this section, and provide for appropriate custody of ballot forms and delivery to the referendum agent of ballots cast.

(h) At the conclusion of the referendum, canvass the ballots, tabulate the results, and except as otherwise directed, report the outcome to the Administrator and promptly thereafter submit the following:

(1) All ballots received by the agent and appointed subagents, together with a certificate to the effect that the ballots forwarded are all of the ballots cast and received by such agent or subagents during the referendum period;

(2) A list of all challenged ballots deemed to be invalid; and

(3) A tabulation of the results of the referendum and a report thereon, including a detailed statement explaining the method used in giving publicity to the referendum and showing other information pertinent to the manner in which the referendum was conducted.

§ 1209.304 Subagents.

The referendum agent may appoint any individual or individuals deemed necessary or desirable to assist the agent in performing such agent's functions hereunder. Each individual so appointed may be authorized by the agent to perform, in accordance with the requirements herein set forth, any or all of the following functions which, in the absence of such appointment, shall be performed by the agent:

(a) Give public notice of the referendum in the manner specified herein;

(b) Serve as poll officer at a polling place;

(c) Distribute ballots and provide the material specified in § 1209.303(e) to producers and importers and receive any ballots which are cast; and

(d) Record the name and address of each person receiving a ballot from, or casting a ballot with, the subagent and inquire into the eligibility of such person to vote in the referendum, indicating all challenged ballots deemed to be invalid.

§ 1209.305 Ballots.

The referendum agent and subagents shall accept all ballots cast; but, should they, or any of them, deem that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefore, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under this subpart shall not be counted.

§ 1209.306 Referendum report.

Except as otherwise directed, the Administrator shall prepare and submit to the Secretary a report on results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to analysis of the referendum and its results.

§ 1209.307 Confidential information.

All ballots cast and the contents thereof, whether or not relating to the identity of any person who voted or the manner in which any person voted, and all information furnished to, compiled by, or in possession of the referendum agent or subagents shall be treated as confidential.

Subpart—D Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From the Mushroom Promotion, Research, and Consumer Information Order

§ 1209.400 Words in the singular form.

Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 1209.401 Definitions.

Unless otherwise defined in this subpart, definitions of terms used in this subpart shall have the same meaning as the definitions in Subpart C—Procedure for the Conduct of Referenda in Connection with the Mushroom Promotion, Research, and Consumer Information Order.

(a) *Administrative law judge* or *judge* means any administrative law judge, appointed pursuant to 5 U.S.C. 3105, and assigned to the proceeding involved;

(b) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity subject to an order or to whom an order is sought to be made applicable, or on whom an obligation has been imposed or is sought to be imposed under an order.

(c) *Proceeding* means a proceeding before the Secretary arising under section 1927 of the Act;

(d) *Hearing* means that part of the proceedings which involves the submission of evidence;

(e) *Party* includes the Department of Agriculture;

(f) *Hearing clerk* means the Hearing Clerk, U.S. Department of Agriculture, Washington, DC;

(g) *Decision* means the judge's report to the Secretary and includes the judge's proposed:

(1) Findings of fact and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis thereof,

(2) Order, and

(3) Rulings on findings, conclusions and orders submitted by the parties; and

(h) *Petition* includes an amended petition.

§ 1209.402 Institution of proceeding.

(a) *Filing and service of petitions.* Any person subject to the Order desiring to complain that such Order or any provision of such Order or any obligation imposed in connection with the Order is not in accordance with law shall file with the hearing clerk, in quintuplicate, a petition in writing addressed to the Secretary. Promptly upon receipt of the petition in writing the hearing clerk shall transmit a true copy thereof to the Administrator and the General Counsel, respectively.

(b) *Contents of petitions.* A petition shall contain:

(1) The correct name, address, and principal place of business of the petitioner. If the petitioner is a corporation, such fact shall be stated, together with the name of the State of incorporation, the date of incorporation, and the names, addresses, and respective positions held by its officers and directors; if an unincorporated association, the names and addresses of its officers, and the respective positions held by them; if a partnership, the name and address of each partner;

(2) Reference to the specific terms or provisions of the Order, or the interpretation or application of such terms or provisions, which are complained of;

(3) A full statement of the facts, avoiding a mere repetition of detailed evidence, upon which the petition is based, and which it is desired that the Secretary consider, setting forth clearly

and concisely the nature of the petitioner's business and the manner in which petitioner claims to be affected by the terms or provisions of the Order or the interpretation or application thereof, which are complained of;

(4) A statement of the grounds on which the terms or provisions of the Order, or the interpretation or application thereof, which are complained of, are challenged as not in accordance with law;

(5) Requests for the specific relief which the petitioner desires the Secretary to grant; and

(6) An affidavit by the petitioner, or, if the petitioner is not an individual, by an officer of the petitioner having knowledge of the facts stated in the petition, verifying the petition and stating that it is filed in good faith and not for purposes of delay.

(c) *A motion to dismiss a petition: filing, contents, and responses to a petition.* If the Administrator is of the opinion that the petition, or any portion thereof, does not substantially comply, in form or content, with the Act or with requirements of paragraph (b) of this section, the Administrator may, within 30 days after the filing of the petition, file with the hearing clerk a motion to dismiss the petition, or any portion of the petition, on one or more of the grounds stated in this paragraph. Such motion shall specify the grounds for objection to the petition and if based, in whole or in part, on allegations of fact not appearing on the face of the petition, shall be accompanied by appropriate affidavits or documentary evidence substantiating such allegations of fact. The motion may be accompanied by a memorandum of law. Upon receipt of such motion, the hearing clerk shall cause a copy thereof to be served upon the petitioner, together with a notice stating that all papers to be submitted in opposition to such motion, including any memorandum of law, must be filed by the petitioner with the hearing clerk not later than 20 days after the service of such notice upon the petitioner. Upon the expiration of the time specified in such notice, or upon receipt of such papers from the petitioner, the hearing clerk shall transmit all papers which have been filed in connection with the motion to the judge for the judge's consideration.

(d) *Further proceedings.* Further proceedings on petitions to modify or to be exempted from the Order shall be governed by §§ 900.52(c)(2) through 900.71 of the Rules of Practice Governing Proceedings on Petitions to Modify or to be Exempted From Marketing Orders and as may hereafter be amended, and the same are incorporated herein and made a part hereof by reference. However, each reference to marketing order in the title shall mean Order.

Dated: July 15, 1992.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 92-17000 Filed 7-15-92; 11:01 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214 and 274a

[INS No. 1458-92]

RIN 1115-AD16

Pre-Completion Interval Training; F-1 Student Work Authorization

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rulemaking will restore the ability of foreign students to engage in practical training prior to completion of their course of study and will also provide employment authorization for F-1 students based upon severe economic hardship. Pre-completion training is necessary to permit students to accept short-term employment that furthers their academic studies before the students have graduated. It will provide a student with practical training as a part of the student's educational experience within the United States. Providing work authorization based on severe economic hardship is necessary to permit students who suffer unforeseen financial difficulties to remain in status and to continue their education at the school in which they are enrolled.

DATES: This interim rule is effective July 20, 1992. Written comments must be submitted on or before September 18, 1992.

ADDRESSES: Please submit written comments, in triplicate, to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 5304, Washington, DC 20536. To ensure proper handling, please reference INS number 1458-92 on your correspondence.

FOR FURTHER INFORMATION CONTACT: William R. Tollifson, Senior Immigration Examiner, Immigration and Naturalization Service, Examinations Division, 425 I Street, NW., room 7122, Washington, DC 20536, telephone (202) 514-3240.

SUPPLEMENTARY INFORMATION: The Immigration and Naturalization Service (Service) published a final rule in the **Federal Register** concerning F-1 student work authorization on October 29, 1991, at 56 FR 55608-55617. The final rule attempted to streamline the procedures for employment authorization. While the regulation implemented the Pilot Off-Campus Employment Program and both simplified the paperwork involved in and expanded the definition of on-campus employment, it eliminated the separate pre-completion training and economic necessity work authorization provisions.

The Service is restoring pre-completion practical training within the ambit of the standard practical training regulations. Permitting practical training prior to course completion will provide foreign students with more flexibility to engage in employment directly related to their studies. Such practical training will be deducted from the 12 months of practical training generally available.

Authorization for pre-completion practical training will be expedited by the Service for the 1992 summer vacation period. The Service will issue an Employment Authorization Document (EAD) to an eligible walk-in applicant at the Service office having jurisdiction over the applicant's place of residence. Alternatively, if an eligible student elects to mail the Form I-765, Application for Employment Authorization, to the designated Service office, the Service will make every attempt to schedule an appointment to issue the EAD within 7 days of receipt. With respect to periods after the summer of 1992, the integrity considerations pertaining to the issuance of an EAD to an eligible F-1 student are undergoing further policy review. This issue will be addressed at the time of publication of the final rule.

The Service is also providing for work authorization based upon severe economic hardship. This will enable students who have suffered unexpected financial difficulties, and for whom the Pilot Off-Campus Employment Program is unavailable or insufficient, to continue their education without interruption. It should be noted that work authorization based upon severe economic hardship will differ from the former economic hardship program.

First, the Designated School Official (DSO) will no longer endorse the Form I-20 Student ID. As is the case with other categories of work authorization for nonimmigrants, F-1 students will

have to apply for an EAD on Form I–765 at the district offices having jurisdiction over their place of residence. Form I–538, the DSO certification, should accompany the Form I–765 application. This new rule also mandates that a student must make a good faith effort to pursue employment authorization on-campus and under the Pilot Off-Campus Employment Program. The DSO must certify on Form I–538 that neither the existing Pilot program nor on-campus employment is available or sufficient to meet the student's severe economic hardship. If a student were able to find adequate employment on-campus or under the Pilot program, the student would not be able to make a showing of need for work authorization based upon severe economic hardship.

It is the view of the Service that requiring the student to make a good faith effort to find employment through other programs will not impose an onerous burden on the students, the DSOs, or the employers. The Service has provided a suggested approach to complying with this requirement. The student should consult his or her DSO to determine whether there are any employment opportunities under the Pilot program available in the area. If such opportunities exist, the student should pursue those available opportunities. If employment under the Pilot program is insufficient, the DSO's certification to that effect on Form I–538 will satisfy the requirements of this section. On the other hand, if the DSO knows that no Pilot program employment exists and on-campus employment is unavailable or insufficient, the DSO's certification to that effect on Form I–538 will also satisfy the requirements of this section.

Finally, the Service is revising 8 CFR 274a to require that students who seek employment for purposes of optional practical training or who seek employment because of severe economic hardship apply for work authorization.

The Service's implementation of this rule as an interim rule, with a provision for post-promulgation public comment, is based upon the "good cause" exceptions found at 5 U.S.C. 553 (b)(B) and (d)(3). This rulemaking falls under the good cause exception because a notice and comment period would be impracticable and contrary to the public interest. This rulemaking confers a benefit upon eligible students, and does not impose a penalty of any kind. It is imperative that this interim rule become effective upon publication so that those persons who are eligible to apply for work authorization based upon severe economic hardship or for pre-completion practical training may apply for either benefit accordingly.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of Executive Order 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. Clearance numbers for these collections are contained in 8 CFR 299.5 Display of Control Numbers.

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1186a; 8 CFR part 2.

2. Section 214.2 is amended by revising paragraph (f)(9)(ii) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) * * *

(9) * * *

(ii) *Off-campus work authorization*—(A) *General.* An F–1 student may be authorized to work off-campus on a part-time basis in accordance with paragraph (f)(9)(ii) (B) or (C) of this section after having been in F–1 status for one full academic year provided that the student is in good academic standing as determined by the DSO. Part-time off-campus employment authorized under this section is limited to no more than twenty hours a week when school is in session. A student who is granted off-campus employment authorization may work full-time during holidays or school vacation. The employment authorization is automatically terminated whenever the student fails to maintain status.

(B) *Wage-and-labor attestation requirement.* Except as provided under paragraphs (f)(9)(ii)(C) and (f)(9)(iii) of this section, a student may be authorized to accept off-campus employment only if the prospective employer has filed a labor-and-wage attestation pursuant to 20 CFR part 655, subparts J and K (requiring the employer to attest to the fact that it has actively recruited domestic labor for at least 60 days for the position and will accord the student worker the same wages and working conditions as domestic workers similarly employed.)

(C) *Severe economic hardship.* If other employment opportunities are not available or are otherwise insufficient, an eligible F–1 student may request off-campus employment work authorization based upon severe economic hardship caused by unforeseen circumstances beyond the student's control. These circumstances may include loss of financial aid or on-campus employment without fault on the part of the student, substantial fluctuations in the value of currency or exchange rate, inordinate increases in tuition and/or living costs, unexpected changes in the financial condition of the student's source of support, medical bills, or other substantial and unexpected expenses.

(D) *Procedure for off-campus employment authorization.* The student must submit the application to the DSO on Form I–538, Certification by Designated School Official. The DSO may recommend the student work off-campus for one year intervals by certifying on the Form I–538 that:

(*1*) The student has been in F–1 status for one full academic year;

(*2*) The student is in good standing as a student and is carrying a full course of study as defined in paragraph (f)(6) of this section;

(*3*) The student has demonstrated that acceptance of employment will not interfere with the student's carrying a full course of study; and

(*4*) Either: (*i*) The prospective employer has submitted a labor-and-wage attestation pursuant to paragraph (f)(9)(ii)(B) of this section, or

(*ii*) The student has demonstrated that the employment is necessary to avoid severe economic hardship due to unforeseen circumstances beyond the student's control pursuant to paragraph (f)(9)(ii)(C) of this section, and has demonstrated that employment under paragraph (f)(9)(i) and (f)(9)(ii)(B) of this

section is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

(E) *Wage-and-Labor attestation application to the DSO.* An eligible F-1 student may make a request for off-campus employment authorization to the DSO on Form I-538 after the employer has filed the labor-and-wage attestation. By certifying on Form I-538 that the student is eligible for off-campus employment, and endorsing the student's I-20 ID, the DSO may authorize off-campus employment in one year intervals for the duration of a valid attestation as determined by the Secretary of Labor. The endorsement on the student's I-20 ID should read "part-time employment with (name of employer) at (location) authorized from (date) to (date)." Off-campus employment authorized by the DSO under this provision is incident to the student's status pursuant to 8 CFR 274a.12(b)(6)(ii) and employer-specific and, therefore, exempt from the EAD requirement. The DSO must notify the Service of each off-campus employment authorization by forwarding to the Service data processing center the completed Form I-538. The DSO shall return to the student the endorsed I-20 ID.

(F) *Severe economic hardship application—(1)* The applicant should submit to the Service Form I-20 ID, Form I-538, and Form I-765 along with the fee required by 8 CFR 103.7(b)(1), and any other supporting materials such as affidavits which further detail the unforeseen circumstances that require the student to seek employment authorization and the unavailability or insufficiency of employment under paragraphs (f)(9)(i) and (f)(9)(ii)(B) of this section. The requirement with respect to paragraph (f)(9)(ii)(B) of this section is satisfied if the DSO certifies on Form I-538 that the student and the DSO are not aware of available employment in the area through the Pilot Off-Campus Employment Program. In areas where there are such Pilot program opportunities, this requirement is satisfied if the DSO certifies on Form I-538 that employment under the Pilot program is insufficient to meet the student's needs. The student must apply for the employment authorization on Form I-765 with the Service office having jurisdiction over his or her place of residence.

(2) The Service shall adjudicate the application for work authorization based upon severe economic hardship on the basis of Form I-20 ID, Form I-538, and Form I-765, and any additional supporting materials. If employment is authorized, the adjudicating officer shall issue an EAD. The Service director shall notify the student of the decision, and, if the application is denied, of the reason or reasons for the denial. No appeal shall lie from a decision to deny a request for employment authorization under this section. The employment authorization may be granted in one year intervals up to the expected date of completion of the student's current course of study. A student has permission to engage in off-campus employment only if the student receives the EAD endorsed to that effect. Off-campus employment authorization may be renewed by the Service only if the student is maintaining status and good academic standing. The employment authorization is automatically terminated whenever the student fails to maintain status.

* * * * *

3. In § 214.2, paragraph (f)(10)(ii) is revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) * * *

(10) * * *

(ii) *Optional practical training*—(A) *General.* An F-1 student may apply to the Service for authorization for temporary employment for practical training directly related to the student's major area of study. Temporary employment for practical training may be authorized:

(1) During the student's annual vacation and at other times when school is not in session if the student is currently enrolled and eligible, and intends, to register for the next term or session;

(2) While school is in session, provided that practical training does not exceed twenty hours a week while school is in session;

(3) After completion of all course requirements for the degree (excluding thesis or equivalent), if the student is in a bachelor's master's, or doctoral degree program; or

(4) After completion of the course of study. A student must complete all practical training within a 14 month period following the completion of study.

(B) *Termination of practical training.* Authorization to engage in practical training employment is automatically terminated when the student transfers to another school.

(C) *Request for authorization for practical training.* A request for authorization to accept practical training must be made to the designated school official (DSO) of the school the student is authorized to attend on Form I-538, accompanied by his or her current Form I-20 ID.

(D) *Action of the DSO.* In making a recommendation for practical training, a designated school official must:

(1) Certify on Form I-538 that the proposed employment is directly related to the student's major area of study and commensurate with the student's educational level;

(2) Endorse and date the student's Form I-20 ID to show that practical training in the student's major field of study is recommended "full-time (or part-time) from (date) to (date)"; and

(3) Return to the student the Form I-20 ID and send to the Service data processing center the school certification on Form I-538.

* * * * *

4. In § 214.2, paragraph (f)(11) introductory text is amended by adding two sentences at the beginning of the paragraph to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) * * *

(11) *Employment authorization.* The total periods of authorization for optional practical training under paragraph (f)(10) of this section shall not exceed a maximum of twelve months. Part-time practical training, 20 hours per week or less, shall be deducted from the available practical training at one-half the full-time rate.* * *

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

5. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

6. In § 274a.12, paragraph (c)(3) is revised to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(c) * * *

(3) A nonimmigrant (F-1) student who:

(i) Is seeking employment for purposes of optional practical training pursuant to 8 CFR 214.2(f), provided the alien will be employed only in an occupation which is directly related to his or her area of studies and that he or she presents an I-20 ID endorsed by the designated school official;

(ii) Has been offered employment under the sponsorship of an international organization within the meaning of the International Organization Immunities Act (59 Stat. 669) and who presents a written certification from the international organization that the proposed employment is within the scope of the organization's sponsorship. The F–1 student must also present an I–20 ID endorsed by the DSO in the last 30 days; or

(iii) Is seeking employment because of severe economic hardship pursuant to 8 CFR 214.2(f)(9)(ii)(C) and has filed the Form I–20, Form I–538 and any other supporting materials such as affidavits which further detail the unforeseen economic circumstances that require the student to seek employment authorization and evidence the fact that the student has attempted to find employment under 8 CFR 214.2(f)(9)(ii)(B);

* * * * *

Dated: July 14, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92–16966 Filed 7–17–92; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 108CE, Special Condition 23–ACE–72]

Special Conditions; Beech Model C90 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are being issued to Air BP Atlanta for a Supplemental Type Certification (STC) on the Beech Model C90 Series airplane. These airplanes will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electronic displays for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of lightning and high intensity radiated fields (HIRF). These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is August 19, 1992. Comments must be received on or before August 19, 1992.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. 108CE, room 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 108CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Payauys, Aerospace Engineer, Standards Office (ACE–110), Aircraft Certification Service, Central Region, Federal Aviation Administration, room 1544, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 426–5688.

SUPPLEMENTARY INFORMATION

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective 30 days after issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the rules docket for examination by interested parties, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 108CE." The postcard will be date stamped and returned to the commenter.

Background

On May 13, 1992, Air BP Atlanta, Dekalb Peachtree Airport—One Corsair Drive, Atlanta, Georgia 30341, made an application to the FAA for a supplemental type certificate (STC) for the Beech Model C90 airplane. The proposed modification incorporates a novel or unusual design feature such as digital avionics consisting of an electronic flight instrument system (EFIS) that is vulnerable to HIRF external to the airplane.

Type Certification Basis

The type certification basis for the Beech Model C90 Series airplane is as follows: Part 3 of the Civil Air Regulations (CAR), effective May 15, 1956, through amendment 3–2, effective August 12, 1957; amendment 3–6, effective September 13, 1961; amendment 3–7, § 3.705, effective May 3, 1962; amendment 3–8, effective December 18, 1961; part 23 of the Federal Aviation Regulations (FAR), amendment 23–7, §§ 23.959, 23.1111 and 23.1583(a), effective September 14, 1969; amendment 23–23, §§ 23.1385(c), 23.1387(a) and 23.1545, effective December 1, 1978; special conditions outlined in FAA letters to Beech dated January 21, February 15, and February 27, 1963, and May 5, 1965; part 36 of the FAR, effective December 1, 1969, through amendment 36–10; SFAR 27, effective February 1, 1974, through amendment 27–4; amendment 23–41, §§ 23.1309 and 23.1311, effective November 8, 1990; exemptions, if any; and the special conditions adopted herein.

Discussion

Air BP Atlanta plans to incorporate certain novel and unusual design features into an airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of lightning and HIRF. These features include electronic systems, which are susceptible to the HIRF environment and that were not envisaged by the existing regulations, for this type of airplane.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and become a part of the type certification basis, as provided by § 21.17(a)(2).

Protection of System from High Intensity Radiated Fields (HIRF)

Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF incident on the external surface of aircraft. These induced transient currents and voltages can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the electromagnetic environment has undergone a transformation that was not envisaged when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the population of transmitters has increased significantly.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment, defined below:

TABLE I.—FIELD STRENGTH VOLTS/METER

Frequency	Peak	Average
10–500 KHz	60	60
500–2000	80	80
2–30 MHz	200	200
30–100	33	33
100–200	150	33
200–400	56	33
400–1000	4020	935
1–2 GHz	7850	1750
2–4	6000	1150
4–6	6800	310
6–8	3600	666
8–12	5100	1270
12–18	3500	551
18–40	2400	750

Note: Since 1989, a concerted effort has been under way to review, verify, and validate the HIRF environment. This table represents the current estimate of the HIRF environment. The current values overall are lower than the previous values for the HIRF environment. Additional requirements will continue to be required for the certification of installed critical systems in aircraft approved for operation below 500 feet.

Or:

(2) The applicant may demonstrate by a laboratory test that the electrical and electronic systems that perform critical functions can withstand a peak of electromagnetic field strength of 100 volts per meter (v/m) or the external HIRF environment, whichever is less, in a frequency range of 10KHz to 18GHz. When using a laboratory test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant for approval by the FAA to identify electrical and/or electronic systems that perform critical functions. The term "critical" means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or a combination thereof. Service experience alone is not acceptable since such experience in normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Conclusion

In view of the design features discussed for the Beech Model C90 Series airplane, the following special conditions are issued. This action is not a rule of general applicability and affects only those applicants who apply to the FAA for approval of these features on these airplanes.

The substance of these special conditions has been subject to the notice and public comment procedure in several prior instances. For example, the Dornier 228–200 (53 FR 14782, April 26, 1988), the Cessna Model 525 (56 FR 49396, September 30, 1991), and the Beech Model 200, A200, and B200 Series airplanes (57 FR 1220, January 13, 1992). For this reason, and because a delay would significantly affect the applicant's installation of the system and certification of the airplane, which is imminent, the FAA has determined that good cause exists for adopting these special conditions without notice; therefore, special conditions are being issued without substantive changes for this airplane and made effective 30 days after issuance.

List of Subjects in 14 CFR Parts 21 and 23

Aircraft, Air transportation, Aviation safety, and Safety.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the modified Beech Model C90 Series airplane:

1. *Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF).* Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these systems to perform critical functions are not adversely affected when the airplane is exposed to high

intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definitions apply: *Critical Functions.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri, on July 13, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-16995 Filed 7-17-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-CE-70-AD; Amendment 39-8320; AD 92-16-11]

Airworthiness Directives; Fairchild Aircraft (Formerly Swearingen Aviation Corporation) SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Fairchild Aircraft SA226 and SA227 airplanes. This action requires a modification to the horizontal stabilizer aft spar attach fitting installation and stabilizer skin, and repetitive inspections of the radius area of the rib splice straps for cracks, with modification if found cracked. The Federal Aviation Administration (FAA) has received reports of broken fasteners that attach the pivot fitting of the horizontal tail to the rear spar. The actions specified by this AD are intended to prevent failure of the horizontal stabilizer caused by broken pivot fitting fasteners, which could result in loss of control of the airplane.

DATES: Effective September 8, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 8, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279-0490; Telephone (512) 824-9421. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 1100 L Street, NW.; room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Hung Viet Nguyen, Aerospace Engineer, FAA, Airplane Certification Office, 4400 Blue Mound Road, Fort Worth, Texas 76193-0150; Telephone (817) 624-5155; Facsimile (817) 624-5029.

SUPPLEMENTARY INFORMATION: Reports of broken fasteners that attach the pivot fitting of the horizontal tail to the rear spar on several Fairchild Aircraft SA226 and SA227 series airplanes that have over 10,000 hours time-in-service (TIS) prompted the FAA to propose amending the Federal Aviation Regulations and publish a notice of proposed rulemaking (NPRM) in the **Federal Register** on October 23, 1991 (56 FR 54806). The action proposed a modification to the horizontal stabilizer aft spar attach fitting installation and the stabilizer skin in accordance with Fairchild SA226 Series Service Bulletin (SB) 226-55-010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991, or Fairchild SA227 Series SB 227-55-006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: May 22, 1991, whichever is applicable. It also would require repetitive inspections of the radius area of the rib splice straps for cracks with subsequent modification if found cracked. Interested persons were afforded an opportunity to participate in the making of this amendment. One comment was received in favor of the proposed rule and no comments were received concerning the FAA's determination of the cost to the public.

Prior to issuing the final rule for this action, Fairchild Aircraft revised Fairchild SA227 Series SB 227-55-006, Horizontal Stabilizer Fitting Fasteners, to include additional procedures for modifying the horizontal stabilizer aft spar attach fitting installation and the stabilizer skin on Fairchild Aircraft SA227 series airplanes. Fairchild Aircraft also revised Fairchild SA226 Series SB 226-55-010, Horizontal Stabilizer Fitting Fasteners, to incorporate minor editorial corrections. The Fairchild SA226 Series SB 226-55-010 revision does not add to the scope of work, cost, or effectivity that was originally proposed; however, the Fairchild SA227 Series SB 227-55-006 revision does increase the scope of work set forth in the NPRM.

Since Fairchild SB 227-55-006 does increase the scope of work over that of the earlier proposed AD, the proposal was revised accordingly and a supplemental notice of proposed rulemaking was issued and published in the **Federal Register** on March 30, 1992 (57 FR 10745).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public. After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 715 (368 SA226 series and 347 SA227 series) airplanes in the U.S. registry will be affected by the proposed AD, that it will take approximately 32 workhours per SA226 series airplane and 33 workhours per SA227 series airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $1,400 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,278,485 ($1,162,880 for the SA226 series airplanes and $1,115,605 for the SA227 series airplanes).

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

92–16–11 Fairchild Aircraft (formerly Swearingen Aviation Corporation): Amendment 39–8320; Docket No. 91–CE–70–AD.

Applicability: The following Model and serial number airplanes, certificated in any category:

Model	Serial No.
SA226–T	T201 through T275 and T277 through T291
SA226–T(B)	T(B)276 and T(B)292 through T(B)417
SA226–AT	AT001 through AT074
SA226TC	TC201 through TC419
SA227–TT	TT421 through TT541
SA227–AT	AT423 through AT695
SA227–AC	AC406, AC415, AC416, AC420 through AC783, and AC785

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the horizontal stabilizer caused by broken pivot fitting fasteners, which could result in loss of control of the airplane, accomplish the following:

(a) Upon the accumulation of 10,000 hours time-in-service (TIS) or within the next 1,000 hours TIS after the effective date of this AD, whichever occurs later, accomplish the following:

(1) Modify the horizontal stabilizer aft spar attach fitting installation in accordance with paragraphs A. (1) through A. (7) of the 2. Accomplishment Instructions section of Fairchild SA226 Series Service Bulletin (SB) 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or paragraphs A. (1) through A. (3) and B. (1) through B. (6) of the 2. Accomplishment Instructions section of Fairchild SA227 Series SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, whichever is applicable.

(2) Modify the stabilizer skin in accordance with paragraphs B. (1) through B. (4) of the 2. Accomplishment Instructions section of Fairchild SA226 Series SB 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or paragraphs C. (1) through C. (5) of the 2. Accomplishment Instructions section of Fairchild SA227 Series SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, whichever is applicable.

(3) Visually inspect the radius area of the rib splice strap for cracks in accordance with Figure 2 of Fairchild SA226 Series SB 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or Figure 3 of Fairchild SA227 Series SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, whichever is applicable.

(i) If cracks are found, prior to further flight, obtain a repair scheme from the manufacturer through the Fort Worth Airplane Certification Office at the address specified in paragraph (c) of this AD, incorporate the repair scheme, and reinspect thereafter at intervals not to exceed 5,000 hours TIS.

(ii) If no cracks are found, reinspect thereafter at intervals not to exceed 5,000 hours TIS.

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

(c) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office, FAA, 4400 Blue Mound Road, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth Aircraft Certification Office.

(d) The inspections and modifications required by this AD shall be done in accordance with Fairchild SA226 Series Service Bulletin 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or Fairchild SA227 Series Service Bulletin 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW.; room 8401, Washington, DC.

(f) This amendment (39–8320) becomes effective on September 8, 1992.

Issued in Kansas City, Missouri, on July 13, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–17031 Filed 7–17–92; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 91–AGL–16]

Transition Area Alteration; Motley, MN

AGENCY: Federal Aviation Adminstration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the existing Motley, MN, transition area to accommodate a new Nondirectional Radio Beacon (NDB) runway 09 Standard Instrument Approach Procedure (SIAP) to Morey Fish House Airport, Motley, MN. This action also updates the geographic coordinates of the airport. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 u.t.c. October 15, 1992.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, April 21, 1992, the Federal Aviation Administration (FAA) proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the existing Motley, MN, transition area near Morey Fish House Airport (57 FR 14522).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Transition areas are published in § 71.181 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document will be published subsequently in the Handbook.

The Rule

This amendment to part 71 of the Federal Aviation Regulations modifies the existing Motley, MN, transition area to accommodate a new NDB runway 09 SIAP to Morey Fish House Airport, Motley, MN. This action also updates the geographic coordinates of the airport.

The development of a new SIAP requires that the FAA alter the designated airspace to ensure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable pilots to circumnavigate the area in order to comply with applicable visual flight rule requirements.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, transition areas.

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

71.1 [Amended]

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

Section 71.181 Designation

* * * * *

AGL MN TA Motley, MN [Revised]

Motley, Morey Fish House Airport, MN
(lat. 46° 19′ 25″N, long. 94° 38′ 18″ W)
Staples NDB
(lat. 46° 22′ 50″N, long. 94° 48″ 01″ W)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Morey Fish House Airport and within 1.75 miles each side of the Staples NDB 118° bearing extending from the 5-mile radius to 8.5 miles northwest of the airport excluding that airspace within the Staples, MN, Transition Area.

* * * * *

Issued in Des Plaines, Illinois on July 1, 1992.

John P. Cuprisin,

Manager, Air Traffic Division.

[FR Doc. 92–16996 Filed 7–17–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–AGL–4]

Establishment of Transition Area; Gwinner, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the Gwinner, North Dakota transition area to accommodate a new nondirectional radio beacon (NDB) runway 34 Standard Instrument Approach Procedure (SIAP) to Gwinner-Roger Melroe Field. The intended effect of this action is to ensure segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 u.t.c., October 15, 1992.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, April 21, 1992 the Federal Aviation Administration (FAA) proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a transition area near Gwinner, North Dakota (57 FR 14521).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Transition areas are published in § 71.181 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document will be published subsequently in the Handbook.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes a transition area at Gwinner, North Dakota to accommodate a new NDB runway 34 Standard Instrument Approach Procedure (SIAP) to Gwinner-Roger Melroe Field. The SIAP is predicated on a non-federal NDB located on the airport. This action will lower the base of controlled airspace from 1200 to 700 feet above the surface in the vicinity of Gwinner-Roger Melroe Field. This action will also change the operating status of the airport from VFR only to include IFR operations concurrent with the SIAP publication.

The development of the new SIAP procedure requires that the FAA alter the designated airspace to ensure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable pilots to circumnavigate the area in order to comply with applicable visual flight rule requirements.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, transition areas.

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

Section 71.181 Designation

* * * * *

AGL ND TA Gwinner, ND [New]

Gwinner-Roger Melroe Field, Gwinner, ND
(lat. 46°13'26" N., long. 97°38'33" W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Gwinner-Roger Melroe Field Airport.

* * * * *

Issued in Des Plaines, Illinois, on July 16, 1992.

Chester W. Anderson,

Acting Assistant Manager, Air Traffic Division.

[FR Doc. 92-16998 Filed 7-17-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 906

[Docket No. R-92-1529; FR-2810-I-02]

RIN No. 2577-AA90

Notice of Extension of Section 5(h) Homeownership Program for Public and Indian Housing

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Extension of effectiveness of interim rule.

SUMMARY: This document extends for six months the period that the interim rule for the Section 5(h) Homeownership Program will be in effect from July 20, 1992 to January 20, 1993.

EFFECTIVE DATES: Effective July 20, 1992. The interim rule at 56 FR 47852, September 20, 1991, is effective from October 21, 1991 through January 20, 1993.

FOR FURTHER INFORMATION CONTACT: C. Wayne Hunter, Senior Homeownership Programs Advisor, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4118, Washington, DC 20410. Telephone number (202) 708-4233, TDD (202) 708-0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: A regulatory codification of the requirements of the Section 5(h) Homeownership Program for public (24 CFR part 906) and Indian (24 CFR part 905) housing was published as an interim rule in the **Federal Register** on September 20, 1991 (56 FR 47852). The primary statutory mandate for this program is section 5(h) of the United States Housing Act of 1937 (Act). Secondary authority is found in section 6(c)(4)(D) of the Act.

As the primary statutory mandate, section 5(h) authorizes PHAs to sell public housing to residents "on such terms and conditions as the [PHA] may determine." That emphasis on local initiative and discretion is reinforced by section 6(c)(4)(D), which speaks of "the development by local housing authority managements of viable homeownership opportunity programs." These two complementary portions of the Act constitute what is essentially one provision that established the statutory basis for local homeownership activities under the section 5(h) Homeownership Program.

The preamble to the interim rule stated that the rule would cease to be effective after July 20, 1992, unless before that date the Department published it as a final rule. The Department has since determined that some additional time and experience in working with the interim rule would be appropriate before issuing a final rule. Accordingly, the time period during which the interim rule will be in effect is extended for an additional six months to January 20, 1993. If a final rule is published on or before January 20, 1993 this rule will continue in effect until the published final rule's effective date.

Dated: July 10, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-16970 Filed 7-17-92; 8:45 am]

BILLING CODE 4210-33-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 148

[FRL-4155-8]

Underground Injection Control Program; Hazardous Waste Injection Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Stay of technical amendment.

SUMMARY: On March 6, 1992 (57 FR 8086), EPA issued a technical amendment to the third third land disposal restriction rule. This technical amendment included rule revisions at 40 CFR part 148 applicable to Class I injection wells of the Underground Injection Control (UIC) program. The Agency overlooked a potential impact of the amendment which could disrupt continued operation of hazardous Class I wells injecting newly identified or listed hazardous wastes, along with prohibited characteristic wastes. Accordingly, after subsequent consideration, EPA is staying the UIC technical amendment at § 148.1(d)(1), insofar as it applies to deep wells receiving prohibited characteristic wastes and newly identified or listed unprohibited wastes.

EFFECTIVE DATE: This rule is effective on July 20, 1992.

FOR FURTHER INFORMATION CONTACT: Bruce J. Kobelski, Underground Injection Control Branch, Office of Ground Water and Drinking Water (WH-550G), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-7275.

SUPPLEMENTARY INFORMATION: On March 6, 1992 (57 FR 8086), EPA issued a technical amendment to the so-called third third land disposal restriction rule, the rule that established prohibitions and treatment standards for all remaining wastes that were hazardous at the time of the 1984 Resource, Conservation, and Recovery Act (RCRA) amendments, but were not yet prohibited. See 55 FR 22520 (June 1, 1990). Included among these wastes were all wastes which were hazardous because they exhibit the characteristics of ignitability, corrosivity, reactivity, or Extraction Procedure (EP) Toxicity.

One of the technical amendments made to the original third third rule concerns prohibited characteristic hazardous wastes that are disposed in Class I deep injection wells of the Underground Injection Control (UIC) program. Class I wells are wells in which wastewater is injected below the lower-most geological formation containing, within one-quarter mile of the well bore, an underground source of drinking water (USDW). 40 CFR 144.6(a); see 57 FR 8087. EPA indicated that it was amending the third third rule so that prohibited characteristic wastes could not permissibly meet a treatment standard as a result of dilution if the characteristic waste were to be subsequently disposed in a Class I hazardous injection well. Thus, the land disposal prohibitions for characteristic wastes disposed in these wells would apply at the point of those wastes'

generation. The reasoning was that EPA assumed that Class I hazardous wells were already subject to all of the land disposal restrictions by virtue of also disposing of non-characteristic (i.e. listed) hazardous wastes. Thus, there would not be a regulatory disruption (a primary reason for not applying prohibitions at the point of generation for waste disposed in these units) if the dilution prohibition were also applied to characteristic wastes. *Id.*

However, EPA overlooked that these wells can potentially be receiving newly identified or listed hazardous wastes, that is, wastes not yet prohibited. Therefore, these wells could indeed incur significant disruption (i.e. segregation of characteristic wastes for separate management until a no migration demonstration for these wastes can be made for the well) if the dilution prohibition were to be applied at the point of generation. See 55 FR 22658–59. To avoid this result, which was the one EPA was initially seeking to prevent in generally applying the dilution prohibition at the point of disposal for characteristic wastes in all Class I wells, EPA is staying the technical amendment for 40 CFR 148.1(d)(1) insofar as it applies to Class I deep wells classified as hazardous solely because they inject hazardous wastes that are not yet prohibited. This has the effect of applying prohibitions at the point of disposal for the characteristic hazardous wastes disposed in these Class I hazardous deep wells, as well as in nonhazardous deep wells. See 55 FR 22658. In this regard, we believe that the operation of Class I hazardous waste wells with no migration petitions already approved by the Agency will not be disrupted, as their entire been evaluated during the petition review process.

EPA is, however, leaving in place the technical amendment insofar as it applies to hazardous Class I deep wells receiving prohibited hazardous wastes, as well as injecting prohibited characteristic wastes that are no longer hazardous at the point of injection. There should be no regulatory disruption incurred by these wells, since they will either have received a no migration variance or are already complying with treatment standards and the dilution prohibition for the prohibited hazardous wastes they are injecting. (57 FR 8087) Thus, EPA continues to see no reason not to also apply these prohibitions for prohibited characteristic hazardous wastes managed by such deep wells.

Finally, it should be noted that the legality of EPA's determination to apply prohibitions at the point of disposal has been challenged, and is presently awaiting decision by a panel of the District of Columbia Circuit. The court's determination of this issue could necessitate further changes in the provision.

List of Subjects in 40 CFR Part 148

Hazardous waste.

Dated: June 18, 1992.

Martha Prothro,

Acting Assistant Administrator, Office of Water.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

1. The authority citation for part 148 continues to read as follows:

Authority: Section 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.

2. Section 148.1 is amended by revising paragraph (d) to read as follows:

§ 148.1 Purpose, scope, and applicability.

* * * * *

(d) Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under this part are not prohibited if the wastes:

(1) Are disposed into a nonhazardous injection well defined under 40 CFR 144.6(a) and do not exhibit any prohibited characteristic of hazardous waste identified in subpart C of part 261 at the point of injection; or

(2) Do not exhibit any prohibited characteristics of hazardous waste identified in subpart C of part 261 at the point of injection and are disposed into a hazardous injection well defined under 40 CFR 144.6(a) that receives only non-prohibited hazardous wastes.

* * * * *

[FR Doc. 92–17019 Filed 7–17–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 721

[OPPTS–50603; FRL–4042–3]

RIN 2070–AB27

Significant New Uses of Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for nine chemical substances which were the subject of premanufacture notices (PMNs) and some of which were subject to TSCA section 5(e) consent orders issued by EPA. Today's action requires certain persons who intend to manufacture, import, or process any of these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing of the substance for a use designated by the SNUR as a significant new use. The required notice will provide EPA with the opportunity to evaluate the intended use, and if necessary, to prohibit or limit that activity before it occurs. EPA is promulgating these SNURs using direct final procedures.

EFFECTIVE DATES: The effective date of this rule is September 18, 1992. This rule shall be promulgated for purposes of judicial review at 1 p.m. Eastern Standard Time on August 3, 1992. If EPA receives notice before August 19, 1992 that someone wishes to submit adverse or critical comments on EPA's action in establishing a SNUR for one or more of the chemical substances subject to this rule, EPA will withdraw the SNUR for the substance for which the notice of intent to comment is received and will issue a proposed SNUR providing a 30–day period for public comment.

ADDRESSES: Each comment or notice of intent to submit adverse or critical comment must bear the docket control number OPPTS–50603 and the name(s) of the chemical substance(s) subject to the comment. Since some comments may contain confidential business information (CBI), all comments should be sent in triplicate (with additional sanitized copies of confidential business information is involved) to: TSCA Document Receipt Office (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–105, 401 M St., SW., Washington, DC 20460. Nonconfidential versions of comments on this rule will be placed in the rulemaking record and will be available for public inspection. Unit X. of this preamble contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–543–B, 401 M St., SW., Washington,

DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: These SNURs will require persons to notify EPA at least 90 days before commencing manufacturing or processing of a substance for any activity designated by the corresponding SNUR as a significant new use. The supporting rationale and background to this rule are more fully set out in the preamble to EPA's first direct final SNURs at 55 FR 17376 on April 24, 1990. Consult that preamble for further information on the objectives, rationale, and procedures for the rules and on the basis for significant new use designations including provisions for developing test data.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.25.

II. Applicability of General Provisions

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Rules on user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and 5(d)(1), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUR notice. If EPA does not take action, EPA is required under section 5(g) to explain in the **Federal Register** its reasons for not taking action. Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Such persons must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification appears at 40 CFR part 707.

III. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for the following chemical substances under 40 CFR part 721 subpart E. In this unit, EPA provides a brief description for each substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if assigned), basis for the action taken by EPA in the section 5(e) consent order or as a non-section 5(e) SNUR for the substance (including the statutory citation and specific finding), toxicity concern, and the CFR citation assigned in the regulatory text section of this rule. The specific uses which are designated as significant new uses are cited in the regulatory text section of the rule by reference to 40 CFR part 721 subpart B where the significant new uses are described in detail. Certain new uses, including production limits and other uses designated in the rule are claimed as CBI. The procedure for obtaining confidential information is set out in Unit VII.

Where the underlying section 5(e) order prohibits the PMN submitter from exceeding a specified production limit without performing specific tests to determine the health or environmental effects of a substance, the tests are described in this unit. As explained further in Unit VI., the SNUR for each such substance contains the same production limit, and exceeding the production limit is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a significant new use notice at least 90 days in advance. Data on potential exposures or releases of the substances, testing other than that specified in the section 5(e) order for the substance, or studies on analogous substances, which may demonstrate that the significant new uses being reported do not present an unreasonable risk, may be included with significant new use notification. In addition, this unit describes tests that are recommended by EPA to provide sufficient information to evaluate the substance, but for which no production limit has been established in the section 5(e) order. Descriptions of recommended tests are provided for informational purposes. The consent oder for the substance P–85–612 contains language which in some cases does not match the language in part 721 subpart B; however, EPA believes that the SNUR provisions are generally equivalent to the corresponding provisions of the section 5(e) order for this substance.

The SNUR for the PMN substance P–91–899 regulates the chemical substance subject to a section 5(e) order where the finding under TSCA is based solely on substantial production volume and significant or substantial human exposure or release to the environment in substantial quantities. For this case there was limited or no toxicity data available for the PMN substance. In such cases EPA regulates new chemical substances under section 5(e) by requiring the submitter to complete certain toxicity tests prior to exceeding a specified cumulative production limit. For instance, chemical substances with potentially substantial releases to surface waters would be subject to toxicity testing of aquatic organisms and substances with potentially substantial human exposures would be subject to health effects testing for mutagenicity, acute effects, and subchronic effects.

PMN Number P–85–612

Chemical name: (generic) Polymer of substituted aryl olefin.
CAS Number: Not available.
Effective date of section 5(e) consent order: September 6,1985.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that the impurity present in this substance may present an unreasonable risk of injury to health, that the substance is expected to be produced in substantial quantities, and that there may be significant or substantial human exposures.
Toxicity concern: Similar chemicals have been shown to cause liver, kidney, neurotoxic, reproductive, and teratogenic effects in test animals.
Recommended testing: The Agency has determined that a 28–day range finding test and a four dosage level 90–day subchronic oral toxicity test (40 CFR 798.2650) on the substance's impurity would help characterize possible liver, kidney, neurotoxic, reproductive, and teratogenic effects of the impurity.
CFR citation: 40 CFR 721.6820.

PMN Number P–90–1730

Chemical name: (generic) Halophenyl sulfonamide salt.
CAS number: Not available.

Effective date of section 5(e) consent order: November 22, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment.
Toxicity concern: Although not expected to cause acute effects to fish and aquatic organisms at water saturation, similar substances have been shown to cause chronic toxicity in fish and aquatic organisms. Specifically, based on quantitative structural activity relationships (QSAR) to similar compounds, EPA predicts that chronic toxicity to fish and aquatic organisms may occur at concentrations in excess of 10 ppb PMN substance in surface waters.
Recommended testing: EPA has determined that a fish early life stage toxicity test (40 CFR 797.1600), a daphnid chronic toxicity test (40 CFR 797.1330), and a green algal toxicity test (40 CFR 797.1050) would help characterize the chronic toxicity effects to fish and aquatic organisms. The PMN submitter has agreed not to exceed a specified production limit without performing these tests.
CFR citation: 40 CFR 721.9570.

PMN Number P-91-74

Chemical name: (generic) Propenoate-terminated alkyl substituted silyl ester
CAS number: Confidential.
Effective date of section 5(e) consent order: November 6, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer in test animals.
Recommended testing: A 2-year, two-species bioassay to help characterize cancer effects (40 CFR 798.3300).
CFR citation: 40 CFR 721.3120.

PMN Number P-91-899

Chemical name: (generic) Alkylaryl substituted phosphite.
CAS number: Not available.
Effective date of section 5(e) consent order: November 7, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposures.
Recommended testing: EPA has determined that the results of an acute oral toxicity test (40 CFR 798.1175), an Ames assay (40 CFR 798.5265), a mouse micronucleus assay by the intraperitoneal route (40 CFR 798.5395), and a 28-day repeated dose oral study in rats (OECD Guideline No. 407) would help characterize possible effects of the substance. The PMN submitter has agreed not to exceed the a specified cumulative production limit without performing these tests.
CFR citation: 40 CFR 721.6060.

PMN Number P-91-937

Chemical name: (generic) Polymer of disubstituted phthalate, dioxoheteropolycycle, and methacrylic acid.
CAS number: Not available.
Effective date of section 5(e) consent order: November 5, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar chemicals have been shown to cause cancer in test animals.
Recommended testing: EPA has determined that a 2-year rodent bioassay (40 CFR 798.3300) would characterize the potential carcinogenic effects posed by the PMN substance.
CFR citation: 40 CFR 721.7240.

PMN Number: P-91-1346

Chemical name: Ethanol, 2,2'-(hexylamino)bis-.
CAS number: 6752-33-6.
Basis for action: The PMN substance will be used as a corrosion inhibitor in brake fluids. Based on the analogy of the PMN substance to aliphatic amines, the PMN substance may cause toxicity to aquatic organisms. Based on these data EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 90 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to water. EPA has determined that other uses of the substance may result in releases to surface water. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(iii).
Recommended testing: EPA has determined that an acute algal assay (40 CFR 797.1050), an acute daphnid assay (40 CFR 797.1300), an acute fish assay (40 CFR 797.1400), and an acute fish assay modified with humic acid (40 CFR 795.115) will characterize environmental effects.
CFR citation: 40 CFR 721.3340.

PMN Number: P-91-1372

Chemical name: (generic) Polyoxy alkylene glycol amine.
CAS number: Not available.
Basis for action: The PMN substance will be used as a lubricant. Based on the analogy of the PMN substance to aliphatic amines, the PMN substance may cause toxicity to aquatic organisms. Based on these data EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 30 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to water. EPA has determined that other uses of the substance may result in releases to surface water. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(iii).
Recommended testing: EPA has determined that an acute algal assay (40 CFR 797.1050), an acute daphnid assay (40 CFR 797.1300), an acute fish assay (40 CFR 797.1400), and an acute fish assay modified with humic acid (40 CFR 795.115) will characterize environmental effects.
CFR citation: 40 CFR 721.4000.

PMN Number: P-91-1456

Chemical name: (generic) Trimethyl spiropolyheterocyclic naphthalene compound.
CAS number: Confidential.
Basis for action: The PMN substance will be used as a paint, ink, or plastic additive. Based on the analogy of the PMN substance to neutral organics, the PMN substance may cause toxicity to aquatic organisms. Based on these data EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 4 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to water. EPA has determined that other uses of the substance may result in releases to surface water. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(iii).
Recommended testing: EPA has determined that an acute algal assay (40 CFR 797.1050), an acute daphnid assay (40 CFR 797.1300), and an acute fish assay (40 CFR 797.1400) will characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.5250.

PMN Number: P-92-283

Chemical name: (generic) Substituted spiro oxazine.
CAS number: Confidential.
Basis for action: The PMN substance will be used as a dye for identification labels. Based on the analogy of the PMN substance to neutral organics, the PMN substance may cause toxicity to aquatic organisms. Based on these data EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 4 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to water. EPA has determined that other uses of the substance may result in releases to surface water. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(iii).
Recommended testing: EPA has determined that an acute algal assay (40 CFR 797.1050), an acute daphnid assay (40 CFR 797.1300), and an acute fish assay (40 CFR 797.1400) will characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.5525.

IV. Objectives and Rationale of the Rule

During review of the PMNs submitted for the chemical substances that are subject to this SNUR, EPA concluded that for five of the substances, regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the substances. The bases for such findings are outlined in Unit III. of this preamble. Based on these findings, section 5(e) consent orders requiring the use of appropriate controls were negotiated with the PMN submitters. The SNUR provisions for these substances designated herein are consistent with the provisions of the section 5(e) orders. In the case of four of the substances for which the proposed uses are not regulated under a section 5(e) order, EPA determined that one or more of the criteria of concern established at § 721.170 were met.

EPA is issuing these SNURs for specific chemical substances which have undergone premanufacture review to ensure the following objectives: That EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins; that EPA will have an opportunity to review and evaluate data submitted in a SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use; that, when necessary to prevent unreasonable risks, EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs; and that all manufacturers, importers, and processors of the same chemical substance which is subject to a section 5(e) order are subject to similar requirements.

V. Direct Final Procedure

EPA is issuing these SNURs as direct final rules, as described in §§ 721.160(c)(3) and 721.170(d)(4). In accordance with § 721.160(c)(3)(ii), this rule will be effective September 18, 1992, unless EPA receives a written notice by August 19, 1992 that someone wishes to make adverse or critical comments on EPA's action. If EPA receives such a notice, EPA will publish a notice to withdraw the direct final SNUR(s) for the specific substance(s) to which the adverse or critical comments apply. EPA will then propose a SNUR for the specific substance(s) providing a 30-day comment period. This action establishes SNURs for nine chemical substances. Any person who submits a notice of intent to submit adverse or critical comments must identify the substance and the new use to which it applies. EPA will not withdraw a SNUR for a substance not identified in a notice.

VI. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require developing any particular test data before submission of a SNUR notice. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. In cases where a section 5(e) order requires or recommends certain testing, Unit III. of this preamble lists those recommended tests. However, EPA has established production limits in the section 5(e) orders for two of the substances regulated under this rule, in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the substances. These production limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these substances. Under recent consent orders, each PMN submitter is required to submit each study at least 14 weeks (earlier orders required submissions at least 12 weeks) before reaching the specified production limit. Listings of the tests specified in the section 5(e) orders are included in Unit III. of this preamble. The SNURs contain the same production volume limits as the consent orders. Exceeding these production limits is defined as a significant new use. The recommended studies may not be the only means of addressing the potential risks of the substance. However, SNUR notices submitted for significant new uses without any test data may increase the likelihood that EPA will take action under section 5(e), particularly if satisfactory test results have not been obtained from a prior submitter. EPA recommends that potential SNUR notice submitters contact EPA early enough so that they will be able to conduct the appropriate tests before exceeding the production limit. SNUR notice submitters should be aware that EPA will be better able to evaluate SNUR notices which provide detailed information on:

(1) Human exposure and environmental release that may result from the significant new use of the chemical substances.

(2) Potential benefits of the substances.

(3) Information on risks posed by the substances compared to risks posed by potential substitutes.

VII. Procedural Determinations

EPA is establishing through this rule some significant new uses which have been claimed as CBI. EPA has decided it is appropriate to keep this information confidential to protect the interest of the original PMN submitter. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This procedure appears in § 721.575(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the substance subject to a SNUR is CBI. This procedure is cross-referenced in each of these SNURs.

A manufacturer or importer may request that EPA determine whether a proposed use would be a significant new use under this rule. Under the procedure incorporated from § 721.575(b)(1), a manufacturer or importer must show that it has a *bona fide* intent to manufacture or import the substance and must identify the specific use for which it intends to manufacture or import the substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or import the substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant

new use under the rule. Since most of the chemical identities of the substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.575(b)(1) with that under § 721.11 into a single step.

If a manufacturer or importer is told that the production volume identified in the *bona fide* submission would not be a significant new use, i.e. it is below the level that would be a significant new use, that person can manufacture or import the substance as long as the aggregate amount does not exceed that identified in the *bona fide* submission to EPA. If the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use. EPA is considering whether to adopt a special procedure for use when CBI production volume is designated as a significant new use. Under such a procedure, a person showing a *bona fide* intent to manufacture or import the substance, under the procedure described in § 721.11, would automatically be informed of the production volume that would be a significant new use. Thus the person would not have to make multiple *bona fide* submissions to EPA for the same substance to remain in compliance with the SNUR, as could be the case under the procedures in § 721.575(b)(1).

VIII. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant "new" use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have recently undergone premanufacture review. Section 5(e) orders have been issued in five cases and notice submitters are prohibited by the section 5(e) orders from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received a Notice of Commencement (NOC) and the substance has not been added to the Inventory, no other person may commence such activities without first submitting a PMN. For substances for which an NOC has not been submitted at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes in cases when chemical substances identified in this SNUR are added to the Inventory prior to the effective date of the rule, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this rule before the effective date of the rule. However, eight of the nine substances contained in this rule have CBI chemical identities, and since EPA has received a limited number of post-PMN *bona fide* submissions, the Agency believes that it is highly unlikely that many, if any, of the significant new uses described in the following regulatory text are ongoing. As discussed at 55 FR 17376 (April 24, 1990), EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of this date of publication rather than as of the effective date of the rule. Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through these SNURs will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA has promulgated provisions to allow persons to comply with these SNURs before the effective date. If a person were to meet the conditions of advance compliance in § 721.45(h) (53 FR 28354, July 17, 1988), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between publication and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

IX. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the public record for this rule (OPPTS–50603).

X. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPPTS–50603). The record includes information considered by EPA in developing this rule. A public version of the record without any confidential business information is available in the TSCA Public Docket Office from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located at rm. NE–G004, 401 M St., SW., Washington, DC. Any person who submits comments claimed as CBI must mark the comments as "confidential", "trade secret", or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any person submitting comments claimed to be confidential must prepare and submit a nonconfidential public version in triplicate of the comments that EPA can place in the public file.

XI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule will not be a "major" rule because it will not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be approximately $4,552 to $12,166, including a $2,500 user fee payable to EPA to offset EPA costs in processing the notice. EPA believes that, because of the nature of the rule and the substances involved, there will be few SNUR notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by OMB under the

provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and have been assigned OMB control number 2070–0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 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.

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, PM–223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Management and Budget, Paperwork Reduction Project (2070–0012), Washington, D.C. 20503.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: July 7, 1992.

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.3120 to subpart E to read as follows:

§ 721.3120 Propenoate-terminated alkyl substituted silyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as propenoate - terminated alkyl substituted silyl ester (PMN P–91–74) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

(A) Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(6)(i), (a)(6)(ii), (a)(6)(iii), (a)(6)(iv), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 0.1 percent), and (c).

(B) The following citations correspond to the NIOSH-approved respirators that would be permitted following submittal by the company and written approval by EPA of the results of cartridge service life testing performed in accordance with *Interim Recommendations for Determining Organic Vapor Cartridge Service Life for Category 23C Respirators* (available through the TSCA Assistance Office), or its equivalent, in a laboratory which demonstrates the effectiveness of the organic vapor cartridge: § 721.63(a)(5)(xii), (a)(5)(xiii), (a)(5)(xiv), and (a)(5)(xv).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(iii)(D), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(D), and (h)(2)(iii)(A), (h)(2)(iii)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified at § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

3. By adding new § 721.3340 to subpart E to read as follows:

§ 721.3340 Ethanol, 2,2'-(hexylamino)bis-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as ethanol, 2,2'-(hexylamino)bis- (PMN P–91–1346) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified at § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

4. By adding new § 721.4000 to subpart E to read as follows:

§ 721.4000 Polyoxy alkylene glycol amine.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyoxy alkylene glycol amine (PMN P–91–1372) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified at § 721.90(a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified at § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

5. By adding new § 721.5250 to subpart E to read as follows:

§ 721.5250 Trimethyl spiropolyheterocyclic naphthalene compound.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as trimethyl spiropolyheterocyclic naphthalene compound (PMN P–91–1456) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified at § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

6. By adding new § 721.5525 to subpart E to read as follows:

§ 721.5525 Substituted spiro oxazine.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted spiro oxazine (PMN P–92–283) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified at § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

7. By adding new § 721.6060 to subpart E to read as follows:

§ 721.6060 Alkylaryl substituted phosphite.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkylaryl substituted phosphite (PMN P–91–899) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified at § 721.125(a) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

8. By adding new § 721.6820 to subpart E to read as follows:

§ 721.6820 Polymer of substituted aryl olefin.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polymer of substituted aryl olefin (PMN P–85–612) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) Protection in the workplace. Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(vii), (a)(6)(i), (a)(6)(ii), (a)(6)(iii), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(iii), (g)(1)(iv), and (g)(1)(vi), (g)(2), (g)(4), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), (c)(2), and any disposal associated with any use, or with manufacturing or processing associated with any use other than by means of recycling.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified at § 721.125(a) through (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

9. By adding new § 721.7240 to subpart E to read as follows:

§ 721.7240 Polymer of disubstituted phthalate, dioxoheteropolycycle, and methacrylic acid.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as polymer of disubstituted phthalate, dioxoheteropolycycle, and methacrylic acid (PMN P–91–937) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(iii)(A).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified at § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notificationrequirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

10. By adding new § 721.9570 to subpart E to read as follows:

§ 721.9570 Halophenyl sulfonamide salt.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as halophenyl sulfonamide salt (PMN P–90–1730) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(3)(i), (g)(3)(ii), (g)(4)(i), and (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g) and (q).

(iii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 10 ppb).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified at § 721.125(a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

[FR Doc. 92–17024 Filed 7–17–92; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–563; RM–7444]

Radio Broadcasting Services; Thomasville, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 238C3 for Channel 237A at Thomasville, Alabama, and modifies the license for Station WJDB–FM to specify operation on the higher powered channel, as requested by Griffin Broadcasting Corporation, Inc., successor-in-interest to WJDB Radio, Inc. See 55 FR 49541, November 29, 1990. Coordinates for Channel 238C3 at Thomasville are 31–46–07 and 87–45–53. With this action, the proceeding is terminated.

EFFECTIVE DATE: August 28, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–563, adopted June 30, 1992, and released July 15, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1990 M Street, NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 237A and adding Channel 238C3 at Thomasville.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–17048 Filed 7–17–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–16; RM–7887]

Radio Broadcasting Services; Hazelhurst, Jeffersonville, Mt. Vernon, Sandersville, Soperton and Tennille, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 228C2 for Channel 228A at Hazelhurst, Georgia, and modifies the license for Station WVOH (FM) to specify operation on the higher class channel; substitutes Channel 229C2 for Channel 229A at Jefferson, Georgia, and modifies the license for Station WWST (FM) to specify operation on the higher class channel, and allots Channel 269A to Mt. Vernon, Georgia, at the request of joint petitioners Jeff Davis Broadcasters, ALP Limited Partnership and Wesley James Holden, respectively. In order to accommodate the upgrades at Hazelhurst and Jeffersonville, we will also substitute Channel 260A for Channel 228A at Sandersville, Georgia, and modify the license for Station WSNT accordingly; substitute Channel 291A for Channel 269A at Soperton, Georgia, and modify the license for Station WKTM (FM) accordingly; and substitute Channel 270A for vacant but applied for Channel 260A at Tennille, Georgia. See 57 FR 05412, February 14, 1992, and Supplemental Information, infra.

EFFECTIVE DATES: August 28, 1992 the window period for filing applications at Mt. Vernon, Georgia, will open on August 31, 1992, and close on September 30, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–16, adopted June 29, 1992, and released July 15, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

The coordinates for Channel 228C2 at Hazelhurst are North Latitude 31–51–15 and West Longitude 82–34–00. The coordinates for Channel 229C2 at Jeffersonville are North Latitude 32–47–00 and West Longitude 83–28–36. The coordinates for Channel 260A at Sandersville are North Latitude 32–58–23 and West Longitude 82–48–34. The coordinates for Channel 270A at Tennille are North Latitude 32–52–51 and West Longitude 82–50–01. The coordinates for Channel 291A at Soperton are North Latitude 32–23–19 and West Longitude 82–42–13. The coordinates for Channel 269A at Mt. Vernon are North Latitude 32–10–10 and West Longitude 82–33–09. With this action, this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 228A and adding Channel 228C2 at Hazelhurst, by removing Channel 229A and adding Channel 229C2 at Jeffersonville, by removing Channel 228A and adding Channel 260A at Sandersville, by removing Channel 269A and adding Channel 291A at Soperton, by removing Channel 260A and adding Channel 270A at Tennille, and by adding Mt. Vernon, Channel 269A.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-17049 Filed 7-17-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-89; RM-7964]

Radio Broadcasting Services; Fosston, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 296C2 for Channel 296A at Fosston, Minnesota, and modifies the license for Station KKCQ-FM to specify operation on the higher class channel. See 57 FR 17870, April 28, 1992. Canadian concurrence has been obtained for this allotment at coordinates 47-37-46 and 95-38-02. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 28, 1992.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 92-89, adopted July 30, 1992, and released July 15, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452-1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 296A and adding Channel 296C2, at Fosston, Minnesota.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-17050 Filed 7-17-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure.

SUMMARY: NMFS is establishing a directed fishing allowance and is prohibiting directed fishing for Pacific ocean perch in the Eastern Regulatory Area (statistical areas 64, 65, and 68) of the Gulf of Alaska (GOA). This action is necessary to prevent the total allowable catch (TAC) for Pacific ocean perch in the Eastern Regulatory Area from being exceeded. The intent of this action is to promote optimum used of groundfish while conserving Pacific ocean perch stocks.

EFFECTIVE DATES: 12 noon, Alaska local time (A.l.t.), July 15, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, Fisheries Management Division, NMFS, (907) 586-7228.

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fisheries in the exclusive economic zone of the GOA are managed by the Secretary of Commerce under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR part 611.92 and parts 620 and 672.

The amount of a species or species group apportioned to a fishery is TAC, as stated in § 672.20(a)(2). Under the final notice of specifications (57 FR 2844, January 24, 1992), the amount apportioned to Pacific ocean perch for the Eastern Regulatory Area was 2,169 metric tons (mt).

Under § 672.20(c)(2), the Director, Alaska Region, NMFS (Regional Director), has determined that the amount of Pacific ocean perch apportioned to the Eastern Regulatory Area will soon be reached. Therefore, NMFS is establishing a directed fishing allowance of 1,669 mt for the Eastern Regulatory Area, and is setting aside the remaining 500 mt of the current apportionment as bycatch to support other anticipated groundfish fisheries. The Regional Director has determined that the directed fishery soon will catch its directed fishing allowance. Consequently, under § 672.20(c)(2), NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Regulatory Area, effective from 12 noon, A.l.t., July 15, 1992, through 12 midnight, A.l.t., December 31, 1992.

After this closure, in accordance with § 672.20(g)(3), amounts of Pacific ocean perch retained on board a vessel in the Eastern Regulatory Area of the GOA may not equal or exceed 20 percent of the amount of all other fish species retained at the same time by the vessel during the same trip as measured in round weight equivalents.

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 15, 1992.

David S. Crestin,

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

[FR Doc. 92-17033 Filed 7-15-92; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 139
Monday, July 20, 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

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 91-019P]

RIN 0583-AB37

Listing of Minor Ingredients in Other Than Descending Order of Predominance

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry products inspection regulations by allowing product ingredients present at individual levels of 2 percent or less by weight to be listed in the ingredients statement in other than descending order of predominance. The proposed rule would allow manufacturers to adjust ingredients in a formulation present at 2 percent or less without resubmitting the labeling for new approval each time such adjustment is made. This proposed rule is in response to a petition submitted by the National Food Processors Association (NFPA).

DATES: Comments must be received on or before September 18, 1992.

ADDRESSES: Written comments should be addressed to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments as provided by the Poultry Products Inspection Act should be directed to; Ashland L. Clemons, (202) 205-0042. (See also "**Comments**" under "**SUPPLEMENTARY INFORMATION.**")

FOR FURTHER INFORMATION CONTACT: Ashland L. Clemons, Director, Food Labeling Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 205-0042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this proposed rule is not a major rule under Executive Order 12291. It would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in export or domestic markets.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected meat and poultry products that are in addition to, or different than, those imposed under the FMIA and PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat and poultry products that are misbranded or adulterated under the FMIA or PPIA, or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. Under the FMIA and PPIA, States that maintain meat and poultry inspection programs must impose requirements on State inspected products and establishments that are at least equal to those required under the FMIA and PPIA. The States may, however, impose more stringent requirements on such State inspected products and establishments.

This proposed rule is not intended to have retroactive effect. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, applicable administrative procedures must be exhausted. Those administrative procedures are set forth in the rules of practice governing proceedings for labeling determinations at 9 CFR parts 335 and 381, subpart W.

Effects on Small Entities

The Administrator, FSIS, has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule would make it optional for both large and small manufacturers of meat and poultry products containing ingredients at levels of 2 percent or less by weight to list such ingredients in the ingredients statement in other than descending order of predominance. Current regulations require all ingredients of meat and poultry products to be listed in the order of predominance (9 CFR 317.2(f) and 381.118(a)). Manufacturers opting to list their ingredients in other than descending order of predominance would have to revise their product labels to include a quantifying phrase at the end of the ingredients statement and submit the revised labels to FSIS for approval. However, once initial approval has been given by FSIS on the revised labels, manufacturers would be allowed to adjust ingredients in a formulation present at 2 percent or less without resubmitting the labeling for new approval each time such adjustment is made. As a result, such manufacturers would save time and costs associated with preparing the paperwork required under the Agency's prior label approval system. In addition, the number of labels received by the Agency would be reduced, to some extent, redirecting Agency resources to more significant label reviews.

Comments

Interested persons are invited to submit written comments concerning this proposed rule. Written comments should be sent to the Policy Office at the address shown above and should refer to Docket Number 91-019P. Any person desiring an opportunity for oral presentation of views, as provided under the Poultry Products Inspection Act, must make such request to Mr. Ashland L. Clemons so that arrangements may be made for such views to be presented. A record will be made of all views orally presented. All comments submitted in response to this proposal will be available for public inspection in the Policy Office from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 4 p.m., Monday through Friday.

Background

National Food Processors Association Petition

The Agency has been petitioned by the National Food Processors Association (NFPA), Washington, DC, to allow ingredients present in a product at levels of 2 percent or less by weight to be listed in other than descending order of predominance. The petitioner believes the proposed amendment to the Federal meat and poultry products inspection regulations would reduce the number of label changes currently required of industry, and would ease the backlog of labels to be reviewed by the Food Labeling Division (FLD) when minor formulation changes are made. The requested proposal is consistent with the Food and Drug Administration (FDA) regulation at 21 CFR 101.4(a)(2).

Current Statutory and Regulatory Requirements

Section 1(n)(7) of the Federal Meat Inspection Act (21 U.S.C. 601(n)(7)) provides that any carcass, part thereof, meat or meat food product is misbranded "if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Secretary under section 7 of this Act unless (A) it conforms to such definitions and standards, and (B) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavorings, and coloring) present in such food." Section 1(n)(9) further provides that any carcass, part thereof, meat or meat food product is misbranded "if it is not subject to the provisions of subparagraph (7), unless its label bears (A) the common or usual name of the food, if any there be, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; * * *" Section 4(h) (7) and (9), respectively, of the Poultry Products Inspection Act (21 U.S.C. 453(h) (7) and (9)) contain similar provisions for any poultry product.

Furthermore, the Federal meat and poultry products inspection regulations specify that ingredients in the ingredients statement must be listed in their order of predominance. Section 317.2(f)(1) of the Federal meat inspection regulations (9 CFR 317.2(f)(1)) provides that the list of ingredients shall show the common or usual names of the ingredients arranged in the descending order of predominance, with a few minor exceptions. Section 381.118(a) of the poultry products inspection regulations (9 CFR 381.118(a)) provides that the label shall show a statement of the ingredients in the poultry product if the product is fabricated from two or more ingredients, and that such ingredients shall be listed by their common or usual names in the order of their descending proportions.

The FDA regulation at 21 CFR 101.4(a)(1) provides that ingredients shall be listed by their common or usual name in descending order of predominance by weight. However, 21 CFR 101.4(a)(2) allows ingredients present in amounts of 2 percent or less by weight to be listed in other than descending order of predominance at the end of the ingredients statement. The listing of such ingredients must be preceded by an appropriate quantifying statement, e.g., "Contains _____ percent or less of _____," or "Less than _____ percent of _____." The blank percentage within the quantifying statement shall be filled in with a threshold level of 2 percent, 1.5 percent, 1.0 percent, or 0.5 percent, as appropriate. No ingredient to which the quantifying phrase applies may be present in an amount greater than the stated threshold.

The Proposal

After reviewing the petitioner's request, FSIS has determined that allowing ingredients present in a product at individual levels of 2 percent or less by weight to be listed in other than descending order of predominance would be in accordance with the provisions of the FMIA and PPIA and would not cause the product to be misbranded because the presence of all ingredients will still be identified in the ingredients statement. Therefore, FSIS is proposing to amend the Federal meat and poultry products inspection regulations by allowing product ingredients present at individual levels of 2 percent or less by weight to be listed in other than descending order of predominance at the end of the ingredients statement. The listing of such ingredients by their common or usual names would have to be preceded by a quantifying statement such as "Contains _____ percent or less of _____," or "Less than _____ percent of _____." The percentage of the ingredient(s) would be filled in with a threshold level of 2 percent, 1.5 percent, 1.0 percent, or 0.5 percent, as appropriate. No ingredient to which the quantifying statement applies may be present in an amount greater than the stated threshold.

The provisions as stated above would apply to ingredients statements consisting of composite listing of ingredients or component listing of ingredients. A composite listing of ingredients identifies all of a product's ingredients in descending order of predominance. For example, a product labeled as breaded chicken pattie chunks could have an ingredient listing as follows: (Ingredients: Chicken breast, water, soy flour, sugar, and spices). A component listing of ingredients identifies a product's major components accompanied by a list of each component's ingredients in descending order of predominance. For example, the ingredients statement of a sausage pizza may read as follows: (Ingredients: Crust (bleached flour, water, salt), sauce (tomato paste, tomatoes, water, spices), cheese (part skim mozzarella cheese, cheddar, and provolone), and sausage (pork, water, salt, and spices)). When the component listing is used, the quantifying statement may appear at the end of each component's list of ingredients rather than at the end of the ingredients statement.

Establishments would continue to comply with §§ 318.7(c)(4) and 381.147(f)(4) of the regulations (9 CFR 318.7(c)(4) and 381.147(f)(4)) which list substances that are acceptable for use in the preparation of meat and poultry products. In addition, any adjustment in formulation of a standardized product would also be required to comply with limits and conditions of use prescribed in 9 CFR part 319 or part 381, subpart P. Establishments would be required to notify the inspector-in-charge of any formulation changes, even though the label would not be submitted for approval.

The Agency believes that this proposal would have a positive impact on the industry, consumers, and the Agency. Once initial approval has been given by FSIS on the revised labels containing the quantifying phrase, meat and poultry manufacturers would have the option of adjusting product formulation in relation to the ingredients present at 2 percent or below without reapplying to FSIS for level approval. Consumers would be provided with more informative labeling that identifies the threshold level in the quantifying statement, whereas currently, only the ingredients are listed. Last, the Agency would not be reapproving labels with minor formulation changes.

For the reasons discussed in the preamble, FSIS is proposing to amend 9 CFR parts 317 and 381 of the Federal meat and poultry products inspection regulations to read as follows:

List of Subjects

9 CFR Part 317

Food labeling, Meat inspection.

9 CFR Part 381

Food labeling, Poultry inspection.

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for part 317 would continue to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. Section 317.2 would be amended by adding a new paragraph (f)(1)(vi) to read as follows:

§ 317.2 Labels: definition; required features.

* * * * *

(f)(1) * * *

(vi)(A) Product ingredients which are present in individual amounts of 2 percent or less by weight may be listed in the ingredients statement in other than descending order of predominance: *Provided,* That such ingredients are listed by their common or usual names at the end of the ingredients statement and preceded by a quantifying statement, such as "Contains _____ percent of _____," or "Less than _____ percent of _____." The percentage of the ingredient(s) shall be filled in with a threshold level of 2 percent, 1.5 percent, 1.0 percent, or 0.5 percent, as appropriate. No ingredient to which the quantifying statement applies may be present in an amount greater than the stated threshold. Such a quantifying statement man also be utilized when an ingredients statement contains a listing of ingredients by individual components. Each component listing may utilize the required quantifying statement at the end of each component ingredients listing.

(B) Such ingredients may be adjusted in the product formulation without a change being made in the ingredients statement on the labeling, provided that the adjusted amount complies with § 318.7(c)(4) and part 319 of this subchapter, and does not exceed the amount shown in the quantifying statement. Any such adjustments to the formulation shall be provided to the inspector-in-charge.

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 450, 21 U.S.C. 451–470, 7 CFR 2.17, 2.55.

4. Section 381.118(a) would be revised to read as follows:

§ 381.118 Ingredients statement.

(a)(1) The label shall show a statement of the ingredients in the poultry product if the product is fabricated from two or more ingredients. Such ingredients shall be listed by their common or usual names in the order of their descending proportions, except as prescribed in paragraph (a)(2) of this section.

(2)(i) Product ingredients which are present in individual amounts of 2 percent or less by weight may be listed in the ingredients statement in other than descending order of predominance: *Provided,* That such ingredients are listed by their common or usual names at the end of the ingredients statement and preceded by a quantifying statement, such as "Contains _____ percent or less of _____," or "Less than _____ percent of _____." The percentage of the ingredient(s) shall be filled in with a threshold level of 2 percent, 1.5 percent, 1.0 percent, or 0.5 percent, as appropriate. No ingredient to which the quantifying statement applies may be present in an amount greater than the stated threshold. Such a quantifying statement may also be utilized when an ingredients statement contains a listing of ingredients by individual components. Each component listing may utilize the required quantifying statement at the end of each component ingredients listing.

(ii) Such ingredients may be adjusted in the product formulation without a change being made in the ingredients statement on the labeling, provided that the adjusted amount complies with § 381.147(f)(4) and subpart P of this part, and does not exceed the amount shown in the quantifying statement. Any such adjustments to the formulation shall be provided to the inspector-in-charge.

* * * * *

Done at Washington, DC, on June 30, 1992.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 92–17021 Filed 7–17–92; 8:45am]

BILLING CODE 3410–DM–M

FEDERAL RESERVE SYSTEM

12 CFR Part 206

[Regulation F; Docket No. R–0769]

Interbank Liabilities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is publishing for comment a new Regulation F, Interbank Liabilities. The proposed rule would implement section 308 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), which requires the Board to develop regulations designed to limit the exposure of insured depository institutions to other depository institutions. The proposed rule would apply to banks, savings associations, and branches of foreign banks with deposits insured by the Federal Deposit Insurance Corporation (FDIC)

The proposed rule would require insured banks, savings associations, and branches of foreign banks, referred to collectively as "banks," to develop and implement internal procedures to evaluate and control exposure to the depository institutions with which they do business, referred to as "correspondents." These procedures would be required to include limits on both credit and settlement exposure to each individual correspondent. The proposed rule also would establish "benchmark" guidelines for daily overnight credit exposure to individual correspondents within which a bank ordinarily would be expected to remain. The benchmarks are states as a percentage of the exposed bank's capital. The benchmarks are intended to establish the maximum credit exposure that generally would be considered to be prudential, and are tiered based on the capital position of the correspondent with which the bank is dealing. The proposed rule provides for a two-year transition period after the effective date for implementation of the rule. The Board anticipates that the final rule would become effective on December 19, 1992.

DATES: Comments should be received by September 18, 1992.

ADDRESSES: Comments, which should refer to Docket No. R–0769, may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, to the attention of Mr. William W. Wiles, Secretary. Comments addressed to the attention of Mr. Wiles may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room B–1122 between 9 a.m. and 5 p.m., except as provided in § 261.8 of the Board's Rules Regarding

the Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Oliver Ireland, Associate General Counsel (202/452–3625), or Lawranne Stewart, Attorney (202/452–3513), Legal Division; or Stephen Lovette, Manager (202/452–3622), or Derek L. Young, Senior Financial Analysis (202/452–2960), Division of Banking Supervision and Regulation. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thomas (202/452–3544).

SUPPLEMENTARY INFORMATION: Section 308 of the Federal Deposit Insurance Corporation Improvements Act of 1991 (FDICIA) added a new section 23 to the Federal Reserve Act (FRA), which requires the Board to prescribe standards, by regulation or order, that will have the effect of limiting the risks posed by an insured depository institution's exposure to another depository institution. The Board believes that section 308 is intended to reduce the risks to insured depository institutions and to the deposit insurance funds by preventing situations where the failure of a single correspondent bank would trigger the failure of insured depository institutions with claims on the failed correspondent. Although the purpose of the section is stated in terms of the risks of the failure of large banks,[1] the provision directs the Board to prescribe standards to limit "the risks posed by an insured depository institution's exposure to any other depository institution." FRA section 23(b). Under section 23, insured depository institutions include all banks and savings associations that are insured by the Federal Deposit Insurance Corporation, as well as insured branches of foreign banks. FRA section 23(d).

The statute defines the "exposure" of an insured depository institution to include all extensions of credit to a depository institution, deposits or reverse repurchase agreements with a depository institution, guarantees, acceptances, or standby letters of credit on behalf of a depository institution, purchases or acceptance as collateral of securities issued by a depository institution, and "all similar transactions that the Board by regulation determines to be exposure for the purposes of this section." FRA section 23(c)(1). The Board is given authority to exempt transactions from the definition of exposure if the exemption is in the public interest and consistent with the purposes of the statute. FRA section 23(c)(2).

Section 23 provides that the rules developed by the Board are to be enforced by the appropriate Federal banking agency of an insured depository institution. FRA section 23(e). The amendments made by section 308 are effective on December 19, 1992, although the Board is authorized to provide transition rules to facilitate compliance with the rules under section 23. FDICIA section 308(b) and (c).

Interbank Exposure

The sources of the exposure of a bank to its correspondents tend to arise from two types of activity. First, banks may become exposed to their correspondents when obtaining banking services, such as check collection services, from their correspondents. Second, exposure may arise when banks engage in transactions with correspondents in the financial markets. Each type of exposure presents its own risks and characteristics.

Correspondent banking services are the primary source of interbank exposure for the majority of insured banks, particularly small- and medium-sized banks. In connection with check collection services and other trade- or payment-related correspondent services, banks often maintain balances with their correspondents in order to settle transactions and to compensate the correspondents for the services provided. These balances give rise to credit exposure to the correspondents. Although correspondent services are in some cases provided on a fee basis, many correspondents may prefer compensating balance arrangements, as these balances provide the correspondents with a stable source of funding. Similarly, banks may prefer to pay for services with "soft charges" in the form of balances instead of "hard charges" in the form of fees.

Exposure to a correspondent may be significant, particularly where a bank uses one correspondent for all of the bank's check collections and other payment services, sells excess reserve account balances ("Fed funds") to the correspondent, and engages in other banking transactions with the correspondent.[2] This exposure may increase when interest rates fall, as higher levels of compensating balances may be required to provide adequate compensation to the correspondent.

Money center banks and large regional banks may have significant exposure to correspondents [3] through their activities in interbank markets, such as the securities, swap, and foreign exchange markets. Interbank transactions such as swaps, foreign exchange contracts and over-the-counter options that call for performance in the future give rise to exposure to the depository institutions that act as counterparties in such transactions. This exposure includes settlement risk, that is, the risk that a countreparty will fail to make a payment or delivery in a timely manner. Settlement risk may arise from transactions in the government securities, foreign exchange, or other markets, and may result from operational, liquidity, or credit problems.

There are currently no comprehensive statutory or regulatory limits on interbank exposure. National banks are subject to lending limits that prohibit national banks from lending amounts equal to more than 15 percent of the national bank's unimpaired capital and surplus to a single borrower on an unsecured basis, and an additional 10 percent on a secured basis. The national bank lending limits apply only to "loans and extensions of credit," and do not include most of the off-balance sheet transactions that may provide significant sources of exposure to correspondents. Additionally, the national bank lending limits do not apply to overnight Fed funds sales, a significant source of short-term exposure to correspondents.

State-chartered banks generally are subject to similar lending limits under

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[1] Section 308 states that "[t]he purpose of this section is to limit the risks that the failure of a large depository institution (whether or not that institution is an insured institution) would pose to the insured depository institutions." FRA section 23(a).

[2] Although a bank's primary correspondent often will buy Fed funds as principal directly from the bank, a correspondent may act as agent to place the funds with another institution. In such agency arrangements, a bank may provide its correspondent with a pre-approved list of institutions with which the correspondent may place the funds. Where a correspondent is acting as the bank's agent in placing Fed funds, the bank's exposure would be to the ultimate purchaser of the funds, not to the correspondent placing the funds on its behalf.

Fed funds sales generally are unsecured. A bank also may provide funds to a correspondent through transactions known as "reverse repurchase agreements," in which the bank provides funds to the correspondent by buying an asset, generally a government security. The correspondent agrees that it will repurchase the asset from the bank at the expiration of a set period, generally overnight, at a repurchase price calculated to compensate the bank for the use of its funds. Unlike Fed funds sales, these transactions are essentially secured transactions.

[3] Although the depository institutions that are parties to transactions in the interbank markets discussed above generally are referred to as "counterparties," the term "correspondent" generally will be used in this discussion to denote any depository institution to which an insured depository institution is exposed.

state law. Almost all states impose lending limits on the banks they charter. Most of these limits are patterned on the national bank lending limits, although the specific percentages or transactions covered vary. The state limits generally do not apply to a broader range of transactions than the national bank limits, although some states include Fed funds transactions within their limits. A number of states, however, exclude interbank transactions from their lending limits entirely.

Federal savings associations generally are subject to the same limitations on loans to one borrower as national banks, with exceptions for loans under $500,000 and loans for residential real estate development. 12 U.S.C. 1464(u). In some states, state-chartered savings associations are subject to the same limitations as state-chartered banks, but a significant number of states have no lending limits that apply to savings associations or place no limits on deposits by a savings association with an insured depository institution.

Proposed Rule

The Board invites comment on all aspects of the proposed Regulation F, which would implement the provisions of section 38 of FDICIA. The Board's proposed rule is designed to ensure that banks adopt prudent limits on credit and liquidity risks in dealing with another depository institution. The proposed rule requires banks to establish limits on both credit and settlement exposure to each individual correspondent. Banks' assessments of the condition and operation of correspondents and their internal controls on exposure to correspondents are intended to operate as the principal safeguards against excessive exposure to individual correspondents.

The proposed rule also establishes "benchmark" guidelines on the overnight credit exposure to individual correspondents that ordinarily should not be exceeded. The benchmarks are stated as percentages of the exposed bank's capital. The levels of overnight credit exposure considered to be permissible under the benchmarks are tiered based on the capital of the correspondent with which the bank is dealing, so that higher levels of a bank's capital may be exposed to better capitalized correspondents. These benchmark guidelines normally should not be exceeded, and are intended to establish the maximum credit exposure that ordinarily would be considered to be prudent with respect to a correspondent with a particular level of capital.

The benchmarks, which are based on a measure of credit exposure that excludes certain relatively low-risk transactions, generally would permit a bank to have credit exposure to an individual correspondent in an amount up to 25 percent of the exposed bank's total capital. For a correspondent that a bank can demonstrate is "adequately capitalized," the bank could have credit exposure equal to 50 percent of the bank's total capital, but no more than 25 percent of the bank's capital could be exposed through transactions that have a term to maturity of more than thirty days. No specific benchmark is provided for credit exposure to a correspondent that the bank can demonstrate is "well capitalized."

In all cases, a bank would be expected to establish prudential credit limits internally, either within or in addition to the benchmark limits, and would be expected to place limits on settlement and other risks not addressed by the benchmarks. Although the primary emphasis of the proposed rule is on the prudential limits to be established internally by banks, the benchmarks for credit exposure are intended to prevent banks from undertaking levels of exposure that would not be considered to be prudent by the Board. Where a bank is exposed to a correspondent that is less than adequately capitalized and the correspondent fails, the bank could expect to lose a substantial portion of its credit exposure. Further, it would suffer protracted liquidity problems and uncertainty as to its ultimate loss. A correspondent that is adequately capitalized poses a lesser risk of imminent failure and therefore under the benchmarks banks would be permitted to take larger credit exposures that may be reduced quickly to the 25 percent limit if a correspondent's financial condition deteriorates. Well capitalized institutions generally pose a still lesser risk of failure, although risk is incurred in dealing with any institution. The Board believes that much of the current credit exposure of banks to their correspondents would fall within the benchmarks, although it anticipates that the benchmarks may be constraining in some cases.

Section-By-Section Analysis

The following is a section-by-section analysis of the proposed rule. A number of issues concerning the application of the rule are discussed in the context of the relevant section. An additional discussion of issues relating to monitoring, recordkeeping, and compliance is included in the Initial Regulatory Flexibility Analysis.

Section 206.1 Authority, Purpose and Scope.

This section states that Part 206 implements section 308 of FDICIA, and that part 206 is intended to limit the risks to insured depository institutions from the failure of depository institutions.

Section 206.2 Definitions.

Bank. "Bank" is defined to mean an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act (FDI Act), and therefore includes any bank, savings association, or other institution the deposits of which are insured by the FDIC. This term also includes state or Federal branches of foreign banks that are insured by the FDIC, but does not include credit unions. Although the provisions of the proposed regulation are applicable to depository institutions insured by the FDIC, the term "bank" is substituted in the regulation for clarity.

Correspondent. A "correspondent" is an institution to which a bank must limit its exposure under the proposed rule, and includes a "U.S. depository institution" or a "foreign bank" to which the bank has exposure. The capital adequacy guidelines permit a lower risk-weighting for most claims on these institutions.

Although section 23 of the FRA requires that standards be enacted to limit exposure to "depository institutions," that term is not defined in that section and no general definition of the term that would be applicable to section 23 is included in the Federal Reserve Act. With respect to domestic depository institutions, only insured depository institutions are included within the definition of "correspondent," as discussed further under the definition of "U.S. depository institution."

In addition to domestic institutions, the proposed definition of "correspondent" includes depository institutions that are "foreign banks." Insured depository institutions currently have significant exposure to foreign banks. Exposure to foreign banks involves risks to banks that are similar to exposure to domestic correspondents; consequently, the proposed rule also would apply to exposure to correspondents that are foreign banks.

Exposure. The proposed rule defines "exposure" to mean the risks to a bank that its correspondent will not make a payment to complete a transaction in a timely manner, or will not pay an obligation. Exposure includes both the operational and liquidity risks related to the settlement of transactions and risk

related to the creditworthiness of a counterparty. Under § 206.3 of the proposed rule, a bank is required to establish internal policies and limits relating to all types of exposure to its correspondents. Section 206.4 of the proposed rule establishes benchmarks for "credit exposure" to correspondents. Section 206.5 of the proposed rule defines "credit exposure." The definition of "credit exposure" does not include operational or liquidity risks or certain transactions that pose only a low credit risk.

Foreign bank. The definition of "foreign bank" is based on the criteria used in the risk-based capital guidelines for determining whether claims on a foreign institution may be considered to be claims on a bank, which carry a risk-weighting of 20 percent under the capital guidelines for claims with a remaining term to maturity of one year or less.[4] The criteria used in the capital-adequacy guidelines include foreign banks organized under the laws of any country. The definition is based primarily on whether the foreign institution is engaged in the business of banking, including the receipt of deposits as a substantial portion of its business, whether it has the authority to accept demand deposits, and whether the bank supervisory or monetary authorities of its home country recognize it as a bank.[5] The United States office of a foreign bank would be considered to be part of the foreign bank.

Primary Federal supervisor. "Primary Federal supervisor" is defined to have the same meaning as "appropriate Federal banking agency" under section 3(q) of the FDI Act. The term "primary Federal supervisor" has been substituted for clarity. Under this definition, the primary Federal supervisor means (1) the Comptroller of the Currency for national or District banks and for insured Federal branches of foreign banks, (2) the FDIC for state nonmember banks and insured state-chartered branches of foreign banks,[6] and (3) the Office of Thrift Supervision for savings associations. The Board is the primary Federal supervisor for state member banks. Section 23(e) of the FRA provides that the primary Federal supervisor will be responsible for enforcing compliance with the rules implementing section 23 with respect to the institutions for which it is responsible.

Quality asset. The term "quality asset" includes assets that would be of sufficient quality to be used as collateral for transactions with affiliates under section 23A of the FRA. The definition is roughly the obverse of the term "low quality asset" in subsection (b)(10) of section 23A. Assets that are classified, on nonaccrual status, past due by more than thirty days, or that have been renegotiated are excluded, as are assets that have been compromised due to the deteriorating financial condition of the obligor. An asset also would not be considered to be a quality asset if other loans to the same obligor had been classified. This definition excludes from credit exposure an asset on which a correspondent is a secondary obligor, or which results in secondary exposure to the correspondent, as long as the asset would be considered to be a quality asset even in the absence of recourse to the correspondent.

Subsidiary. "Subsidiary" has the same meaning that term is given under section 23A of the FRA (12 U.S.C. 371c), and therefore includes any company in which a bank owns or controls 25 percent or more of any class of voting securities. A company in which the election of a majority of directors is controlled by the bank, or a company which the Board has found to be controlled by the bank for the purposes of section 23A of the FRA, also will be considered to be a subsidiary.

Total capital. "Total capital" is defined as the total of Tier 1 and Tier 2 capital under the risk-based capital guidelines of a bank's primary Federal supervisor. Tier 1 capital includes core capital elements such as common stockholder's equity, qualifying noncumulative perpetual preferred stock, and minority interests in the equity accounts of consolidated subsidiaries, minus goodwill and ineligible intangibles. Tier 2 capital includes perpetual preferred stock and related surplus, hybrid capital instruments, mandatory convertible debt instruments, term subordinated debt and intermediate-term preferred stock and related surplus, and a portion of the bank's allowance for loan and lease losses. "Total capital" is used in section 206.4 of the proposed regulation as the base for calculating the maximum credit exposure that a bank should have to a correspondent.

As noted above, insured branches of foreign banks are "banks" under the proposed rule and are therefore subject to the section 206.4 guidelines on credit exposure. Consistent with the approach of the OCC in applying the national bank lending limits to Federal branches of foreign banks, the § 206.4 guidelines on credit exposure in the proposed regulation would be based on the capital of the entire foreign bank. For foreign banks organized in countries that subscribe to the principles of the Basle Capital Accord, total capital under the proposed rule would include total Tier 1 and Tier 2 capital as calculated under the standards of that country. For foreign banks that are organized in countries that do not subscribe to the principles of the Basle Capital Accord, total capital under the proposed rule would be calculated based on the provisions of the Accord. In either case, a foreign bank would be permitted to apply the accounting conventions permitted by its country of organization in calculating total capital.

U.S. depository institution. Under the proposed rule, the term "correspondent" is defined to include both a "foreign bank" and a "U.S. depository institution." As is the case for the term "foreign bank," the definition of "U.S. depository institution" covers only institutions that are considered to be depository institutions for the purposes of the capital adequacy guidelines. "U.S. depository institution" is limited to institutions insured under the FDI Act that are chartered under Federal or state law. "U.S. depository institution" does not include Federal Reserve Banks, Federal Home Loan Banks, or other domestic depository institutions that are not federally insured. The term also does not include insured branches of a foreign bank, as the foreign bank itself is considered to be the correspondent.

Although section 23 of the FRA refers to exposure to "depository institutions," whether insured or not, application of the proposed rule to exposure to uninsured domestic institutions would provide little benefit in risk reduction while adding significantly to the complexity of the proposed rule. For example, banks may have exposure to uninsured trust companies that are registered clearing agencies. These trust companies are subject to a separate supervisory scheme under the Securities

[4] Long-term claims (clams with a term to maturity of more than one year) against foreign banks organized under the laws of countries that are members of the Organization for Economic Cooperation and Development (OECD) are also weighted at 20 percent. While the lower risk weighting is given to short term claims on any foreign bank, regardless of where the bank is organized, long-term claims against foreign banks that are organized under the laws of countries that are not part of the OECD-based group of countries are weighted at 100 percent. See, *e.g.*, 12 CFR part 208, app. A.

[5] The central bank of a foreign country is not considered to be a "foreign bank" for the purposes of the risk-based capital guidelines, and would not be included within the definition of "foreign bank" for the purposes of the proposed rule.

[6] The FDIC also may have overlapping responsibilities for insured Federal branches of foreign banks.

Exchange Act of 1934. This supervisory scheme is intended to control the risk to users of the trust company's services. In some cases these companies are subject to supervision by the Board as member banks. Little benefit would be gained by applying the limits of section 23 to the transactions of insured depository institutions with such uninsured trust companies or similar entities. Further, the purposes and consequently the levels of capital for uninsured trust companies are not comparable to those of insured institutions. For these reasons, the Board finds that it is in the public interest and consistent with the purposes of section 23 to exclude exposure to uninsured domestic institutions from the coverage of the proposed rule, as permitted under section 23(c)(2).

Section 206 General Guidelines

Prudential Limits

The proposed rule requires banks to have policies and procedures to limit the risks posed by transactions with correspondents, taking into account both credit risk and settlement risk. This subsection emphasizes the importance of safe and sound banking practices in transactions with correspondents. Under this subsection, a bank would be required to establish limits on its exposure for each correspondent with which the bank does business, and to review periodically the condition of each correspondent and revise as necessary the limits on exposure to each correspondent. A bank would be required to structure its relations with its correspondents to avoid undue concentrations of exposure to an individual correspondent. A bank should address issues relating to both intraday and overnight exposure in its policies and procedures.

In establishing limits on exposure to a correspondent, the proposed rule requires the bank to evaluate the overall condition and creditworthiness of its correspondent. The bank should not rely solely on the capital ratios of its correspondent, but should assess other factors that can affect a correspondent's condition and operations.

Monitoring of Exposure

Under this subsection of the proposed rule, a bank would be required to ensure that its exposure to a correspondent remains within the internal limits the bank has established for exposure ordinarily does not exceed the benchmark guidelines on interday credit exposure established under § 206.4. A bank can meet the requirements concerning monitoring of its limits and guidelines either by structuring its relations with its correspondents so that the limits and guidelines are not exceeded, or by monitoring actual exposure to correspondents.

For example, if the aggregate of the credit facilities approved for a correspondent is less than the benchmark established under § 206.4, then the bank generally would not need to monitor actual outstandings under each facility, as long as it had procedures to ensure that the facilities are not exceeded. If total actual outstandings under the facilities available to a correspondent are likely to exceed the benchmark limit, frequent monitoring would be necessary. If aggregate credit facilities approved for a particular correspondent exceed the limits of § 206.4, but actual outstandings under the facilities are almost always below the limits, monitoring on an *ex post* basis may be adequate.

Section 206.4 Guidelines for Credit Exposure

In addition to the general requirements for the establishment of internal limits concerning credit risks under § 206.3, § 206.4 of the proposed rule establishes benchmark guidelines on interday credit exposure within which banks ordinarily should remain. The benchmarks established in this section are tiered based on the capitalization of the correspondent. These guidelines would not be rigid limits, such as the national bank lending limits, violations of which may result in director liability for losses attributable to loans exceeding the lending limits. Unlike limits that apply to lending transactions, in which total exposure can be determined at the time the transaction is done, the proposed rule applies to a variety of transactions under which credit exposure cannot be determined or limited readily. For example, credit exposure resulting from many off-balance sheet transactions may increase without any action on the part of the bank as a result of moves in the relevant markets. Because exposure under these transactions changes frequently, actual credit exposure is difficult to monitor on a contemporaneous basis. Similarly, credit exposure related to the collection of checks and other cash items also cannot be measured with precision on a contemporaneous basis, as the bank does not have sufficient information to determine whether particular items have been finally paid.[7]

Rigid limits on credit exposure effectively would require a bank to target a much lower level of credit exposure in order to enable the bank to stay within the limits at all times. Such limits also would lend a false sense of precision to the measures of credit exposure used in the proposed rules. For these reasons, the proposed guidelines are structured as benchmarks that would be considered prudent outside limits on credit exposure.

Credit exposure ordinarily should remain within the guidelines, but occasional or inadvertent excesses would not be considered to be a violation of the regulation, provided that credit exposure generally is managed in a manner consistent with the regulation's prudential requirements. For example, occasional excesses resulting from market disturbances, market movements favorable to the bank, unexpected surges in activity in particular areas, or operational difficulties would not be considered to be violations of the regulation. Further, the benchmarks are intended to serve as the outer limits for exposure to correspondents, and are not intended to endorse levels of credit exposure that otherwise would not be considered prudent based on the condition and operations of the correspondent. For example, credit exposure to a correspondent qualifies as adequately capitalized, but that has weaknesses in its management, operations, or loan portfolio, should be at a level below that permitted under the benchmark for credit exposure to an adequately capitalized correspondent.

Many banks already have sophisticated risk management systems that they use to measure exposure. If a bank can demonstrate that its system produces a measurement of risk exposure that is essentially equivalent to the measure of credit exposure used in this rule, it may be able to rely on its systems to demonstrate compliance with § 206.4. Additionally, the guidelines apply to credit exposure on an interday basis, that is, overnight credit exposure. The Board recognizes that determining overnight credit exposure may be difficult for banks that have global branch networks and that engage in transactions at almost all times of the day. For such institutions, any reasonable method for determining "interday" credit exposure that is applied on a consistent basis would be sufficient.

[7] Under FDIC receivership proceedings, checks sent for collection through a bank that fails are not treated as claims on the failed bank unless the checks have been finally paid.

Well Capitalized Correspondents

No numerical benchmark is established for credit exposure to a correspondent that the bank can demonstrate is "well capitalized," as that term is defined under § 206.6(a)(1) of this part. Although no specific numerical limit would apply to exposure to such institutions, the bank would still be required to meet the general prudential standards under § 206.3 with respect to credit exposure to such correspondents.

Adequately Capitalized Correspondents

Under the proposed rule, a bank should limit its total interday credit exposure to a correspondent that the bank can demonstrate is "adequately capitalized," as that term is defined under § 206.6(a)(2) of this part, to 50 percent of the exposed bank's total capital. Within this overall guideline, a separate benchmark for longer term credit exposure would apply, under which a bank should not have credit exposure with a remaining term to maturity of more than thirty days in amounts equal to more than 25 percent of the bank's total capital. For a bank with 50 percent of it capital exposed, therefore, only half of its exposure should have a remaining term to maturity of more than thirty days. This structure recognizes that exposure with a remaining term of thirty days or less can be reduced fairly readily if the condition of a correspondent changes. As with exposure to well capitalized correspondents, credit exposure that meets these guidelines is subject to the general prudential standards.

Other Correspondents

The general limit for interday credit exposure to an individual correspondent is 25 percent of a bank's total capital. Except where a bank can demonstrate that its correspondent is adequately or well capitalized, the 25 percent benchmark would apply to a bank's credit exposure to any correspondent. To the extent that a bank can obtain adequate information to demonstrate that its correspondent is adequately or well capitalized, the higher benchmarks described above would apply. As with exposure to correspondents that the bank can demonstrate are adequately capitalized or well-capitalized, exposure under this guideline is subject to the general prudential standards of § 206.3.

Commonly Controlled Depository Institutions

Except for the general prudential standards in § 206.3, a bank need not adhere to the benchmark guidelines for credit exposure to correspondents that are commonly controlled with the bank, and for which the bank would be subject the cross-guarantee provisions of section 206 of the Financial Institution Reform, Recovery, and Enforcement Act (12 U.S.C. 1815(e)). Because an insured depository institution is potentially liable to the FDIC for losses resulting from the failure of a commonly controlled insured depository institution under the cross-guarantee provisions, there is no effective way for a bank that is subject to the proposed rule to limit its credit exposure to an FDIC-insured depository institution that is commonly controlled with the bank.

For the purposes of this section, "commonly controlled" is given a definition similar to but somewhat narrower than that used for the purposes of the cross-guarantee provisions of the FDI Act. Under the FDI Act, banks are commonly controlled if they are controlled by the same holding company of if one bank controls the other, Control exists where there is ownership of 25 percent or more of the voting stock of an entity.[8] Under the cross-guarantee provisions, control also may exist based on ownership interests of less than 25 percent under certain circumstances. For the purposes of the proposed rule, however, banks will be considered to be commonly controlled only if a holding company owned 25 percent or more of the voting stock of each bank, or if one institution owned 25 percent or more of the voting stock of the other.[9]

Exposure of Subsidiaries

A bank must include the credit exposure of its subsidiaries in calculating its credit exposure to a correspondent. "Subsidiary" is defined to include companies in which the bank owns or controls 25 percent or more of the company. A bank may prorate the credit exposure of the subsidiary to reflect the bank's ownership of companies in which it has less than 100 percent ownership.

Transition Provisions

Where a bank is no longer able to demonstrate that a correspondent is adequately capitalized or well capitalized, including where the bank cannot obtain adequate information concerning the capital ratios of the correspondent, the bank should bring its credit exposure into line with the appropriate benchmark guideline within 30 days of the date when updated information normally would be obtained on the capital ratios of the correspondent. In most instances, this normally would be the date when new Call Report data are available.

Section 206.5 Computation of Credit Exposure

Transactions Generally Included in Credit Exposures

The Board proposes to base the computation of credit exposure for the purposes of the guidelines of § 206.4 on the claims on a correspondent that qualify as assets and off-balance sheet items subject to capital requirements under the capital adequacy guidelines. These assets and off-balance sheet items are given a weighting of 100 percent for the purposes of calculating credit exposure.

The claims covered would include direct extensions of credit, such as demand deposit balances, other deposits, Fed funds sales, and other loans to a depository institution, as well as other transactions that involve the credit risk of a correspondent, such as stand-by letters of credit issued by the bank for the account of a correspondent. Off-balance sheet transactions such as interest rate and foreign exchange rate contracts are included in credit exposure, but only to the extent of the current replacement value. The "add-ons" required for the purposes of risk-based capital calculations in order to reflect potential future increases in the value of the claims would not be required in determining credit exposure to a correspondent for the purposes of the proposed regulation. Only the mark-to-market value of these transactions therefore will be included in the credit exposure calculation.

Settlement risk and other sources of exposure that are not covered by the risk-based capital guidelines are not included in the calculation of credit exposure for the purposes of § 206.4, although these sources of exposure must be addressed under the general prudential standards in § 206.3.

[8] The standard for "control" under the FDI Act is the standard provided by the Bank Holding Company Act. 12 U.S.C. 1813(w) and 1841.

[9] Although the proposed rule would not apply the benchmark limits on exposure to depository institutions with common ownership of 25 percent or more, depository institutions with common ownership of more than 25 percent would continue to be subject to the limits on transactions with affiliates under sections 23A and 23B of the FRA (12 U.S.C. 371c and 371c-1). Under section 23A, transactions between banks with common ownership of 80 percent or more may be exempt from the section 23A limits on transactions, although these limits continue to apply to transactions such as those between savings associations that are not owned by a bank holding company or between a bank and its foreign bank parent.

Netting

Banks may give effect to netting contracts in calculating credit exposure, provided that the netting contracts are valid and enforceable under applicable law. This generally would include transactions under a netting contract between two depository institutions organized in the United States. Netting contracts between financial institutions in the United States generally are valid under the netting provisions of Title IV of FDICIA, sections 401–407.

Other netting contracts also may be considered valid and enforceable. Transactions subject to netting contracts that meet the minimum legal standards recommended in the November 1990 Report of the Committee on Interbank Netting Schemes of the Central Banks of the Group of Ten Countries ("Basle Netting Report") for the recognition of cross-border netting contracts may be netted under this subsection. Under the standards established by the Basle Netting Report, a bank must have reasoned legal opinions that the contracts are valid and enforceable under the law of the countries in which the exposed institution and its correspondent are chartered, and where any branches of the institutions that engage in transactions covered by the netting contract are located, as well as the laws that govern the individual transactions subject to the netting contract or any contract or agreement necessary to effect the netting. Such opinions would have to be reviewed periodically to ensure their continued validity.

Exclusions

Under the proposed rule, "credit exposure" does not include exposure to a correspondent from transactions that the Board believes present little risk to the bank. Consequently, the Board finds that these exclusions are in the public interest and consistent with the purpose of section 308. The exclusions include certain secured transactions, cash items in the process of collection, and obligations that result in secondary exposure to the correspondent or for which a second obligor in addition to the correspondent is available, as well as the portion of exposure that is covered by Federal deposit insurance.

Secured Transactions

"Credit exposure" does not include transactions that are fully secured by United States government or agency securities or other readily marketable collateral having a current market value equal to 100 percent of the transactions. As banks do not have the power to pledge collateral generally to cover deposit obligations, the exclusion for secured transactions will result primarily in the exclusion of reverse repurchase agreements, that is, transactions in which the exposed bank has provided funds in exchange for a security which the user of the funds promises to repurchase.

For the purposes of the exclusion, "government security" is defined to include a security that is an obligation of or guaranteed by the United States government or any of its departments, agencies, bureaus, boards, commissions, establishments, or corporations owned by the government. The definition is the same as that used for the purposes of the national bank lending limits. As with the national bank lending limits, transactions secured by government securities of the types listed will be excluded from calculation of exposure.

The definition of "readily marketable collateral" is based on the definition of that term in the Comptroller's lending limits for national banks, and includes financial instruments and bullion that may be sold under ordinary circumstances with reasonable promptness of a fair market value based on actual market transactions. This definition covers instruments of the type listed in the OCC regulation, including stocks, notes, bonds, and debentures traded on a national securities exchange, "OTC margin stocks," commercial paper, negotiable certificates of deposit, bankers' acceptances, and shares in money market and mutual funds in which a security interest may be perfected. Other financial instruments that meet the criteria of the definition also would be covered. Although transactions secured by "readily marketable collateral" are subject to a 10 percent limit under the national bank lending limits, such transactions would be excluded from the definition of credit exposure for the purposes of the proposed rule.

Although the definition of "government security" used in the national bank lending limits does not including obligations issued or guaranteed by certain United States government-sponsored enterprises such as the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Student Loan Marketing Association (SLMA), such obligations generally would be included within the definition of "readily marketable collateral." In addition to obligations of United States government-sponsored enterprises, such as FNMA, FHLMC, and SLMA, "readily marketable collateral" would include obligations of foreign governments, multilateral lending institutions or regional development banks that may be sold under ordinary circumstances with reasonable promptness at a fair market value based on actual market transactions.

Cash Items in the Process of Collection

Banks commonly use correspondents as intermediaries for the collection of checks and other cash items, and typically maintained balances with their correspondents as part of their check collection relationships. The proceeds of a bank's check deposits to an account at a correspondent generally are made available for withdrawal in accordance with an availability schedule of the correspondent. Under the proposed rule, the portion of the balance that has not yet been made available for withdrawal would be excluded from the calculation of exposure.

This treatment reflects the FDIC's treatment of checks and other cash items collected through institutions for which the FDIC is acting as liquidator or receiver. Checks and other cash items on which final payment has not been made at the time of the collecting institution's closure are not treated as deposits subject to the insurance limitation. The FDIC treats the closed correspondent as the agent of the bank with respect to the collection of items that have not been finally paid and passes the proceeds back to the bank.[10]

A bank collecting checks through a correspondent does not have sufficient information to determine with precision the value of the checks deposited with a correspondent that have not yet been finally paid. This section permits a bank to exclude the portion of its cash letter that its correspondent has not yet made available for withdrawal by that bank from the calculation of credit exposure. The Board believes that the portion of a cash letter that is not yet available to the bank for withdrawal would provide a reasonable estimate of the portion of the bank's deposit that is represented by checks sent for collection that would not have been finally paid, and thus should be excluded from the calculation of credit exposure.

Secondary Obligations

Under the purposes of the proposed rule, credit exposure does not include quality assets on which the correspondent is secondarily liable or

[10] 12 CFR 330.4; FDIC Advisory Opinion Nos. 91–75 (Aug. 28, 1991) and 86–28 (October 10, 1986).

that result in secondary credit exposure to the correspondent. This exclusion covers transactions such as loans to third parties secured by stock or debt obligations of the correspondent, as well as "two-name paper," such as loans to third parties purchased from the correspondent with recourse or loans or obligations of third parties backed by stand-by letters of credit issued by the correspondent. The asset must be of sufficient quality, based on the credit of the primary obligor without the backing of the correspondent, that the asset generally would be acceptable as collateral based on the standards for transactions with affiliates under section 23A of the FRA. If the quality of an asset or the financial condition of the primary obligor on an asset deteriorates, the asset must be included as credit exposure to the correspondent.

FDIC-Insured Deposits

Under the proposed rule, credit exposure does not include the portion of the bank's exposure that is covered by Federal deposit insurance. This exclusion would permit the bank to deduct the $100,000 deposit insurance coverage from credit exposure relating to deposit account balances at a correspondent that also is insured. This exclusion may not be used to offset credit exposure due to Fed funds sales and other transactions that are not insured.

Section 206.6 Capital Level of Correspondents

The benchmark guidelines on credit exposure provided in § 206.4 are tiered based on the level of capitalization of the correspondent, with higher levels of credit exposure permitted for correspondents that a bank can demonstrate are "adequately capitalized" or "well capitalized." The determination of whether a correspondent is considered "well capitalized" or "adequately capitalized" generally will be based on the risk-based capital and leverage capital ratios of the correspondent. The capital ratios required to meet these classifications are based on the minimum capital ratios proposed for the purposes of the prompt corrective action standards under section 131 of FDICIA,[11] with the exception of the minimum leverage ratio required to be considered "adequately capitalized."

For the purpose of this proposed rule, a correspondent will be considered "adequately capitalized" if the correspondent has a total risk-based capital ratio of 8 percent of greater, a Tier 1 risk-based capital ratio of 4 percent or greater, and a leverage ration of 4 percent or greater. Although the proposed prompt corrective action standard also permit a bank to be considered "adequately capitalized" with a leverage ratio of only 3 percent if the bank has a composite 1 CAMEL rating and is not experiencing or anticipating significant growth, a bank is not permitted to disclose its CAMEL rating. For this reason, correspondents must meet the 4 percent leverage ratio requirement to be considered "adequately capitalized" for the purposes of this proposed rule.

For the purposes of this proposed rule, a correspondent will be considered "well capitalized" if the correspondent has a total risk-based capital ratio of 10 percent or greater, a Tier 1 risk-based capital ratio of 6 percent or greater, and a leverage ratio of 5 percent or greater. The proposed prompt corrective action standard also requires that the bank not be subject to any final order or directive concerning the bank's capital. This condition is not imposed for the purposes of this regulation, as such information concerning a correspondent may not be available to a bank.

Although the section 23 does not require that exposure to foreign banks be limited under the rule, the proposed rule has included foreign banks as correspondents for prudential reasons. A correspondent that is a foreign bank may be considered "well capitalized" or "adequately capitalized" under this section if it meets the respective capital levels established under the proposed rule, as calculated under the risk-based capital system established by the Basle Capital Accord. It is anticipated that use of these measures will reduce the burden on banks in complying with the standards established by the proposed rule. This treatment also is consistent with the Capital Equivalency Report recently submitted to Congress by the Board and the Department of the Treasury. As discussed in the Report, the risk-based capital measure of capital established under the Basle Capital Accord are generally the most meaningful measure of capital for a foreign bank.

For a correspondent that is a U.S. depository institution, the required ratios generally are calculated in accordance with the capital adequacy guidelines of the correspondent's primary Federal supervisor. For a correspondent that is a foreign bank organized in a country that has adopted the risk-based framework of the Basle Capital Accord, the required risk-based capital ratios are to be calculated in accordance with the capital adequacy guidelines of the supervisory authority of the country in which the correspondent is chartered. For a correspondent that is a foreign bank organized in a country that has not adopted the risk-based framework of the Basle Capital Accord, the required risk-based capital ratios are to be calculated in accordance with the provisions of the Basle Capital Accord.

As calculated under the capital adequacy guidelines of the appropriate Federal regulator, "Leverage ratio" means the ratio of Tier 1 capital to average total consolidated assets. As calculated under the capital adequacy guidelines of the appropriate foreign or domestic supervisory authority or the Basle Capital Accord, "total risk-based capital ratio" means the ratio of qualifying total capital to weighted risk assets. Similarly, "Tier 1 risk-based capital ratio" means the ratio of Tier 1 capital to weighted risk assets. Although the calculation of these ratios and the definitions of the components of the ratios may vary slightly among the capital adequacy guidelines established by the various supervisory authorities, the differences generally are not significant.

The Board understands that banks generally are able to obtain financial information, including risk-based and leverage capital ratios, either from the Call Report or Thrift Financial Report, directly from the depository institutions with which they do business, or from secondary sources, such as bank rating agencies.

For example, the risk-based capital ratios for domestic banks with assets of over $1 billion can be calculated from data provided in Schedule RC–R of the Call Report. Domestic banks with assets of less than $1 billion also are required to complete a portion of Schedule RC–R, which provides a test for determining whether the rest of the Schedule also must be completed. For institutions with assets of less than $1 billion that are required to complete Schedule RC–R, the institution's risk-based capital ratios can be calculated from the data provided. Additionally, risk-based capital ratios for savings associations may be calculated from the data provided in Schedule CCR of the Thrift Financial Report.

For domestic banks with assets of under $1 billion that meet the test provided in Schedule RC–R and therefore are not required to complete the Schedule, the portion of the Schedule completed could be relied on for determining that a correspondent has

[11] 12 U.S.C. 1831o; 57 FR 29226, July 1, 1992.

sufficient risk-based capital to meet the minimum risk-based capital ratio requirement to be considered "adequately capitalized." For such institutions, it is not possible currently to calculate risk-based capital more accurately from the Call Report data. The Board anticipates, however, that by the time the benchmarks provided in § 206.4 are fully implemented, a more complete information may be available from the Call Report that will facilitate the calculation of risk-based capital for all domestic depository institutions. For a correspondent that is a foreign bank, the Board anticipates that information on capital ratios will be obtained directly from the foreign bank or from secondary sources.

Banks would be permitted to rely on capital ratios calculated from Call Report or Thrift Financial Report data or obtained directly from the correspondent or from secondary sources for the purposes of the proposed rule. A bank would be expected to use the most recently available information, which should be updated as new Call Reports or equivalent information become available publicly or from the correspondent. For domestic correspondents, updated information is available on a quarterly basis.[12] Where a bank cannot routinely obtain updated information on a timely basis, the bank should not rely on the information as a basis for using the higher benchmark guidelines provided for adequately capitalized correspondents or as a basis for considering a correspondent to be well capitalized.

Section 206.7 Waiver

The waiver provision provides the Board with the flexibility to deal with situations in which a bank cannot reasonably comply with the benchmark guidelines established in § 206.6 of the proposed rule. Use of the waiver would require the bank's primary Federal supervisor to advise the Board that the bank cannot reasonably obtain correspondent services while remaining within the benchmark guidelines. The waiver authority is intended to be used in very limited circumstances, such as where a bank's capital has been impaired to the point that the capital-based benchmark guidelines are too small to permit the institution to transact adequate business with its correspondents.

[12] Where a correspondent that is a foreign bank closes its books on a semiannual basis, information on capital ratios would not have to be obtained more frequently than semiannually.

Section 206.8 Record Retention

A bank would be required to maintain records to demonstrate its compliance with both the prudential standards and the numerical benchmark guidelines. With respect to the general prudential standards of § 206.3, a bank should be able to demonstrate that it has instituted the appropriate policies and procedures and undertaken the necessary analysis for all of the correspondents with which it does business, and has maintained credit risk and settlement exposure within internally established limits. For the guidelines of § 206.4, a bank will need to maintain records to demonstrate that its credit exposure was ordinarily within the limits only for correspondents for which the bank's internal limits permit credit exposure in excess of the numerical benchmarks.

Issues relating to recordkeeping are discussed below in more detail as part of the Board's Initial Regulatory Flexibility Analysis.

Section 206.9 Transition Provisions

This section provides for a two-year transition period following the effective date of the final rule. The Board expects that the final rule will be effective on December 19, 1992. During the first year after the effective date, banks would be expected to be in compliance with the prudential standards required under § 206.3. During the second year, § 206.4 would apply, but with twice the stated numerical benchmarks. For this period, therefore, overall credit exposure to correspondents that a bank can demonstrate are adequately capitalized ordinarily should be limited to 100 percent of the exposed bank's total capital, and credit exposure with a term to maturity of more than 30 days should be limited to 50 percent of total capital. Credit exposure to correspondents other than those a bank can demonstrate are adequately capitalized or well capitalized should be limited to 50 percent of the exposed bank's capital. Beginning in December 1994, the final benchmark guidelines would apply.

Competitive Analysis

The Board's procedures for conducting a competitive impact analysis are described in policy statement titled "The Federal Reserve in the Payments System," which was revised in March 1990. 55 FR 11648, March 29, 1990. In its consideration of a proposed regulatory change that would have a substantial effect on payments-system participants, the Board assesses whether the proposed change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve Banks in providing similar services due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve Banks deriving from such legal differences.

The proposed rule does not limit credit exposure of a bank to Federal Reserve Banks because such exposure does not pose a risk to the bank. Similarly, the proposed rule does not impose quantitative limits on a bank's credit exposure to a "well capitalized" correspondent because this exposure generally poses little risk to the bank. However, the proposed rule imposes three substantive requirements on a bank's exposure to a well capitalized correspondent that are not imposed on a bank's exposure to a Federal Reserve Bank.

First, under § 206.3(a), a bank must have policies and procedures to limit exposure due to transactions with a well capitalized correspondent. Second, under § 206.3(b), a bank must either structure transactions with or monitor exposure to a well capitalized correspondent to ensure that exposure ordinarily remains within the internal limits established by the bank under § 206.3(a). Third, under § 206.4, a bank must be able to routinely obtain sufficient information to demonstrate that the correspondent is well capitalized.

Banks would be subject to more stringent requirements with respect to credit exposure to correspondents that are not well capitalized. In these cases, a bank would be required to limit its credit exposure to an individual correspondent to 25 percent or 50 percent of the bank's capital, based on whether the bank can demonstrate that the correspondent is adequately capitalized. To the extent that a bank determines that the rule's requirements are burdensome and/or costly to implement, the bank may choose to be exposed, where practical, to a Federal Reserve Bank rather than to a correspondent.

Due to these requirements, which would be applicable to a bank's exposure to a correspondent, but not to exposure to a Federal Reserve Bank, the proposed rule may have a direct and material adverse effect on the ability of correspondents to compete effectively with the Federal Reserve in providing payment services, and in particular check collection services.[13] Small banks

[13] The proposed rule may adversely affect, to a lesser extent, other service providers' ability to compete with the Federal Reserve Banks in offering other payment services, such as noncash collection and settlement services.

that collect their checks through a correspondent, rather than through a Federal Reserve Bank, often sell Fed funds to or through the correspondent and obtain other services from that correspondent. To the extent that a bank's aggregate activity with a correspondent exceeds the applicable internal limit or the appropriate benchmark guideline for the bank's credit exposure to the correspondent, the bank would be required to diversify and/or reduce its credit exposure.

Since many small banks collect their checks through one correspondent, diversifying credit exposure could entail shifting all of the bank's check collection business to another correspondent or to a Federal Reserve Bank. Alternately, a bank could reduce its credit exposure by altering its check collection and/or Fed funds relationship with its correspondent. For example, a bank could reduce or eliminate the collected balances held at the correspondent by paying for its check collection services to a greater extent with explicit fees, rather than through earnings credits on compensating balances. A bank also could sell a greater proportion of its Fed funds through the correspondent as agent, rather than directly to the correspondent as principal.

Nevertheless, to the extent that the proposed rule has a potential adverse effect on other correspondents, this adverse effect would be due to the differing legal powers of the Federal Reserve Banks, which make them effectively immune to failure. Given that the potential adverse competitive effects of the proposed rule are due to legal differences between the Federal Reserve Banks and depository institutions, the Board assessed the provisions of the proposed rule and whether the proposal's objectives could be reasonably achieved with a lesser or no adverse competitive impact.

The objective of the proposed rule is to limit the risks that the failure of a correspondent would pose to exposed banks. The structure of the proposed rule minimizes any adverse competitive effects the rule may have on correspondents that provide payment services. Specifically, the proposed rule does not impose rigid limits on credit exposure, and generally permits a higher level of credit exposure to correspondents with higher capital levels. In addition, the proposed rule excludes cash items in the process of collection from the calculation of credit exposure to a correspondent. The Board believes that the objective of the proposed rule would not be met if the remaining requirements, described above, did not apply to exposures to well-capitalized correspondents. Moreover, the Board believes that no purpose would be served by imposing the proposed rule's requirements on exposures to Federal Reserve Banks, as there is, in effect, no risk that a Federal Reserve Bank would fail and cause a loss to an institution.

In sum, the Board believes that the provisions of the proposed rule are necessary to fulfill the statutory objectives even though they may adversely affect the ability of correspondents to compete with the Federal Reserve Banks in providing check collection and other payment services.

Initial Regulatory Flexibility Analysis

Section 603 of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*) requires an agency publishing a proposed rule also to publish for comment an initial regulatory flexibility analysis containing: (1) A description of the reasons why the proposed rule is being considered; (2) a statement of the objectives of, and legal basis for, the proposed rule; (3) a description of the small entities to which the proposed rule would apply, and an estimate of their number, if feasible; (4) a description of projected reporting, recordkeeping, and compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirements and the type of professional skills required to prepare the reports or records; (5) an identification of Federal rules that may duplicate, overlap, or conflict with the proposed rule; and (6) a discussion of significant alternatives considered. Items 1, 2, and 5 are discussed in the Supplementary Information above.

As required by section 308 of FDICIA, the proposed rule would apply to all depository institutions insured by the FDIC, regardless of size. Approximately 8,500 of these depository institutions could be considered to be "small entities." [14]

The primary recordkeeping and compliance requirements under the proposed rule relate to (1) the establishment and monitoring of internal limits on exposure to correspondents under § 206.3, and the recordkeeping required to demonstrate compliance with this section, and (2) compliance with and recordkeeping required to demonstrate compliance with the numerical benchmarks established for credit exposure in § 206.4.

The Board anticipates that compliance with the requirements of § 206.3 for the establishment of internal limits on exposure to individual correspondents will not be excessively burdensome, as most banks already examine the creditworthiness of the correspondents with which they do business, and establish internal limits on exposure to these institutions. Smaller banks, which do business with a limited number of correspondents and which are not likely to have significant off-balance sheet exposure should bear a minimum burden in meeting the requirements.

Recordkeeping required to demonstrate compliance with the requirements of § 206.3 will include maintaining up-to-date credit files on each correspondent with the appropriate limits on exposure to the correspondent reflected in the files. A bank also will need to demonstrate that it generally has maintained its exposure to its correspondents within the internal limits established under § 206.3. For smaller banks, exposure normally will consist of deposits with or Fed funds sold to other depository institutions, and the total exposure to a correspondent should equal the total of the bank's "due from" and "Fed funds sales" accounts for the correspondent. The recordkeeping required for larger institutions with more diverse sources of exposure will be more complex. The Board anticipates that compliance with a bank's internal limits can be demonstrated by the record systems already maintained by many banks for their own internal use. Some banks, particularly those that do not have integrated information systems, may need to develop more extensive recordkeeping systems.

More extensive recordkeeping may be required to demonstrate compliance with the benchwork guidelines for credit exposure under § 206.4. If a bank has credit exposure to an individual correspondent equal to more than 25 percent of the bank's capital, the bank will need to maintain current information to demonstrate that the correspondent to which the bank is exposed meets the criteria established for the higher numerical benchmarks. While in many cases the Board anticipates that this information will be provided to the bank by its correspondents, the bank may have to obtain this information from other sources in some instances.

[14] This figure is based on a determination made by the Small Business Administration (SBA) that financial institutions with less than $100 million in assets are considered to be "small entities" by the SBA. 13 CFR 121.1401. This determination was made for the purpose of government contracting requirements, and no determination of size requirements for financial institutions have been made by the SBA for other purposes.

For small banks, the recordkeeping required to demonstrate compliance with the guidelines established by § 206.4 generally will be the same as that described with respect to § 206.3. For larger banks, which have more diverse sources of credit exposure to other depository institutions, more comprehensive recordkeeping may be required to demonstrate compliance, particularly if the bank currently does not maintain consolidated records of outstandings under all facilities available to a correspondent. Additionally, many banks have developed sophisticated risk management systems that may measure exposure and risk differently than the proposed rule. These banks may not be able to determine their "credit exposure," as measured by the proposed rule, using their current risk management and information systems. To the extent that a bank can demonstrate the relationship between exposure measurements produced by its existing system and the measurement of credit exposure used in this rule, a bank may be able to rely on the existing systems to demonstrate compliance with § 206.4.

The Board does not anticipate that any specialized professional skills beyond those already utilized by depository institutions will be required to prepare the required recordkeeping.

Additionally, the Board anticipates that in some instances the proposed rule would require a bank to reduce its credit exposure to a correspondent below current levels, and that this reduction may result in additional costs to the bank. As discussed above in the Competitive Analysis, banks may have to diversify their exposure across a larger number of correspondents, compensate their correspondents through fees rather than compensating balances, and/or sell Fed funds though agency arrangements rather than directly to their principal correspondents. Market developments such as these may result in an overall increase in the costs of correspondent services to insured depository institutions.

The proposed rule also is expected to have an impact on certain providers of correspondent services, known as "bankers' banks," which provide services only to other depository institutions. The depository institutions to which bankers' banks provide services are often also the owners of the bankers' bank, and often use the bankers' bank for all their correspondent services, resulting in levels of exposure to the bankers' bank that may exceed the benchmarks established in the proposed rule. Although the Board believes that many bankers' banks are likely to be considered to be well capitalized, in some cases a bankers' bank may have to raise additional capital in order to meet the standard for "well capitalized" to enable the banks that own the bankers' bank to continue using the bankers' bank as their primary or sole correspondent. The Board does not anticipate that raising such capital will be prohibitively costly for most bankers' banks, as they are owned by the same institutions to which they provide services.

The Board considered several alternative structures in developing the proposed rule. For example, the Board initially considered more rigid limits on exposure. Because of the difficulty of monitoring and complying with rigid limits, however, the primary emphasis of the proposed rule focuses on prudential standards and guidelines for permissible credit exposure. The Board also considered a more liberal structure under which banks would be permitted to determine their own limits on exposure in all cases. This alternative was rejected because it would have permitted banks to expose a significant portion of their capital to an undercapitalized correspondent and thereby to risk failure in the event of the failure of the correspondent.

Paperwork Reduction Act Analysis

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 35; 5 CFR 1320.13), the proposed recordkeeping requirements will be reviewed by the Board under the authority delegated to the Board by the Office of Management and Budget after consideration of the comments received during the public comment period. A detailed description of the proposed recordkeeping requirements (including the reasons for the requirements and the institutions that would be subject to them) is contained elsewhere in this notice.

List of Subjects in 12 CFR Part 206

Banks, banking, Interbank liability, Lending limits, Reporting and recordkeeping requirements, Savings associations.

For the reasons set forth in the preamble, and pursuant to the Board's authority under section 23 of the Federal Reserve Act, 12 U.S.C. 371b–2, the Board is proposing to add 12 CFR part 206 to read as follows:

PART 206—LIMITATIONS ON INTERBANK LIABILITIES

Sec.

206.1 Authority, purpose, and scope.
206.2 Definitions.
206.3 Prudential standards.
206.4 Guidelines for credit exposure.
206.5 Credit exposure.
206.6 Capital levels of correspondents.
206.7 Waiver.
206.8 Record retention.
206.9 Transition provisions.

Authority: Section 308 of Pub. L. 102–242, 105 Stat. 2236 (12 U.S.C. 371b–2).

§ 206.1 Authority, purpose, and scope.

(a) *Authority and purpose.* This part (Regulation F, 12 CFR Part 206) is issued by the Board of Governors of the Federal Reserve System (Board) to implement section 308 of the Federal Deposit Insurance Corporation Improvements Act of 1991 (Act), 12 U.S.C. 371b–2. The purpose of the regulation is to limit the risks that the failure of a depository institution would pose to insured depository institutions.

(b) *Scope.* This part applies to all depository institutions insured by the Federal Deposit Insurance Corporation.

§ 206.2 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Bank* means an insured depository institution, as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(b) *Correspondent* means a U.S. depository institution or a foreign bank, as defined in this part, to which a bank has exposure.

(c) *Exposure* means the risk that payment to complete a transaction will not be made in a timely manner, or that an obligation will not be paid in full. "Exposure" includes the operational and liquidity risks related to the settlement of transactions and risk related to the creditworthiness of a correspondent.

(d) *Foreign bank* means an institution that:

(1) Is organized under the laws of a country other than the United States;

(2) Engages in the business of banking;

(3) Is recognized as a bank by the bank supervisory or monetary authorities of the country of the bank's organization;

(4) Receives deposits to a substantial extent in the regular course of business; and

(5) Has the power to accept demand deposits.

(e) *Primary Federal supervisor* has the same meaning as the term "appropriate Federal banking agency" in section 3(q)

of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

(f) (1) *Quality asset* means an asset:

(i) That is not in a nonaccrual status;

(ii) On which principal or interest is not more than thirty days past due; and

(iii) Whose terms have not been renegotiated or compromised due to the deteriorating financial condition of the primary obligor.

(2) An asset will not be considered to be a "quality asset" if any other loans to the primary obligor on the asset have been classified as "substandard," doubtful," or "loss" or treated as "other loans specially mentioned" in the most recent report of examination or inspection of the bank or an affiliate prepared by either a Federal or a state supervisory agency.

(g) *Subsidiary* has the same meaning given that term under section 23A of the Federal Reserve Act (12 U.S.C. 371c).

(h) *Total capital* means the total of a bank's Tier 1 and Tier 2 capital under the risk-based capital guidelines provided by the bank's primary Federal supervisor. For an insured branch of a foreign bank organized under the laws of a country that subscribes to the principles of the Basle Capital Accord, "total capital" means total Tier 1 and Tier 2 capital as calculated under the standards of that country. For an insured branch of a foreign bank organized under the laws of a country that does not subscribe to the principles of the Basle Capital Accord, "total capital" means total Tier 1 and Tier 2 capital as calculated under the provisions of the Accord.

(i) *U.S. depository institution* means a federally-insured depository institution chartered in the United States under Federal or state law, and includes an insured national bank, state bank, District bank, or savings association, as those terms are defined under section 3 of the Federal Depository Insurance Act (12 U.S.C. 1813), but does not include an insured branch of a foreign bank.

§ 206.3 Prudential standards.

(a) *Internal limits.* A bank shall establish and maintain policies and procedures to limit its exposure to the correspondents with which it does business. Banks shall establish and periodically review and revise, as necessary, limits on exposure to individual correspondents based on an evaluation of the overall financial condition and other factors bearing on the creditworthiness of each correspondent. the bank shall structure these limits to avoid undue concentration of settlement or credit risk with respect to any individual correspondent.

(b) *Monitoring.* A bank shall structure transactions with a correspondent or monitor exposure to a correspondent to ensure that its exposure does not exceed its internal limits established under § 206.3(a) and that its credit exposure ordinarily does not exceed any applicable guidelines specified in § 206.4.

§ 206.4 Guidelines for credit exposure.

(a) In addition to the prudential limits on exposure established by a bank under § 206.3, a bank ordinarily is expected to maintain credit exposure to an individual correspondent, as calculated under § 206.5, within the guidelines in paragraphs (a) (1) through (3) of this section, except as provided in paragraph (b) of this section.

(1) *Well-capitalized correspondents.* Except as otherwise provided in § 206.3, a bank need not limit its credit exposure to a correspondent that the bank can demonstrate is well capitalized, as defined in § 206.6.

(2) *Adequately-capitalized correspondents.* A bank ordinarily should limit its daily interday credit exposure to a correspondent that the bank can demonstrate is adequately capitalized, as defined in § 206.6, to an amount equal to not more than 50 percent of the bank's total capital. For such a correspondent, the bank also ordinarily should limit its daily interday credit exposure with a remaining term to maturity of more than 30 days to an amount equal to not more than 25 percent of the bank's total capital.

(3) *Other correspondents.* A bank should ordinarily limit its daily interday credit exposure to any other correspondent to an amount equal to not more than 25 percent of the bank's total capital.

(b) *Commonly controlled insured depository institutions.* A bank need not limit its credit exposure to a correspondent that is commonly controlled with the bank and for which the bank is subject to liability under section 5(e) of the Federal Deposit Insurance Act. A correspondent shall be considered to be commonly controlled with the bank if:

(1) 25 percent or more of any class of voting securities of the bank and the correspondent are owned, directly or indirectly, by the same depository institution or company; or

(2) Either the bank or the correspondent owns 25 percent or more of any class of voting securities of the other.

(c) *Exposure of subsidiaries.* In calculating credit exposure to a correspondent under this part, a bank shall include the credit exposure of the bank's subsidiaries to the correspondent. If the bank does not own 100 percent of the shares of the subsidiary, the bank's credit exposure shall include a *pro rata* portion of the subsidiary's exposure. The *pro rata* portion shall be based on the percentage ownership of the bank in the subsidiary.

(d) *Transition provisions.* Where a bank is no longer able to demonstrate that a correspondent is adequately capitalized or well capitalized for the purposes of § 206.4(a) (1) or (2), including where the bank cannot obtain adequate information concerning the capital ratios of the correspondent, the bank should reduce its credit exposure to the appropriate level under § 26.4(a) within 30 days after the date when current Call Report or other relevant financial data normally would be available.

§ 206.5 Credit exposure.

(a) *Scope of credit exposure.* Except as provided in § 206.5 (b) and (c), the credit exposure of a bank to a correspondent shall consist of the bank's assets and off-balance sheet items that are subject to capital requirements under the capital adequacy guidelines of the bank's primary Federal supervisor, and that involve claims on the correspondent. For this purpose, off-balance sheet items shall be valued on the basis of current exposure.

(b) *Netting.* Transactions covered by netting agreements that are valid and enforceable under all applicable laws may be netted in calculating exposure.

(c) *Exclusions.* Credit exposure to a correspondent does not include:

(1) Transactions, including reverse repurchase agreements, that are fully secured by government securities or readily marketable collateral having a current market value equal to 100 percent of the credit exposure under the transaction. For the purpose of this exclusion, "government securities" means obligations of, or obligations fully guaranteed as to principal and interest by, the United States government or any department, agency, bureau, board, commission, or establishment of the United States, or any corporation wholly owned directly or indirectly by the United States. "Readily marketable collateral" means financial instruments or bullion that may be sold in ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions on an auction or a similarly available daily bid- and ask-price market;

(2) The proceeds of checks and other cash items deposited in an account at a correspondent that are not yet available for withdrawal;

(3) Quality assets on which the correspondent is secondarily liable or that result in secondary exposure to the correspondent, including:

(i) Loans to third parties secured by stock or debt obligations of the correspondent;

(ii) Loans to third parties purchased from the correspondent with recourse;

(iii) Loans or obligations of third parties backed by stand-by letters of credit issued by the correspondent; and

(4) The portion of the bank's credit exposure to the correspondent that is covered by Federal deposit insurance.

§ 206.6 Capital levels of correspondents.

(a) For the purpose of this part, a correspondent will be considered:

(1) "Well capitalized" [1] if the correspondent has:

(i) A total risk-based capital ratio of 10.0 percent or greater;

(ii) A Tier 1 risk-based capital ratio of 6.0 percent or greater; and

(iii) A leverage ratio of 5.0 percent or greater.

(2) "Adequately capitalized" [2] if the correspondent has:

(i) A total risk-based capital ratio of 8.0 percent or greater;

(ii) A Tier 1 risk-based capital ratio of 4.0 percent or greater; and

(iii) A leverage ratio of 4.0 percent or greater.

(b) A correspondent that is a foreign bank may be considered "well capitalized" or "adequately capitalized" under this section without regard to the minimum leverage ratios required under paragraphs (a)(1)(iii) and (a)(2)(iii) of this section.

(c) *Definitiions.* For the purpose of this section:

(1) *Leverage ratio* means the ratio of Tier 1 capital to average total consolidated assets, as calculated in accordance with the capital adequacy guidelines of the correspondent's primary Federal supervisor.

(2) *Total risk-based capital ratio* means the ratio of qualifying total capital to weighted risk assets. "Tier 1 risk-based capital ratio" means the ratio of Tier 1 capital to weighted risk assets. For a correspondent that is a U.S. depository institution, the ratios shall be calculated in accordance with the capital adequacy guidelines of the correspondent's primary Federal supervisor. For a correspondent that is a foreign bank organized in a country that has adopted the risk-based framework of the Basle Capital Accord, the ratio shall be calculated in accordance with the capital adequacy guidelines of supervisory authority of the country in which the correspondent is chartered. For a correspondent that is a foreign bank organized in a country that has not adopted the risk-based framework of the Basle Capital Accord, the ratios shall be calculated in accordance with the provisions of the Basle Capital Accord.

§ 206.7 Waiver.

The Board may waive the application of § 206.4(a) to a bank if the primary Federal supervisor of the bank advises the Board that the bank is not reasonably able to obtain necessary services, including payment-related services and placement of funds, without incurring exposure to a correspondent in excess of otherwise applicable limits.

§ 206.8 Record retention.

Banks shall establish recordkeeping reasonably designed to demonstrate compliance with the provisions of §§ 206.3 and 206.4.

§ 206.9 Transition provisions.

(a) For a period of one year beginning on December 19, 1992, a bank shall comply with the prudential standards required under § 206.3(a), and under § 206.3(b) shall structure transactions with a correspondent or monitor exposure to a correspondent to ensure that its exposure does not exceed its internal limits established under § 206.3(a). During this period, a bank need not meet the guidelines for credit exposure established under § 206.4 or monitor credit exposure under § 206.3(b).

(b) For a period of one year beginning on December 19, 1993, the overall guideline for credit exposure to an adequately capitalized correspondent contained in § 206.4(a)(2) is changed to 100 percent of the bank's total capital, with the guideline for credit exposure having a remaining term to maturity of more than 30 days changed to 50 percent of the bank's capital. The guideline on credit exposure to an individual correspondent contained in § 206.4(a)(3) is changed to 50 percent of the exposed institution's total capital.

[1] As used in this part, the term "well capitalized" is similar but not identical to the definition of that term as used for the purposes of the prompt corrective action standards, as proposed at 57 FR 29226, July 1, 1992, under section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831) (prompt corrective action standards).

[2] As used in this part, the term "adequately capitalized" is similar but not identical to the definition of that term as used for the purposes of the prompt corrective action standards.

By order of the Board of Governors of the Federal Reserve System, July 13, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-16716 Filed 7-17-92; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 29

[Docket No. 92-ASW-3; Notice No. SC-92-3SW]

Special Conditions: Eurocopter Deutschland Model BK-117 C-1 Helicopter, Power Turbine Electronic Overspeed Protection System

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed special condition.

SUMMARY: This notice proposes a special condition for the Eurocopter Deutschland Model BK-117 C-1 helicopter. This helicopter will have a novel or unusual design feature associated with the Turbomeca Arriel 1E engines, which will have a power turbine electronic overspeed protection system. The applicable airworthiness regulations do not contain appropriate safety standards for the requirements to protect critical function systems from the effects of external radio frequency energy sources. This notice contains proposed additional safety standards that the Administrator considers necessary to ensure that critical functions of systems would be maintained when exposed to the high intensity radiated fields (HIRF).

DATES: Comments must be received on or before August 19, 1992.

ADDRESSES: Submit comments in duplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-ASW-3, Fort Worth, Texas 76193-0007, or deliver in duplicate to the Office of the Assistant Chief Counsel, Building 3B room 158, 4400 Blue Mound Road, Fort Worth, Texas.

All comments must be marked Docket No. 92-ASW-3. Comments may be inspected in the Office of the Assistant Chief Counsel, at the address specified above, between 8 a.m. and 4 p.m., weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Carroll Wright, FAA, Rotorcraft Standards Staff, Regulations Group, Fort

Worth, Texas 76193-0111; telephone (817) 624-5120.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of this proposed special condition by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket or notice number and be submitted in duplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered before taking action on this proposal. The special condition proposed in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this special condition will be filed in the Rules Docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92-ASW-3." The postcard will be date/time stamped and returned to the commenter.

Background

Eurocopter Deutschland, Munich, Germany, submitted an application for an Amended Type Certificate for the Model BK-117 C-1 helicopter, dated March 8, 1991, for the FAA Brussels Certification Office through the Germany Luftfahrt Bundesamt (LBA) authorities. The two Lycoming LTS 101-750B-1 engines that were originally installed in the previously certificated BK-117 B-1 version, will be replaced by two Turbomeca "Arriel 1E" engines for the BK-117 C-1 model helicopter. The Turbomeca "Arriel 1E" engines will have a power turbine electronic overspeed protection system.

Type Certification Basis

The certification basis established for the Model BK-117 C-1 helicopter consists of FAR 21.29 and FAR 29 effective February 1, 1965, Amendments 29-1 through 29-16, plus the following propulsion system requirements effective on March 8, 1991, the date of application to the LBA:

FAR	
29.901	Powerplant installation, Amendment 29-26.
29.903	Engines, Amendment 29-26.
29.908	Cooling fans, Amendment 29-26.
29.955	Fuel flow, Amendment 29-26.
29.961	Fuel system hot weather operation, Amendment 29-26.
29.1041-1047	Cooling, Amendment 29-26.
29.1091	Air induction, Amendment 29-17.
29.1093	Air induction system icing protection, Amendment 29-26.
29.1103	Induction systems ducts and air duct system, Amendment 29-17.

In addition, FAR Part 36 Noise Standards amended by Amendments 36-1 through the latest amendment adopted and in effect when noise tests or analysis are completed.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of novel or unusual design features of an aircraft or installation. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become a part of the type certification basis, as provided by § 21.101(b)(2).

Discussion

The Eurocopter Deutschland Model BK-117 C-1 helicopter, at the time of application, was identified as incorporating one and possibly more electrical/electronic systems that will be performing functions critical to the continued safe flight and landing of the helicopter. A power turbine electronic overspeed protection system performs the critical function of engine overspeed control. The control of engine overspeed is critical to the continued safe flight and landing of the helicopter during all operating flight regimes, both visual flights rules (VFR) and instrument flight rules (IFR).

Recent advances in technology have given rise to the application in aircraft designs of advanced electrical/electronic systems that perform functions required for continued safe flight and landing. These advanced systems are responsive to the transient effects of induced electrical current and voltage caused by the high intensity radiated fields (HIRF) incident on the external surface of the helicopter. These induced transient currents and voltages can degrade the performance of electrical/electronic systems by damaging the components or by upsetting the system's functions.

Furthermore, the electromagnetic environment has undergone a transformation not envisioned by the current application of the § 29.1309(a) requirement. Higher energy levels radiate from operational transmitters that are currently used for radar, radio, and television. Also, the number of transmitters has increased significantly.

Existing aircraft certification requirements are inappropriate in view of these technological advances. In addition, the FAA has received reports of some significant safety incidents and accidents involving military aircraft equipped with advanced electrical/electronic systems when they were exposed to electromagnetic radiation.

The combined effects of the technological advances in helicopter design and the changing environment have resulted in an increased level of vulnerability of the electrical/electronic systems required for the continued safe flight and landing of the helicopter. Effective measures to protect these helicopters against the adverse effects of exposure to HIRF must be provided by the design and installation of these systems. The primary factors that have contributed to this increased concern are: (1) the increasing use of sensitive electronics that perform critical functions; (2) the reduced electromagnetic shielding afforded helicopter systems by advanced technology airframe materials; (3) the adverse service experience of military aircraft using these technologies; and (4) the increase in the number and power of radio frequency emitters and the expected increase in the number of these transmitters in the future.

The FAA has recognized the need for aircraft certification standards to keep pace with the developments in technology and environment and, in 1986, initiated a high priority program to; (1) determine and define the electromagnetic energy levels; (2) develop and describe guidance material for design, test, and analysis, and (3) prescribe and promulgate regulatory standards. The FAA participated with industry and airworthiness authorities of other countries to develop internationally recognized standards for certification.

The FAA and airworthiness authorities of other countries have established a level of HIRF environment that a helicopter could be exposed to during IFR operations.

While the HIRF requirements are being finalized, the FAA is adopting special conditions for the certification of

aircraft that employ electrical/electronic systems performing critical functions. The accepted maximum energy levels in which civilian helicopter system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. This special condition will require that the helicopter's electrical/electronic systems and its associated wiring harness be protected from these energy levels. These external threat levels are believed to represent the worst-case exposure for a helicopter operating IFR.

The defined HIRF environment specified in this proposed special condition is based on many critical assumptions; among these is that, with the exception of takeoff and landing at an airport, the aircraft would be not less than 500 feet above ground level (AGL). Helicopter operating under visual flight rules (VFR) routinely operate at less than 500 feet AGL and perform takeoffs and landings at locations other than controlled airports. Therefore, it would be expected that the HIRF environment experienced by a helicopter operating VFR may exceed given environment by twice or more.

This special condition will require electrical/electronic systems that perform critical functions, as installed in aircraft, to meet either a defined HIRF environment or a fixed value using laboratory tests.

The applicant may demonstrate that the operation and the operational capability of the installed electrical/electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment. The FAA has determined that the environment defined in Table I is acceptable for critical functions in helicopters operating not less than 500 feet AGL. For critical functions in helicopters operating at altitudes less than 500 feet AGL, additional considerations must be given.

The applicant may demonstrate by a laboratory test that the electrical/electronic systems that perform critical functions withstand a peak electromagnetic field strength in a frequency range of 10 KH_2 to 18GH_2. If a laboratory test is used to shoe compliance with the HIRF requirements, no credit would be given for signal attenuation due to installation. A level of 100 v/m and further considerations, such as an alternate technology backup that is immune to HIRF, are appropriate for critical functions during IFR operations. A level of 200 v/m and further considerations, such as an alternate technology backup that is immune to HIRF, are more appropriate for critical functions during VFR operations.

For helicopters, the primary electronic flight displays are critical for IFR operations and a full authority digital engine control (FADEC) is an example of a critical functioning system for all operations (both IFR and VFR).

A preliminary hazard analysis must be performed by the applicant for approval by the FAA to identify electrical/electronic systems that perform critical functions. The term "critical" means those functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the helicopter. The systems identified by the hazard analysis that performs critical functions are the ones that are required to have HIRF protection.

A system may perform both critical and noncritical functions. Primary electronic flight display systems and their associated components perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements would only apply to the critical functions.

Compliance with HIRF requirements will be demonstrated by tests, analysis, models, similarity with existing systems, or a combination of these methods. Service experience alone will not be acceptable since such experience in normal flight operations may not include an exposure to the HIRF environmental condition. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be concurrently exposed to the fields.

The modulation should be selected for the signal most likely to disrupt the operation of the system under test, based on its design characteristics. For example, flight control systems may be susceptible to 3 H_z square wave modulation while the video signals for electronic display systems may be susceptible to 400 H_z sinusoidal modulation. If the worst-case modulation is unknown or cannot be determined, default modulations may be used. Suggested default values are a 1 KH_z sine wave with 80 percent depth of modulation in the frequency range from 10 KH_z to 400 MH_z and 1 KH_z square wave with greater than 90 percent depth of modulation from 400 MH_z to 18 GH_z. For frequencies where the unmodulated signal would cause deviations from normal operation, several different modulating signals with various waveforms and frequencies should be applied.

Acceptable system performance would be attained by demonstrating that the critical aspects of the system under consideration continue to perform its intended function during and after exposure to required electromagnetic fields. Deviations from system specification may be acceptable but need to be independently assessed by the FAA for each application.

TABLE 1.—FIELD STRENGTH VOLTS/METER

Frequency	Peak	Average
10–500KH_z	60	60
500–2000	80	80
2–30 MH_z	200	200
30–100	33	33
100–200	150	33
200–400	56	33
400–1000	4020	935
1–2 GH_z	7850	1750
2–4	6000	1150
4–6	6800	310
6–8	3600	666
8–12	5100	1270
12–18	3500	551
18–40	2400	750

Conclusion

This proposed action would affect only certain unusual or novel design features on one series of helicopter. It would not be a rule of general applicability and would affect only the applicant who applied to the FAA for approval of these features on the affected helicopter.

List of Subjects in 14 CFR Parts 21 and 29

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for this special condition is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2); 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11541; 49 U.S.C. 106(g) (Rev. Pub. L. 97–449, January 12, 1983).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special condition as a part of the type certification basis for the Eurocopter Deutschland Model BK–117 C–1 helicopter.

Protection for Electrical/Electronic Systems From High Intensity Radiated Fields

Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely

affected when the helicopter is exposed to high intensity radiated fields external to the helicopter.

Issued in Fort Worth, Texas, on July 6, 1992.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 92-16991 Filed 7-17-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-ANE-14]

Airworthiness Directives; Essex PB&R Corp. (formerly E.I. DuPont de Nemours and Co., Inc.) PELS Model 4566M37B Crewmember Protective Breathing Equipment

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Essex PB&R Corporation (formerly E.I. DuPont de Nemours and Co., Inc.) PELS Model 4566M37B crewmember protective breathing equipment (PBE). This proposal would require that PBE units with certain serial numbers be removed from service and replaced with serviceable PBE units. This proposal is prompted by the discovery of failed neck seal adhesive bonds during a functional audit and the subsequent determination that 2,757 PBE units were produced with adhesive that exceeded the shelf life date. The actions specified by the proposed AD are intended to prevent leakage of the PBE neck seal, which could compromise the crew's ability to combat an aircraft fire.

DATES: Comments must be received by September 18, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-ANE-14, 12 New England Executive Park, Burlington, Massachusetts 01803-5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Essex PB&R Corporation, P.O. Box 791, Elkton, Maryland 21921. This information may be examined at the FAA, Office of the Assistant Chief Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Mr. C. Kallis, New York Aircraft Certification Office, ANE-173, Engine & Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581-1145; telephone (516) 791-6427; fax (516) 791-9024.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92-ANE-14." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket 92-ANE-14, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

Discussion

The FAA has determined that an unsafe condition exists on Essex PB&R Corporation (formerly E.I. DuPont de Nemours and Company Incorporated) PELS Model 4566M37B crewmember protective breathing equipment (PBE). During a functional audit of these units, the hood shell to neck seal adhesive bond failed in 6 of the 55 units tested. Further investigation revealed that 2,757 units were produced between March 29, 1989 and May 9, 1989 with potentially defective adhesive bonds. Investigation by the manufacturer and the supplier of the bonding adhesive revealed that the shelf life of the adhesive had been exceeded. This condition, if not corrected, could result in leakage of the PBE neck seal, which could compromise the crew's ability to combat an aircraft fire.

In December 1990, the E.I. DuPont de Nemours and Company Incorporated PELS line of PBE was acquired by Essex PB&R Corporation.

The FAA has reviewed and approved the technical contents of Essex PB&R Corporation Service Bulletin (SB) No. 001, Revision 1, dated October 3, 1991, that lists affected PBE units and describes procedures for replacement.

Since an unsafe condition has been identified that is likely to exist or develop on other units of the same type design, the proposed AD would require removal of certain serial numbered PBE units in accordance with service bulletin described previously.

The FAA estimates that 2,757 PBE units installed in aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per PBE unit to accomplish the proposed actions, and that the average labor rate is $55 per work hour. The replacement PBE unit would cost approximately $400 per unit. The FAA has been advised by the manufacturer that they will exchange at no cost certain PBE units that are returned. Based on these figures, the total impact cost of the proposed AD on U.S. operators is estimated to be $1,254,435. This total figure may be reduced by the operators electing to participate in the exchange program.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Essex PB&R Corporation (formerly E.I. DuPont de Nemours and Company Incorporated): Docket No. 92–ANE–14.

Applicability: Essex PB&R Corporation (formerly E.I. DuPont de Nemours and Company Incorporated) PELS Model 4566M37B crewmember protective breathing equipment (PBE) units as listed in Essex PB&R Corporation Service Bulletin (SB) No. 001, Revision 1, dated October 3, 1991, installed on but not limited to transport category aircraft manufactured by Boeing, McDonnell Douglas, Airbus, and Lockheed.

Compliance: Required as indicated, unless accomplished previously.

To prevent leakage of the PBE neck seal, which could compromise the crew's ability to combat an aircraft fire, accomplish the following:

(a) Within the next 90 days after the effective date of this AD, remove the affected PBE unit in accordance with the Accomplished Instructions of Essex PB&R Corporation Service Bulletin (SB) No. 001, Revision 1, dated October 3, 1991, and replace with a serviceable unit.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate. The request should be forwarded through an FAA Principal Maintenance Inspector who may add comments and then send it to the Manager, New York Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the New York Aircraft Certification Office.

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

Issued in Burlington, Massachusetts, on June 11, 1992.

Jack A. Sain,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 92–16993 Filed 7–17–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–CE–48–AD]

Airworthiness Directives; de Havilland DHC–6 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 77–03–07, which currently requires repetitive inspections of the alloy reinforcing channels of the elevator control circuit and the hand pump mounting support for cracks on certain de Havilland DHC–6 series airplanes, and replacement of any cracked part. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate certain repetitive short-interval inspections when improved parts or modifications are available. The proposed action would require modification of the elevator circuit control and hand pump mounting support as terminating action for the repetitive inspections that are currently required by AD 77–03–07. The actions specified in the proposed AD are intended to prevent failure of the elevator support assembly, which could result in loss of control of the airplane.

DATES: Comments must be received on or before September 29, 1992.

ADDRESSES: Submit comments on the proposal in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–48–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that is applicable to this AD may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario, Canada, M3K 1Y5. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; Telephone (516) 791–6220.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 91–CE–48–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–48–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries

an unnecessary safety risk when a design change exists that could eliminate those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences of the airplane if the known problem is not detected by the inspection; (2) the reliability of the inspection such as the probability of not detecting the known problem; (3) whether the inspection area is difficult to access; and (4) the possibility of an adjacent structure being damaged as a result of the problem.

These factors have led the FAA to establish an aging commuter-class aircraft policy that requires the incorporation of a known design change when it could replace a critical repetitive inspection. With this policy in mind, the FAA recently conducted a review of existing ADs that apply to de Havilland DHC–6 series airplanes. Assisting the FAA in this review were (1) Transport Canada, which is the airworthiness authority for Canada; (2) de Havilland, Inc.; (3) the Regional Airlines Association (RAA); and (4) several U.S. and foreign operators of the affected airplanes.

From this review, the FAA has identified Airworthiness Directive 77–03–07, Amendment 39–3100, as one that should be superseded with a new AD that would eliminate short-interval and critical repetitive inspections. AD 77–03–07 currently requires repetitive inspections of the alloy reinforcing channels of the elevator control circuit and the hand pump mounting support for cracks on certain de Havilland DHC–6 series airplanes, and replacement of any cracked part.

De Havilland, Inc. (formerly Boeing of Canada, Ltd.) has issued Service Bulletin (SB) No. 6/348, Revision C, dated July 15, 1977, which specifies procedures for (1) replacement of the existing aluminum alloy reinforcing channels with two steel angles that will provide a stronger mounting surface for the lower pivot bearing housing; and (2) installation of a brace to the left-hand side of the hand pump to improve the rigidity of its mounting.

As a result of the previously discussed AD review, Transport Canada considers the modification referenced in this service bulletin as mandatory and has issued Transport Canada AD CF–77–05R1 in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above.

Based on its aging commuter-class aircraft policy and after reviewing all available information including that received from Transport Canada, the FAA has determined that AD action should be taken to eliminate the repetitive short-interval inspections required by AD 77–03–07, Amendment 39–3100, and to prevent failure of the elevator support assembly, which could result in loss of control of the airplane.

Since the condition described is likely to exist or develop in other de Havilland DHC–6 series airplanes of the same type design, the proposed AD would supersede AD 77–03–07 with a new AD that would (1) initially retain the inspections of the elevator support assembly for cracks and replacement of any cracked part as required by AD 77–03–07; and (2) eventually require modification of the elevator support assembly as terminating action for the repetitive inspections of this assembly. The proposed actions would be accomplished in accordance with de Havilland SB No. 6/348, Revision C, dated July 15, 1977.

The FAA estimates that 144 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 35 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $400 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $334,800.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 144 airplanes in the U.S. registry that would be affected by the proposed AD, the FAA has determined that approximately 50 percent are operated in scheduled passenger service by 14 different operators. A significant number of the remaining 50 percent are operated in other forms of air transportation such as air cargo and air taxi.

The proposed AD allows 2,400 hours time-in-service (TIS) before mandatory accomplishment of the design modification. The average utilization of the fleet for those airplanes in commercial commuter service is approximately 25 to 50 hours TIS per week. Based on these figures, operators of commuter-class airplanes involved in commercial operation would have to accomplish the proposed modification within 12 to 24 calendar months after the proposed AD would become effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this would allow 12 to 24 years before the proposed modification would be mandatory.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 77–03–07, Amendment 39–3100, and adding the following new AD:

De Havilland: Amendment 39–; Docket No. 91–CE–48–AD. Supersedes AD 77–03–07, Amendment 39–3100.

Applicability: Model DHC–6–1/100/200/300 airplanes (serial numbers 2 through 494, 497 through 503, 505, and 507), certificated in any category, that have not incorporated Modification 6/1594 in accordance with the instructions in Part C of de Havilland Service

Bulletin (SB) 6/348, Revision C, dated July 15, 1977.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent failure of the elevator support assembly, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 25 hours time-in-service (TIS), unless already accomplished within the last 175 hours TIS, and thereafter at intervals not to exceed 200 hours TIS until Modification No. 6/1594 is incorporated as specified in paragraph (b) of this AD, accomplish the following:

(1) Visually inspect the floor structure channel members, part numbers C6FS1229–37 and C6FS1229–31, for cracks in the area around the lower pivot bearing housing in accordance with the instructions in Part A of de Havilland SB No. 6/348, Revision C, dated July 15, 1977. If cracks are found, prior to further flight, repair or replace any cracked components in accordance with Part B or C of the instructions in de Havilland SB No. 6/348, Revision C, dated July 15, 1977.

(2) Visually inspect the top and bottom flanges of the hydraulic hand pump fitting, part number C6FSM1293–27, for cracks immediately behind the front bolt boss in accordance with the instructions in Part A of de Havilland SB No. 6/348. If cracks are found, prior to further flight, repair or replace in accordance with Part B or C of the instructions in de Havilland SB No. 6/348, Revision C, dated July 15, 1977.

(3) If the replacement requirements of paragraphs (a)(1) and (a)(2) of this AD are accomplished in accordance with the instructions in Part C, Installation Modification No. 6/1594, of de Havilland SB No. 6/348, Revision C, dated July 15, 1977, then the inspection requirements of this AD are no longer required.

(b) Within the next 2,400 hours TIS, unless already accomplished as specified in paragraph (a)(3) of this AD, incorporate Modification 6/1594 in accordance with the instructions in Part C of de Havilland SB 6/348, Revision C, dated July 15, 1977.

Note 1: Compliance with paragraph (b) of this AD is considered terminating action for the inspection requirements of this AD.

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

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office, FAA, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5 Canada; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on July 13, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–16980 Filed 7–17–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–CE–35–AD]

Airworthiness Directives; Beech Models 34C and T–34C–1 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would be applicable to certain Beech Models 34C and T–34C–1 airplanes. The proposed action would assure that there are sufficient welds to secure the balance weight tube to the attachment plate in each elevator balance arm assembly, and would require replacement of the subject elevator balance arm assembly if insufficient welds are found. Insufficient elevator balance arm assembly welds have been found on the affected airplanes. The actions specified by the proposed AD are intended to prevent separation of an elevator arm assembly from the elevator caused by insufficient welds, which could result in loss of control of the airplane.

DATES: Comments must be received on or before September 22, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–CE–35–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Witchita, Kansas 67201–0085; Telephone (316) 676–7111. This information may also be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Aerospace Engineer, Airframe Branch, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4122; Facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92–CE–35–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–CE–35–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Insufficient elevator balance arm assembly welds have been found on certain Beech Models 34C and T–34C–1 airplanes. An insufficient weld is one where the weld bead does not extend around the full circumference of the balance weight tube in all three areas of the subject elevator balance arm assembly, and thus does not adequately secure the balance weight to the attachment plate. If not detected and

corrected, insufficient welds could result in separation of an elevator arm assembly from the elevator and possible loss of control of the airplane.

Beech has issued Service Bulletin (SB) No. 2442, dated May 1992, which specifies procedures for inspecting the elevator balance arm assemblies for insufficient welds.

After examining the circumstances and reviewing all available information related to the incidents described above including the referenced service information, the FAA has determined that AD action should be taken to prevent separation of an elevator arm assembly from the elevator caused by insufficient welds, which could result in loss of control of the airplane.

Since the condition described is likely to exist or develop in other Beech Models 34C and T-34C-1 airplanes of the same type design, the proposed AD would require (1) an inspection of each elevator balance arm assembly for insufficient welds in accordance with the "ACCOMPLISHMENT INSTRUCTIONS" section of Beech SB No. 2442, dated May 1992; and (2) replacement of the subject elevator balance arm assembly in accordance with the applicable maintenance manual if insufficient welds are found.

The FAA estimates that 142 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $15,620.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Beech: Docket No. 92-CE-35-AD.

Applicability: Model 34C airplanes (serial numbers (S/N) GP-1 through GP-50) and Model T-34C-1 airplanes (S/N GM-1 through GM-71 and S/N GM-78 through GM-98), certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent separation of an elevator arm assembly from the elevator caused by insufficient welds, which could result in loss of control of the airplane, accomplish the following:

(a) Inspect each elevator balance arm assembly for insufficient welds in accordance with the "ACCOMPLISHMENT INSTRUCTIONS" section of Beech Service Bulletin (SB) No. 2442, dated May 1992.

Note 1: An insufficient weld is one where the weld bead does not extend around the full circumference of the balance weight tube in all three areas of the subject elevator balance arm assembly, and thus does not adequately secure the balance weight to the attachment plate.

(b) If an insufficient weld is found, prior to further flight, replace the subject elevator balance arm assembly in accordance with Chapter 27-30 of the maintenance manual.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on July 13, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-16981 Filed 7-17-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 92-AGL-8]

Proposed Modification of Control Zone; Wilmington, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the existing Wilmington, Ohio control zone by expanding the existing control zone's effective hours of operation. Airborne Express has requested the control zone hours be expanded due to the increasing numbers of Visual Flight Rule (VFR) flights in the vicinity of Airborne Airpark Airport during marginal VFR weather and while their air traffic operations are at peak activity. This notice also proposes to correct the existing description of the control zones hours to state the effective times more clearly. The intent of this action is to enhance safety for users of this airspace by ensuring segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before September 2, 1992.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL-7, Attn: Rules Docket No. 92-AGL-8, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, System

Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7568.

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 number and be submitted in triplicate 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–AGL–8". 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 in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 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, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. 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 is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the existing Wilmington, Ohio control zone to expand the existing hours of operation. Airborne Express has requested the control zone hours be expanded due to the increasing numbers of Visual Flight Rule (VFR) flights in the vicinity of Airborne Airpark Airport during marginal VFR weather and while their air traffic operations are at peak activity. Currently the control zone is effective from 2300 to 0700 hours local time daily, Monday through Saturday. If amended in accordance with this proposal, the control zone would be effective from 2300 hours to 0700 hours local time daily, Monday through Saturday and from 0800 to 1600 hours local time daily, Tuesday through Friday and Sunday.

Aeronautical maps and charts would reflect the defined area which would enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Control zones are published in § 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 rule, when promulgated, 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

In consideration of the foregoing, the Federal Aviation Administration proposes 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

* * * * *

AGL OH CZ Wilmington, OH [Revised]

Airborne Airpark Airport, Wilmington, OH
(lat. 39°25'52" N., long. 83°47'52" W.)
Hollister Field Airport, Wilmington, OH
(lat. 39°26'15" N., long. 83°42'30" W.)

Within a 5-mile radius of Airborne Airpark Airport and within 4¼ miles each side of the 040° Midwest VOR radial, extending from the 5-mile radius area to 8.5 miles northeast of the Airborne Airpark Airport; and within 4¼ miles each side of the 214° Midwest VOR radial, extending from the 5-mile radius area to 8.5 miles southwest of the Airborne Airpark Airport excluding that portion of airspace within a 1-mile radius of Hollister Field Airport. This control zone is effective from 2300 hours to 0700 hours local time daily, Monday through Saturday and from 0800 to 1600 hours local time daily, Tuesday through Friday and Sunday.

* * * * *

Issued in Des Plaines, Illinois, on July 13, 1992.

Chester W. Anderson,

Acting Assistant Manager, Air Traffic Division.

[FR Doc. 92–16997 Filed 7–17–92; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 65 and 69

[Common Carrier Docket No. 92–133; FCC 92–256]

Reform of the Interstate Rate of Return Represcription and Enforcement Processes

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission (the Commission) has adopted a Notice of Proposed Rulemaking and Order which proposes

to reform the rate of return represcription and enforcement processes. The Notice and Proposed Rulemaking and Order also defers the next scheduled represcription proceeding pending the outcome of this Notice of Proposed Rulemaking.

DATES: Comments must be filed on or before September 11, 1992, and reply comments must be filed on or before October 13, 1992.

FOR FURTHER INFORMATION CONTACT: William A. Kehoe III or Sonja J. Rifken, Common Carrier Bureau, Accounting and Audits Division, (202) 632–7500.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking and Order in Amendment of parts 65 and 69 of the Commission's Rules to Reform the Interstate Rate of Return Represcription and Enforcement Processes, CC Docket No. 92–133, FCC No. 92–256, adopted June 18, 1992 and released July 14, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Dockets Branch (room 230), 1919 M St., NW., Washington, DC. The full text will be published in the FCC Record and may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1114 21st Street, NW., Washington, DC 20037.

Synopsis of Notice of Proposed Rulemaking and Order

1. In this Notice of Proposed Rulemaking and Order (Notice), we continue our efforts to reduce regulatory burdens by undertaking fundamental reform of our rate of return represcription and enforcement processes. Those processes, which are set forth in our part 65 rules, reflect a telecommunications industry and a regulatory environment that has changed dramatically since the rules' adoption in 1985.

2. When part 65 was adopted, the Commission regulated the interstate communications services of the American Telephone and Telegraph Company and local exchange carriers (LECs) on a rate of return basis. Since that time our price cap initiatives have removed all interexchange and most interstate access revenues from rate of return regulation. Carriers whose interstate services remain primarily under rate of return regulation now generate only about 6.3% of total LEC revenue.

3. To reflect this different environment, the Notice invites comment on virtually all aspects of our represcription and enforcement processes. We propose to change: (1) How we begin represcription proceedings; (2) how we conduct them; and (3) how we estimate the cost of capital during their course. We also propose to change our part 65 enforcement rules in light of *AT&T* v. *Commission*, 836 F.2d 1386 (D.C. Cir. 1988) (per curiam) (Automatic Refund Decision).

4. Our rules contemplate a new represcription proceeding every two years regardless of conditions in the capital markets. We propose to begin represcription proceedings only when market indicators show significant changes in the cost of capital that are likely to persist over time. We believe that this change would allow us to initiate represcription proceedings only when they are warranted.

5. The current rules establish a "paper hearing" process for represcription proceedings that is patterned after the system used in evidentiary hearings. We believe that this process results in a redundant record and imposes heavy burdens. We propose to replace this process with a notice and comment system that, we believe, would eliminate many of the unnecessary burdens of the represcription process. We also propose to eliminate or curtail discovery in represcription proceedings.

6. Our part 65 rules require exchange carrier holding companies meeting certain specified criteria to participate in represcription proceedings. These mandatory participants must file notices of appearance and initial submissions, and also respond to information requests. Presently, the only holding companies that meet the criteria for mandatory participation are the Regional Bell Holding Companies (RHCs). We question whether we should continue to rely on these companies as the primary source of information in represcription proceedings, given our regulation of the RHC's affiliates, the Bell Operating Companies, under price caps. We propose to require local exchange carriers or their holding companies to submit to the National Exchange Carrier Association, Inc. (NECA) any information that might be needed to support our methodologies for initiating and conducting represcription proceedings, to require NECA to process this information in accordance with the Commission's rules, and to make NECA the only mandatory participant in represcription proceedings.

7. Part 65 of our rules uses a weighted average cost of capital calculation to determine a unitary, overall rate of return for rate of return LECs. While we propose no change in our policy of prescribing a unitary, overall rate of return, we propose to change how we estimate the cost of debt, cost of equity, cost of preferred stock, and capital structure components of that return. We invite comment on alternative methodologies for estimating those components. We also invite comment on whether we should select cost of debt, cost of preferred stock, and capital structure methodologies that would be presumptive or conclusive in future represcription proceedings.

8. The Automatic Refund Decision remanded the part 65 automatic refund rule. That decision was based on the United States Court of Appeals for the District of Columbia Circuit's view that the Commission's prescribed rate of return represented both the maximum and the minimum return that this Commission could prescribe. In response to that decision, we make clear that the prescribed rate of return is a point within a broad zone of reasonableness that is neither the maximum nor the minimum return necessary to meet constitutional standards. To enforce the prescribed rate of return, we propose to rely on the tariff review and complaint processes. However, we invite comment on whether we should adopt a refund rule to supplement those processes.

9. Our proposals seek to simplify the rate of return represcription and enforcement processes so they would not impose unnecessary burdens on the telecommunications industry as it continues to develop. In making these proposals, we are attempting to ensure that carriers will continue to have the opportunity to maintain their credit and attract capital and that interstate rates will remain just and reasonable.

10. Accordingly, *It is ordered* That, pursuant to sections 1, 4(i), 4(j), 201, 202, 204, 205, 218–220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–202, 204–05, 218–220, and 403, notice is hereby given of proposed amendments to parts 65 and 69 of the Commission's Rules, 47 CFR 65.1 *et seq.* & 69.1 *et seq.*, described in this Notice of Proposed Rulemaking.

11. *It is further ordered,* pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 CFR 154(i), 154(j), that § 65.102(c) of the Commission's Rules, 47 CFR CFR 65.102(c), is suspended, insofar as it requires the filing of rate of return submissions.

List of Subjects

47 CFR Part 65

Administrative practice and procedure, Communications common

carriers, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 69

Communications common carriers; Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 92–17051 Filed 7–17–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–148, RM–8022]

Radio Broadcasting Services; Ludlow, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Miracle Broadcasting, seeking the allotment of Channel 261B1 to Ludlow, California, as that community's second local FM service. Coordinates for this proposal are 34–47–31 and 116–03–56. Mexican concurrence will be requested for this allotment.

DATES: Comments must be filed on or before September 4, 1992, and reply comments on or before September 19, 1992.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Peter Gutmann, Esq., Pepper & Corazzini, 1776 K Street, NW., suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92–148, adopted June 30, 1992, and released July 15, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1990 M St., NW., suite 640, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–17052 Filed 7–17–92, 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–149, RM–8023]

Radio Broadcasting Services; Liberal, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Alpha Broadcasting, Inc., proposing the substitution of Channel 286C1 for Channel 286C2 at Liberal, Kansas, and modification of the construction permit for Station KZQD (FM) to specify operation on Channel 286C1. The coordinates for Channel 286C1 are 37–17–39 and 100–51–38.

DATES: Comments must be filed on or before September 4, 1992, and reply comments on or before September 19, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Gerald Stevens-Kittner, Lisa E. Kopf, Arter & Hadden, 1801 K Street, NW., suite 400K, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Katheen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 92–149, adopted July 1, 1992, and released July 15, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452–1422.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–17053 Filed 7–17–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–150, RM–8024]

Radio Broadcasting Services; Trenton, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Marvin E. Luehrs proposing the substitution of Channel 222C3 for Channel 221A at Trenton, Missouri, and modification of the license for Station KTTN–FM to specify operation on Channel 222C3. The coordinates for channel 222C3 are 40–05–00 and 93–33–30.

DATES: Comments must be filed on or before September 4, 1992, and reply comments on or before September 19, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Marvin E. Luehrs, Station KTTN Radio, Box 307, Trenton, Missouri 64683.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No.

92–150 adopted July 1, 1992, and released July 15, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452–1422.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–17054 Filed 7–17–92; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 57, No. 139
Monday, July 20, 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

Cooperative State Research Service

Science and Education, National Research Initiative Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, the Cooperative State Research Service announces the following meeting:

NAME: Science and Education National Research Initiative Advisory Committee.

DATE: August 4, 1992.

TIME: 9 a.m. to 5 p.m.

PLACE: U.S. Department of Agriculture, room 338, Aerospace Building, 901 D Street, SW., Washington, DC 20250.

TYPE OF MEETING: Open to the public. Persons may participate in the meeting as the time and space permit.

COMMMENTS: The public may file written comments before or after the meeting with the contact person listed below.

PURPOSE: To advise the Secretary of Agriculture with respect to the research to be supported, priorities to be adopted and emphasized, and the procedures to be followed in implementing those programs of research grants to be awarded competitively.

CONTACT PERSON FOR AGENDA AND MORE INFORMATION: Dr. William D. Carlson, Associate Administrator, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, Room 328 Aerospace Center Building, Washington, DC 20250, Telephone 202–401–1761.

Done at Washington, D.C. this 10th day of July, 1992.

William D. Carlson,

Associate Administrator.

[FR Doc. 92–16944 Filed 7–17–92; 8:45 am]

BILLING CODE 3410–22–M

Forest Service

Exemption From Appeal, Lost Man Salvage Sale, Boise National Forest, ID

AGENCY: Forest Service, USDA.

ACTION: Notification that decisions relating to the rehabilitation and recovery of insect damaged natural resources are exempted from appeal.

SUMMARY: This is notification that timber salvage harvest and reforestation activities to recover and rehabilitate natural resources from recent insect epidemics on the Lost Man project area, Boise Ranger District, Boise National Forest are exempt from appeal in accordance with 36 CFR 217.4(a)(11).

DATES: Effective July 20, 1992.

FOR FURTHER INFORMATION CONTACT: Don Peterson, District Ranger, Boise Ranger District, Boise National Forest, 5493 Warm Springs Avenue, Boise, ID 83712, Telephone: 208–364–4243.

SUPPLEMENTARY INFORMATION: Several years of drought in southwest Idaho have reduced soil moisture and weakened conifer trees. Consequently, Douglas-fir tussock moth, and bark beetle populations have dramatically increased and reached epidemic levels on the Boise National Forest. It is estimated that more than 400,000 trees larger than 12 inches in diameter have died on the Forest as a result of insect damage since 1986.

As part of the effort to recover and rehabilitate natural resources damaged by the insect epidemic, Boise Ranger District personnel have developed a proposal to harvest dead and dying timber, and reforest damaged acres. They have also prepared the Lost Man Salvage Timber Sale Environmental Assessment (EA) which identified issues, developed alternatives, and analyzed the effects of implementing timber salvage and other recovery activities.

The analysis area for the Lost Man EA is located approximately 35 miles east of Boise, Idaho. The area includes about 11,000 acres with insect mortality scattered throughout. The Forest will harvest approximately 10 million board feet of dead and dying trees using the helicopter (80 percent) and tractor/jammer (20 percent) logging systems. Cutting areas would average less than five acres in size and would not exceed 20 acres. Cutover areas greater than 5 acres would be replanted, and smaller areas may be replanted depending on accessibility. Natural regeneration would be used to reforest smaller areas.

There is no road construction or reconstruction proposed for the salvage operations. Helicopter landings would be constructed or reconstructed along existing roads.

Management direction for the Lost Man area is established in the Boise National Forest Land and Resource Management Plan (Forest Plan). The Forest Plan provides for the removal of salvage timber from lands within the project area. In addition, the Forest Plan prescribes standards to protect soil, water, wildlife, visual, and other onsite resources. The proposed action for the Lost Man project is consistent with standards and guidelines, objectives, and direction contained in the Forest Plan.

Forest Pest Management Specialists and District Foresters have analyzed the insect situation and have found no economical or practical means to control the insect epidemic. Although salvage harvesting and reforestation will not control the epidemic, these activities will: (1) Recover valuable timber that would otherwise deteriorate, and (2) reforest those areas that have been left without tree cover as a result of the insect-caused mortality. It is extremely important to remove the dead and dying timber prior to deterioration and subsequent value losses. Through the salvage timber sale, breeding insects can be removed in the logs (bark beetles) and Knutson-Vandenburg (K–V) funds can be generated for use to restore forest resources that have been damaged by the insect epidemic.

The Forest Supervisor has determined through preliminary scoping and environmental analysis that there is sufficient justification to expedite this project. The decision will be implemented after publication of this notice in the **Federal Register.**

If the project is delayed because of an appeal (delays of up to 150 days are possible), it is likely that the salvage harvest could not be implemented during the 1992 normal operating season. This would result in a loss of volume and value of the timber due to deterioration. The total estimated value of the merchantable dead and dying timber is $1,100,000. Of this, approximately $277,000 would be returned to counties from 25 percent fund receipts. Delays resulting from appeals could cause the loss of up to half of this value and potentially make the salvage sale unattractive to timber purchasers. This would jeopardize the

objectives of the recovery and rehabilitation project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt the Lost Man Salvage and Recovery project, Boise Ranger District, Boise National Forest, from appeal. The environmental assessment discloses the effects for the proposed actions on the environment and addresses issues resulting from the proposal.

Dated: July 13, 1992.

Clair C. Beasley,

Deputy Regional Forester, Intermountain Region, USDA Forest Service.

[FR Doc. 92-16983 Filed 7-17-92; 8:45 am]

BILLING CODE 3410-11-M

Exemption of the Crooked Pike Recovery Project, Boise National Forest, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal.

SUMMARY: This is notification that decisions to implement timber salvage harvest, insect baiting and trapping, and reforestation activities to rehabilitate and recover natural resources from recent insect epidemics on the Crooked Pike project area, Idaho City Ranger District, Boise National Forest are exempt from appeal in accordance with 36 CFR 217.4(A)(11).

DATES: Effective July 20, 1992.

FOR FURTHER INFORMATION CONTACT: Terry Sexton, Timber Management Assistant, Idaho City Ranger District, Boise National Forest, P.O. Box 129, Idaho City, ID, 83631, Telephone: 208-392-6681.

SUPPLEMENTARY INFORMATION: Several years of drought in southwest Idaho have reduced soil moisture and weakened conifer trees. Consequently, Douglas-fir bark beetle, mountain pine beetle, and tussock moth insect populations have dramatically increased and reached epidemic levels on the Boise National Forest. It is estimated that more than 400,000 trees larger than 12 inches in diameter have died on the Forest as a result of insect damage since 1986.

As part of the effort to rehabilitate and recover natural resources damaged by the insect epidemic, Idaho City Ranger District personnel have developed a proposal to harvest dead and dying timber, bait and trap insects, and reforest damaged acres. They have prepared the Crooked Pike Environmental Assessment (EA) which has identified issues, developed alternatives, and analyzed the effects of implementing timber salvage and other recovery activities.

The analysis area for the Crooked Pike EA is located 15 miles northeast of Idaho City, Idaho. The area includes about 22,000 acres with insect mortality scattered throughout. The Forest will harvest approximately 5 million board feet (MMbf) of dead and dying trees using helicopters, tractors, and jammers. Cutting areas would average less than 5 acres in size and would not exceed 20 acres. Cutover areas greater than 10 acres would be replanted, and smaller areas may be replanted depending on accessibility. Natural regeneration would be used to reforest smaller areas.

The Forest is also proposing to bait and trap insects within the project area to help break up breeding cycles and reduce future insect populations. There is no new road construction proposed for the salvage operations.

Management direction for the Crooked Pike area is established in the Boise National Forest Land and Resource Management Plan (Forest Plan). The Forest Plan provides for the removal of salvage timber from lands within the project area. The Forest Plan also describes standards to protect soil, water, wildlife, visual, and other onsite resources. The proposed action for the Crooked Pike project is consistent with standards and guidelines, objectives, and direction contained in the Forest Plan.

The Crooked Pike salvage area includes a 2,400-acre portion of the Ten Mile/Black Warrior inventoried roadless area. The portion of this area where timber harvest is proposed has been allocated to commercial timber production by the Forest Plan. Approximately 500 Mbf would be harvested from the area using helicopters. Landings would be constructed adjacent to existing roads.

Forest Pest Management Specialists and District Foresters have analyzed the insect situation and have found no economical or practical means to control the insect epidemic. Although salvage harvesting, baiting/trapping, and reforestation will not control the epidemic, these activities will: (1) Help to break up insect breeding cycles; (2) recover valuable timber that would otherwise deteriorate; and (3) reforest those areas that have been left without tree cover as a result of the insect-caused mortality. It is extremely important to remove the dead and dying timber prior to deterioration and subsequent value losses. Through the salvage timber sale, breeding insects can be trapped and removed and Knutson-Vandenburg (K-V) funds can be generated for use to restore forest resources that have been damaged by the insect epidemic.

The Forest Supervisor has determined, through preliminary scoping and environmental analysis, that there is sufficient justification to expedite this project. The decision will be implemented after publication of this notice in the **Federal Register**.

If the project is delayed because of an appeal (delays of up to 150 days are possible), it is likely that the salvage harvest could not be implemented during the 1992 normal operating season. This would result in a loss of volume and value of the timber due to deterioration. The total estimated value of the merchantable dead and dying timber is $500,000. Of this, approximately $125,000 would be returned to counties from 25 percent fund receipts. Delays resulting from appeals could cause the loss of up to $400,000 and potentially make the savage sale unattractive to timber purchasers. This would jeopardize the objectives of the rehabilitation and recovery project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt the Crooked Pike Salvage and Recovery Project, Idaho City Ranger District, Boise National Forest, from appeal. The environmental assessment disclose the effect of the proposed actions on the environment and addresses issues resulting from the proposal.

Dated: July 14, 1992.

Clair C. Beasley,

Deputy Regional Forester, Intermountain Region, USDA Forest Service.

[FR Doc. 92-16984 Filed 7-17-92; 8:45 am]

BILLING CODE 3410-01-M

New Wilderness Areas and Other Congressionally Designated Areas; Tongass National Forest, AK

AGENCY: Forest Service, USDA.

ACTION: Notice; availability of maps and legal descriptions.

SUMMARY: The Tongass Timber Reform Act of November 28, 1990, added six areas of the Tongass National Forest to the National Wilderness Preservation System and established in perpetuity twelve areas of the Forest as Land Use Designation II ("LUD II") Management Areas. Legal descriptions and maps of these areas are now available for public inspection at the offices listed under **ADDRESSES** in this notice.

ADDRESSES: Legal descriptions and maps are on file for public inspection any may be reviewed by interested parties at the following locations:

Forest Service, USDA, Auditors Building, Recreation, Cultural Resources, and Wilderness Management Staff, 4th Floor Central, 201 14th Street, SW., Washington, DC 20250.
Regional Forester, R–10, Federal Office Building, Juneau, Alaska 99802
Forest Supervisor, Tongass-Chatham Area, 204 Siginaka Way, Sitka, Alaska 99835
Forest Supervisor, Tongass-Stikine Area, Petersburg, Alaska 99835
Forest Supervisor, Tongass-Stikine Area, Federal Building, Ketchikan, Alaska 99901.

FOR FURTHER INFORMATION CONTACT: Gerald Stokes, Forest Service, Recreation, Cultural Resources, and Wilderness Management Staff, call (202) 205–0925.

SUPPLEMENTARY INFORMATION: The six additions to the National Wilderness Preservation System established by the Tongass Timber Reform Act are as follows:

Pleasant/Lemesurier/Inian Islands Wilderness
Young Lake Addition—added to Admiralty National Monument, and added to the Kootznoowoo Wilderness.
South Etolin Wilderness
Chuck River Wilderness
Karta River Wilderness
Kuiu Wilderness.

The twelve congressionally designated Land Use Designation II areas are as follows:

Yakutat Forelands
Berners Bay
Anan Creek
Kadashan
Lisianski River/Upper Hoonah Sound
Mt. Calder/Mt. Holbrook
Nutkwa
Outside Islands
Trap Bay
Point Adolphus/Mud Bay
Naha
Salmon Bay.

The twelve areas were chosen for special management because of their critical importance for fish and wildlife habitat and their high value to tourism and recreation. The Tongas Land Management Plan provides the following specific management criteria for LUD II areas:

(1) *Purpose:* Areas allocated to LUD II are to be managed in a roadless State to retain wildland character, but this would permit wildlife and fish habitat improvement and primitive recreational facility development.

(2) *Management implications:* Commerical timber harvesting is not permitted. Timber can be salvaged only to prevent significant damage to other resources. Examples are removal of windfall in an important fish stream or control of an epidemic insect infestation.

Personal use of wood is allowed for cabin logs, firewood, float logs, trolling poles, and other similar uses.

Water and power developments are permitted if they can be designed to retain the overall primitive characteristics of the allocated area.

Roads will not be built except to serve authorized activities such as mining, power and water development, aquaculture developments, transportation needs determined by the State of Alaska, and vital Forest transportation system linkages. (Vital Forest transportation system linkages refer to necessary additions to the permanent road network. Such linkages may be built through LUD II areas when either no other feasible land or water routes exist to access adjacent LUD III or LUD IV areas or when it can be demonstrated that the routing through the LUD II area is clearly environmentally preferable and site-specific mitigation measures can be designed to minimize the impact of the road on the surrounding LUD II area. A clear need to build such linkages must be demonstrated through a comparative analysis of transportation alternatives through the National Environment Policy Act (NEPA) process and must be approved by the Forest Supervisor, in consultation with other Tongass Forest Supervisors.)

Mineral Development is subject to existing laws and regulations.

Use of snowmachines, motorboats and airplanes on freshwater is permitted; however, restrictions may be imposed on a case by case basis if such use becomes excessive.

Permanent improvements such as fishways, fish hatcheries, or aquaculture sites may be built. Appropriate landscape management techniques will be applied in the design and construction of such improvements to minimize impacts on recreational resources.

Major concentrated recreational facilities will generally be excluded.

Dated: July 13, 1992.

George M. Leonard,

Associate Chief.

[FR Doc. 92–17002 Filed 7–17–92; 8:45 am]

BILLING CODE 3431-11-M

Pacific Southwest Region; Fee Schedule for Communications Uses

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Regional Forester has modified the fee schedule for communications uses authorized on National Forest System lands located in the Pacific Southwest Region.

ADDRESSES: Copies of the schedule may be obtained by writing to the Regional Forester, Pacific Southwest Region, 630 Sansome Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Les Perison (415) 705–1881 or Ron Hanson (415) 705–2717, Land and Real Estate Management Staff.

SUPPLEMENTARY INFORMATION: On August 23, 1989, the Regional Forester for the Pacific Southwest Region published a notice of adoption of fee schedule for communications uses (54 FR 35031). Congress delayed implementation of the fee schedule and directed the Forest Service to review and report to the Appropriations Committees on the ability of fee schedules to reflect values associated with local market conditions. The report was completed and sent to the Appropriations Committees in March of 1991. The restriction on implementation of the fee schedules was removed in 1992.

The fee schedule modifications are based on the findings of the report to Congress and additional administrative review. Most of the modifications either reduce the fees adopted in 1989, or require appraisals or other sound business management principles be used to establish fees. The modified fee schedule reflects the fair market value of the authorized use as required by the Federal Land Policy and Management Act.

Dated: July 14, 1992.

Annette Jameson,

Director, Lands and Real Estate Management, Pacific Southwest Region.

[FR Doc. 92–16985 Filed 7–17–92; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 23–92]

Foreign-Trade Zone 20—Suffolk, VA; Application for Subzone; Newport News Shipbuilding & Drydock Co. Shipyard, Newport News, VA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Virginia Port Authority, grantee of FTZ 20, requesting special-purpose subzone status for the Newport News Shipbuilding and Drydock

Company (NNS) shipyard, located in Newport News, Virginia. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the board (15 CFR Part 400). It was formally filed on July 8, 1992.

The shipyard (473 acres/25,000 employees) is located at 4101 Washington Avenue, Newport News, Virginia, within the Norfolk/Newport News Customs port of entry. The facility is used for the construction on repair of commercial, military and research vessels. The shipyard produces both conventional and nuclear-powered surface/submersible vessels and certain industrial products, such as offshore oil platforms. Up to 20 percent of the components of the vessels are purchased from foreign sources, including diesel engines, cargo pumps, generators, engine control systems, FO/LO filter modules/purifiers, hydraulic power racks, communication equipment, and thermal oil.

Zone procedures will help NNS reduce production costs on its current orders and compete internationally for new commercial and military contracts. Most of the foreign-origin components are subject to Customs duties (duty rate range: 2.0 to 4.9 percent), while the finished products, as oceangoing vessels, are duty free.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 18, 1992. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 5, 1992.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, Port of Newport News, 25th and Warwick Blvd., Newport News, VA 23607

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: July 13, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–17039 Filed 7–17–92; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–508–604]

Industrial Phosphoric Acid From Israel; Initiation of Changed Circumstances Antidumping Duty Administrative Review

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

ACTION: Notice of initiation of changed circumstances antidumping duty administrative review.

SUMMARY: On March 23, 1992, Negev Phosphates, Ltd. (Negev) was revoked from the antidumping duty order in the final results of the administrative review covering the period August 1, 1989 through July 31, 1990 (56 FR 10008), based on three consecutive years of no dumping. Negev notified the Department in a March 30, 1992 letter that the company had merged with Rotem Fertilizers, Ltd. (Rotem). We are initiating a changed circumstances review to examine whether Rotem is the successor to Negev, and, therefore, subject to the revocation which applied to Negev.

EFFECTIVE DATE: July 20, 1992.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1987, the Department of Commerce (the Department) published in the **Federal Register** (52 FR 31057) an antidumping duty order on industrial phosphoric acid from Israel. On March 23, 1992, the antidumping duty order was revoked as it applied to Negev in the final results of the administrative review covering the period August 1, 1989 through July 31, 1990 (56 FR 10008), based on three consecutive years of no dumping. Negev notified the Department in a March 30, 1992 letter that the company had merged with another company, Rotem and that Rotem henceforth would be shipping subject merchandise to the United States (prior to the merger Rotem was not a shipper of the subject merchandise to the United States).

Initiation

The Department is initiating this review to determine whether Rotem is the successor to Negev and consequently, whether the revocation applicable to Negev also applies to Rotem. If we determine that Rotem is Negev's successor, we will apply the revocation to Rotem and instruct U.S. Customs officials to liquidate all entries of Israeli industrial phosphoric acid from Rotem without regard to antidumping duties.

We find Rotem's merger with Negev following the revocation of the order as it applied to Negev and Rotem's commencement of shipments of the subject merchandise to the United States to be changed circumstances sufficient to warrant a changed circumstances antidumping duty administrative review on industrial phosphoric acid from Israel, pursuant to section 751(b) of the Tariff Act of 1930 as amended (the Act) (19 U.S.C. 1675(b)) and 19 CFR 353.22 (f).

We are hereby notifying the public that we are initiating a changed circumstances antidumping duty administrative review on industrial phosphoric acid from Israel. We are also inviting interested parties to comment on the above and on any other relevant issue(s) which are associated with the foregoing. This notice is published in accordance with section 751(b) of the Act and 19 CFR 353.22(f)(1)(i).

Dated: July 10, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–17040 Filed 7–17–92; 8:45 am]

BILLING CODE 3510–DS–M

Performance Review Board Membership

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of appointment of members to the Performance Review Board.

SUMMARY: This notice announces the appointment by the Department of Commerce Acting Under Secretary for International Trade, Timothy J. Hauser, of the Performance Review Board (PRB). This is a revised list of membership which includes previous members as listed in the October 1, 1991, **Federal Register** announcement (55 FR 49749) with additional members added to serve a two-year term. The purpose of the International Trade Administration's (ITA) PRB is to review and make

recommendations to the appointing authority on performance and other issues concerning members of the Senior Executive Service (SES). The members on the PRB are:

Marjory Searing, Deputy Assistant Secretary for Japan, International Economic Policy.
David A. Jensen, Deputy Assistant Secretary for Africa, the Near East and South Asia, International Economic Policy.
Auggie D. Tantillo, Deputy Assistant Secretary for Textiles and Apparel, Trade Development.
Richard W. Moreland, Director, Office of Antidumping Investigations, Import Administration.
Roland L. MacDonald, Director, Office of Antidumping Compliance, Import Administration.
George Muller, Director, Office of Export Trading Company Affairs, Trade Development.
Eleanor Roberts Lewis, Chief Counsel for International Commerce (Non-ITA member).

FOR FURTHER INFORMATION CONTACT: Ms. LaVerne Hawkins, Office of Personnel, room 4808, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230 (202–377–3947).

Dated: July 10, 1992.

James T. King, Jr.,

Director of Personnel, ITA.

[FR Doc. 92–16956 Filed 7–17–92; 8:45 am]

BILLING CODE 3510–25–M

Auburn University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 92–041. *Applicant:* Auburn University, Auburn University, AL 36849–5101. *Instrument:* Conductivity Stopped-Flow Attachment, Model SF–51. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* See notice at 57 FR 14388, April 20, 1992.

Docket Number: 92–045. *Applicant:* University of California, Santa Cruz, CA 95406. *Instrument:* Rapid Kinetic Stopped-Flow Unit w/o Pneumatic Drive, Model RX–1000. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Indended Use:* See notice at 57 FR 15283, April 27, 1992.

Advice Submitted By: National Institutes of Health, June 2, 1992.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments, for the purposes for which the instruments are intended to be used, is being manufactured in the united States.

Reasons: These are compatible accessories for instruments previously imported for the use of the applicants. In each case, the instrument and accessory were made by the same manufacturer. NIH advises us that the accessories are pertinent to the intended uses and that it knows of no comparable domestic accessories.

We know of no domestic accessories which can be readily adapted to the previously imported instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–17041 Filed 7–17–92; 8:45 am]

BILLING CODE 3510–DS–M

Cornell University Medical College, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 91–142R. *Applicant:* Cornell University Medical College, New York, NY 10021. *Instrument:* Rapid Mixing Accessory, Model SFA–12. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* See notice at 57 FR 21394, May 20, 1992. *Reasons:* The foreign article rapidly mixes and delivers fluid reactants directly to the observation cell of an existing fluorometer or spectrophotometer. *Advice Submitted By:* National Institutes of Health, June 2, 1992.

Docket Number: 92–034. *Applicant:* Washington University, St. Louis, MO 63139. *Instrument:* Fluorescence Kinetics Instrument. *Manufacturer:* Walz, Germany. *Intended Use:* See notice at 57 FR 14388, April 20, 1992. *Reasons:* The foreign instrument provides pulse modulated time-resolved chlorophyll fluorescence with 10.0 μs resolution. *Advice Submitted By:* National Institutes of Health, June 2, 1992.

Docket Number: 92–038. *Applicant:* Emory University, Atlanta, GA 30322. *Instrument:* Spot-focus High Energy Xenon Flash Lamp, Model XF–10 with Accessory. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* See notice at 57 FR 14388, April 20, 1992. *Reasons:* The foreign instrument provides controllable short duration, high intensity, spot-focused light bursts of specific color for study of photokinetic reactions. *Advice Submitted By:* National Institutes of Health, June 2, 1992.

Docket Number: 92–046. *Applicant:* Nemours Children's Clinic, Jacksonville, FL 32207. *Instrument:* Isotope Ratio Mass Spectrometer, Model OPTIMA. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* See notice at 57 FR 15283, April 27, 1992. *Reasons:* The foreign instrument provides: (1) An internal precision of 0.03, (2) absolute sensitivity to one ion detected per 1500 molecules of CO_2 induced and (3) a micro-gas inlet. *Advice Submitted By:* National Institutes of Health, June 2, 1992.

Docket Number: 92–057. *Applicant:* Carnegie Institution of Washington, Washington, DC 20015. *Instrument:* Automated Electron Microprobe, Model JXA8900/SCH. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 57 FR 21395, May 20, 1992. *Reasons:* The foreign instrument provides an intense electron beam to excite characteristic x-rays of a sample phase down to 1.0 μm area. *Advice Received from:* National Institute of Standards and Technology, May 29, 1992 (comparable case).

Docket Number: 92–060. *Applicant:* State University of New York, Stony Brook, NY 11794. *Instrument:* (3) In-situ Large Volume Filtration Systems. *Manufacturer:* Challenger Oceanic Systems and Services, United Kingdom. *Intended Use:* See notice at 57 FR 21395, May 20, 1992. *Reasons:* The foreign instrument provides programmable in situ filtration and capture of particles in water columns with a flow rate to 1200 liters of water per hour to a depth of more than 5000m. *Advice Received From:* National Ocean Service, February 4, 1992 (comparable case).

The National Institutes of Health, National Institute of Standards and Technology and National Ocean Service advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-17042 Filed 7-17-92; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award's Panel of Judges

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2, notice is hereby given that there will be a closed meeting of the Panel of Judges of the Malcolm Baldrige National Quality Award from Wednesday, August 5, 1992, through Thursday, August 6, 1992. The Panel of Judges is composed of nine members prominent in the field of quality management and are appointed by the Director of the National Institute of Standards and Technology. The purpose of this meeting is to review the 1992 Award applications and to select applications to be considered in the site visit stage of the evaluation. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene August 5, 1992, at 8 a.m. and adjourn at approximately 4 p.m. on August 6, 1992. The entire meeting will be closed.

ADDRESSES: The meeting will be held in Lecture Room C, Administration Building, at the National Institute of Standards and Technology, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Associate Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975-2036.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on March 27, 1992, that the meeting of the Panel of Judges will be closed pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94-409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with Section 552b(c)(4) of title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: July 14, 1992.

John Lyons,

Director.

[FR Doc. 92-17043 Filed 7-17-92; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, DOC.

ACTION: Notice of intent to evaluate.

SUMMARY The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Tijuana River National Estuarine Research Reserve (NERR) in California.

The evaluation will be conducted pursuant to sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of coastal states with respect to their operation and management of NERRs. Evaluation of a NERR requires findings pertaining to a state's implementation of its federally approved NERR management plan, and adherence to the terms of financial assistance awards funded under the CZMA. These reviews include a site visit, consideration of public comments, and consultations with interested Federal, state, and local agencies and members of the public. A public meeting(s) is held as part of the site visit.

Notice is hereby given of the dates of the site visit for the Tijuana River NERR evaluation, and the date, local time, and location of a public meeting during the site visit:

The site visit for the Tijuana NERR will be August 17-August 21, 1992. A public meeting will be held Tuesday, August 18, 1992, 7:30 p.m., at the Reserve's Visitor Center, 301 Caspian Way, Imperial Beach, CA.

Copies of the States's most recent performance reports, as well as OCRM's notification and supplemental request letter to the state, are available upon request from OCRM. Written comments from interested parties regarding this program are encouraged at this time and will be accepted until seven days after the site visit. Direct written comments to Vickie Allin, Chief, Policy Coordination Division, at the address listed below. When final evaluation findings are completed, OCRM will place a notice in the Federal Register announcing their availability.

FOR FURTHER INFORMATION CONTACT: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Avenue NW. Washington, DC 20235, (202) 606-4100.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: July 13, 1992.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 92-16933 Filed 7-17-92; 8:45 am]

BILLING CODE 3510-08-M

Minority Business Development Agency

[Project I.D. No. 06-10-93001-01]

Business Development Center Applications: Oklahoma City MBDC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice of correction of closing date.

SUMMARY: The above solicitation was previously advertised on Friday, June 19, 1992. The closing date of this announcement has been changed. The new closing date for this advertisement is August 4, 1992.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated July 14, 1992.

Melda Cabrera,

Regional Director, Dallas Regional Office.

[FR Doc. 92-16979 Filed 7-17-92; 8:45 am]

BILLING CODE 3510-21-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of continuation of the CHAMPUS Reform Initiative Demonstration Project.

SUMMARY: Notice is hereby given that the demonstration project conducted by contract under the provisions of Chapter 55, title 10, Section 1092, to test a different method for financing and delivering health care services under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), hereafter referred to as the CHAMPUS Reform Initiative (CRI), will be continued beyond the expiration date of the current contract (July 31, 1993), for all beneficiaries who reside in the states of California and Hawaii. The successor contract, currently in the solicitation phase, will include five option periods, the execution of which would result in 5 years of service delivery. The purpose for continuing the CRI is to assure a full demonstration of the CRI model as a method to contain CHAMPUS costs for the Government and the beneficiary, to improve coordination between the military and civilian components of the Military Health Services System, and to enhance services for beneficiaries.

DATES: August 1, 1993, for CHAMPUS beneficiaries in California and Hawaii.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Richard C. Storey, Medical Service Corps, U.S. Air Force, Office of the Assistant Secretary of Defense for Health Affairs (Health Services Financing), (703) 695–3626.

SUPPLEMENTARY INFORMATION: Under the terms and conditions of the contract, CHAMPUS beneficiaries in California and Hawaii who live near military hospitals will be offered a triple-option health benefits package which allows them to choose among three options: (1) The Prime program, a health maintenance organization (HMO)-type option; (2) a preferred provider option (PPO); or (3) the option to remain in Standard CHAMPUS. Beneficiaries may use any military hospital or clinic when care is available. Non-availability statements (NAS) will be required when a beneficiary residing in a military catchment area needs non-emergency inpatient care. As in the current demonstration project, the successor contract will have a prime contractor with responsibility to deliver medical care to CHAMPUS patients residing in California and Hawaii for a fixed price and to provide claims processing services.

The CHAMPUS Reform Initiative provides alternatives for the financing and delivery of health care services under CHAMPUS. It represents structural reform, centered on the principles of managed care and integration of military and civilian health care resources.

Prime Program

The Prime program will be a voluntary, HMO-type enrollment program offered as an alternative to Standard CHAMPUS by the contractor who is at risk for benefit dollars. This program provides enhanced CHAMPUS benefits to all enrolled beneficiaries who live in areas where it exists. Under the proposed contract, the Prime program will be offered in military hospital catchment areas and selected non-catchment areas in the demonstration states. The benefits package available to Prime program enrollees will contain the same benefits as are available to beneficiaries under Standard CHAMPUS plus benefit enhancements offered by the contractor. These enhancements include such services as routine physicals and other preventive care procedures not covered under Standard CHAMPUS. The Prime program benefits will be uniform across all areas of the region where Prime is offered. Prime requires no annual deductible for all enrollees. For most outpatient care there is a $5 copayment; some outpatient services have higher copayments. Dependents of sponsors (active or retired) in pay grades E-4 and below have no copayment for primary care and preventive services. Dependents of all active-duty sponsors have no cost-share for civilian hospital care. Retirees and their dependents are charged $75 per day for civilian hospital care, up to a maximum of $750 per admission. Beneficiaries who select Prime will have the added benefit of not having to file any claim forms. Under Prime, mental health visits require a $5 or $10 copayment, determined by the type of visit; urgent care visits cost $15 each, and emergency room visits have a $25 fee paid by the patient. The restrictions placed on patients who choose Prime include that they follow the contractor's rules for seeking nonemergency medical care and that they agree to stay in the program for a full year, unless they move out of an area where Prime is offered. Patients who are enrolled in Prime and who are not happy with a particular civilian physician will be allowed to choose another one within the network.

PPO Program

The PPO program, where available, will offer CHAMPUS beneficiaries who do not or cannot enroll in Prime the ability to receive care from one of the contractor's network providers at a reduced level of cost-sharing. Under this option, patients will be covered for the same medical services as under the existing Standard CHAMPUS program, but they will get discounts for office visits and hospital inpatient care by using physicians who are members of the contractor's provider network. Dependents of active-duty service members, as an example, will pay 15 percent of the cost of a doctor's office visit in the contractor network instead of the 20 percent required under the current CHAMPUS program. Retirees and their families will pay 20 percent rather than 25 percent for office visits. For inpatient care, active-duty dependents will have no cost-share and retirees and their dependents will pay $125 per day (or 25 percent of billed charges), whichever is less, plus 20 percent of inpatient professional fees (instead of the Standard CHAMPUS cost-share of 25 percent of all billed charges or the daily inpatient charge, whichever is less). The PPO program offers greater freedom than the Prime program because patients do not have to enroll. CHAMPUS patients will be allowed to use the PPO program on a case-by-case basis if it is available in their area. Regular CHAMPUS deductibles continue to apply. As in the Prime program, beneficiaries who select the PPO program will have the added benefit of not having to file any claim forms for care received through this option.

Standard CHAMPUS

The term "Standard CHAMPUS" refers to the CHAMPUS Basic Program and the CHAMPUS Program for the Handicapped. Standard CHAMPUS will continue to be an option available to nonenrolled CHAMPUS beneficiaries in California and Hawaii. The contractor is responsible for payment for authorized benefits currently available under the program. Since the demonstration is being conducted to test alternatives for financing and delivery of health care services, the process for review and authorization of care under Standard CHAMPUS, as well as under Prime and PPO, may include review features not currently in place outside the demonstration area. All providers of care in California and Hawaii will be specifically notified of any such requirements. Requests for payment of services may be denied when prior authorization is required and not obtained. Beneficiaries will be held harmless in all instances where providers fail to seek prior authorization for covered services as required. With respect to services excludable from payment because they are medically unnecessary, the provisions of 32 CFR 199.4(h) will apply as they do to the Peer

Review Organization program under that section.

Health Care Finder

Health care finder and contract liaison offices or service centers will be established by the contractor at or near all military hospitals in the demonstration states. Health care finders will help beneficiaries obtain referrals for services in the most appropriate setting, whether in a military facility or with civilian providers, to facilitate beneficiary access to care and help assure optimal use of military hospitals. The service centers will also serve as a source of information and assist beneficiaries with resolution of claims problems.

Resource Sharing

Resource sharing agreements may be entered into by the contractor with individual military treatment facility commanders to use medical personnel, equipment, or supplies from the contractor's provider network and from private sources outside the network for the purpose of enhancing the capabilities of the military facility to provide needed inpatient and outpatient care to CHAMPUS beneficiaries. There is no cost to the beneficiary beyond that normally associated with care in a military treatment facility.

Duration

The contract includes five option periods for the delivery of services, which, if executed, would extend service delivery under the contract for five years.

Exclusions to the CHAMPUS Reform Initiative Demonstration Project

The following are not covered under the demonstration:

—Beneficiaries eligible under the Civilian Health and Medical Program of the Veterans Administration (CHAMPVA) are not covered under the CHAMPUS Reform Initiative.

—Beneficiaries who receive care in the states of Hawaii and California, but who are not residents of those states, are excluded from the Prime Program.

—The CHAMPUS prohibition against payment of abortions, except where the life of the woman would be endangered if the fetus were carried to term, extends to the demonstration.

—Experimental or investigational services which are excluded under CHAMPUS are also excluded under the demonstration.

—No funds shall be used to pay claims under the demonstration for sexual dysfunctions or sexual inadequacies.

—No funds shall be used to pay institutional or professional claims for inpatient mental health services in excess of 30 days in a fiscal year (or an admission) in the case of patients 19 years of age or older, 45 days in a fiscal year (or an admission) in the case of a patient under 19 years of age, or 150 days in a fiscal year (or an admission) in the case of a residential treatment center stay, unless a waiver is granted under the provisions of chapter 4, paragraphs B.8 or B.9, DoD 6010.8–R.

Dated: July 14, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–16952 Filed 7–20–92; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Financil Assistance Award Intent To Award Grant to Medical College of Wisconsin

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent to make a noncompetitive financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.6(A)(5), it is making a discretionary financial assistance award based on the criterion set forth at 10 CFR 600.7(b)(2)(i)(B) to the Medical College of Wisconsin under Grant Number DE–FG01–92EH89237. The purpose of the grant is to support a conference for improving the environmental and health risk awareness of physicians and public health specialists by cultivating a greater understanding within these groups of the technical bases of health risk estimates and their use in the standard setting process. This effort will have a total estimated cost of $20,000 to be provided by the DOE.

SCOPE: The grant will provide funding to the Medical College of Wisconsin to organize and hold its conference entitled, "Environmental Stewardship and the Medical, Biomedical Science and Public Health Communities: A Proposal for a New Initiative." The conference will be held at the Wingspread Conference Center, Racine, Wisconsin, from July 31, 1992, through August 2, 1992.

The goal of this conference is to successfully cultivate within the health professions a greater understanding of health risk estimates, what these estimates mean, and how they are considered in the risk management process.

The project is meritorious because of its relevance to the accomplishment of an important public purpose—helping the medical community to better understand the implications of environmental pollution for public health and well-being and to communicate more effectively with members of the public on these issues.

Based on the evaluation of relevance to the accomplishment of a public purpose, it is determined that the proposal represents a beneficial method and approach for educating and enhancing the activities of the medical community and the public. Accordingly, it is anticipated that better decision-making with respect to environmental clean-ups will result from this conference.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Jeffrey R. Dulberg, PR–322.4, 1000 Independence Avenue, SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Division "B", Office of Placement and Administration.

[FR Doc. 92–17044 Filed 7–17–92; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance to the Rocky Flats Local Impacts Initiative

AGENCY: DOE, Rocky Flats Office.

ACTION: Notice of intent to award noncompetitive financial assistance to the Rocky Flats local impacts initiative.

SUMMARY: Pursuant to the statutory authorities of Section 646 of the Department of Energy Organization Act (Pub. L. 95–91) and the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 97–258), the Department of Energy, Rocky Flats Office, gives notice of its plan to award approximately $100,000 to the Rocky Flats Local Impacts Initiative, doing business on behalf of the Rocky Flats Local Impacts Task Force. In addition, up to $140,000 in other goods and services may be provided. The task force, comprised of eleven cities and political bodies in the area of Rocky Flats Plant, was created as a forum for local governments working together to assess, to plan for, and to mitigate, negative economic and socioeconomic impacts on affected communities which may result from the reduction of operations due to the change in mission at the facility. This award will provide start-up costs in planning and implementing a successful

transition for the workers and the plant site. Tasks include coordination with local communities to develop programs to retrain or assist workers affected by the transition, analyze other plant closures to develop a greater perspective of similar situations, survey vendors to determine their vulnerability to cutbacks in procurement, examine the potential for alternative uses of land, buildings, and other resources, and the creation of new opportunities both on and off-site.

FOR FURTHER INFORMATION CONTACT: Dorothy Gross, Contract Specialist, U.S. DOE, Rocky Flats Office, Contracts and Services Division, P.O. Box 928, Golden, CO 80402–0928, Purchase Requisition Number; DE–FG34–92RF00475.

Issued at Golden, Colorado, July 8, 1992.

Al H. Pauole,

Deputy Manager.

[FR Doc. 92–17045 Filed 7–17–92; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Financial Assistance Solicitation Restricted Eligibility; Nevada Field Office

AGENCY: U.S. Department of Energy, Nevada Field Office (DOE/NV).

ACTION: Notice of Issuance of a Financial Assistance Solicitation Restricted Eligibility.

SUMMARY: The DOE/NV announces that pursuant to the DOE financial Assistance Rules, 10 CFR 600.7 and 600.9, it intends on issuing on a restricted eligibility basis, Financial Assistance Solicitation Number DE–PS08–92NV11194 for the Science and Technology Education Program.

PROJECT SCOPE: Eligible organizations will be invited to submit applications indicating what efforts they will undertake to improve three major mathematics and science education programs/ initiatives designed to address the needs of pre-college students (Grades K–12). The three categories to be identified in the solicitation include (1) Mathematics, Science and Technology Teacher Training and Professional Development to include summer basic and applied research, curriculum development opportunities, math/science teacher workshops, and other related professional development opportunities designed to lead to improved student interest in mathematics and science education; (2) Special Services and Outreach to Underrepresented (UR) Populations: minorities, females, and the disabled, designed to motivate the interest of these students in math/science and to increase their representation in these career paths; and (3) Mini-Grant Mathematics and Science Education Activities; with successful applicants effectively describing how the use of these funds will augment their existing math/science program and help improve the overall instruction and delivery of mathematics, science, and technology curriculum

This solicitation is restricted to educational institutions, 26 U.S.C. 501(c)(3), tax-exempt organizations, and not-for-profit entities (including professional and/or technical associations) with programs or activities designed to address the mathematics and science areas. DOE anticipates that a number of grants totaling $200,000 will be awarded with the maximum amount for each grant limited to $50,000 for teacher training; $30,000 for UR populations, and $10,000 for mini-grants. The solicitation is expected to be released July 13, 1992. A one-year project period for all grants is expected to begin on or about September 15, 1992.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Nevada Field Office, ATTN: Marlene M. Kolicius, Contracts Division, P.O. Box 98518, Las Vegas, Nevada 89193–8518, (702) 295–1080. Technical questions should be directed to Rudy Cruz, Office of External Affairs, on (702) 295–4628.

Issued in Las Vegas, Nevada, On July 8, 1992.

Nick C. Aqilina,

Manager, DOE Nevada Field Office.

[FR Doc. 92–17046 Filed 7–17–92; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

West of Hatwai; Floodplain and Wetland Involvement Notification

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Floodplain and Wetland Involvement, Spokane, Whitman and Asotin, Counties, WA.

SUMMARY: Bonneville Power Administration (BPA) proposes to undertake a number of projects in the states of Washington and Idaho to increase the minimum transmission capacity across the West of Hatwai cutplane from the present 2140 megawatts (MWs) to 2800 MWs. These actions would involve crossing the floodplains of the Spokane River northwest of the City of Spokane, Washington, the Palouse River southeast of the City of Colfax, Washington, and the Snake River near the City of Clarkstone, Washington. They may also affect wetlands in the Four Mounds Prairie area of Spokane County, Washington. BPA will address all practicable alternatives for avoiding these areas. Where practicable alternative do not exist, mitigation measures and/or on-site or off-site enhancement will be investigated.

FOR FURTHER INFORMATION CONTACT: John M. Taves—EFBG, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208.

SUPPLEMENTARY INFORMATION: Those individual actions that may have an effect on floodplains would include (i) rebuilding Washington Water Power Company's (WWP) Devil's Gap-Westside 115–kV transmission line in Lincoln and Spokane Counties; (ii) reconductoring WWP's East Colfax-Shawnee 115–kV transmission line in Whitman County; and (iii) constructing a new 230–kV transmission line across the Snake River near Clarkston, Washington, and Lewiston, Idaho. These proposed actions are described more precisely below.

Rebuilding the Devil's Gap-Westside 115–kV transmission line may impact the floodplain of the Spokane River at mile post 60 above Nine Mile Falls over what is known as the Nine Mile Reservoir in Spokane County, Washington. The floodplain is located in section 8 of Township 26 North, Range 42 East of the Willamette Meridian. The existing transmission line is 19 miles in length and connects the Devil's Gap Switching Station, located just south of the Long Lake Dam in Lincoln County, to the Westside Substation, located a few miles northwest of the City of Spokane, Washington,

Reconductoring the East Colfax-Shawnee 115–kV transmission line as it crosses and parallels the Palouse River in Whitman County may impact the Palouse River floodplain in sections 20, 21, 28, and 33, of Township 16 North, Range 44 East, and section 4 of Township 16 North, Range 44 East of the Willamette Meridian. The existing transmission line is 7.2 miles in length and extends from the East Colfac Substation, located immediately east of the City of Colfax, to the Shawnee Substation located two miles north-northwest of the City of Albion, Washington.

The proposed construction of approximately eight miles of new 230–kV transmission line connecting the North Lewiston Substation, located on the north bank of the Clearwater River, just north of the City of Lewiston, Idaho, to a point of connection on the Walla Walla-Lola 230–kV transmission line

southwest of the City of Clarkston, Washington, may impact the floodplain of the Snake River. The floodplain of the Snake River may be impacted in section 24 of Township 11 North, Range 45 East of the Willamette Meridian.

The wetlands that may be affected by the proposed action are located in sections 7 and 9 of Township 26 North, Range 41 East, and in section 12 of Township 26 North, Range 40 East of the Willamette Meridian.

Rebuilding of both the Devil's Gap-Westside 115–kV transmission line and the Airway Heights-Devils Gap 115–kV transmission line in their present locations may impact a portion of the wetlands located there.

In accordance with DOE regulations for compliance with floodplain and wetland environmental review requirements (10 CFR part 1022(, BPA will prepare a floodplain/wetland assessment on this proposed action. The floodplain/wetland assessment and floodplain statement of findings will be included in he categorical exclusion that is being prepared for this project. A floodplain statement of findings will be published in the **Federal Register.**

Issued in Portland, Oregon, on June 22, 1992.

Randall W. Hardy,

Administrator.

[FR Doc. 92–16911 Filed 7–17–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER92–687–000, et al.]

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

July 13, 1992.

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

1. Pennsylvania Power & Light Co.

[Docket No. ER92–687–000]

Take notice that Pennsylvania Power & Light Company (PP&L) on July 1, 1992, tendered for filing an Electrical Output Sales Agreement (Sales Agreement), dated June 26, 1992, between PP&L and the New York Power Authority (the NYPA).

As more fully set forth therein, the Sales Agreement provides that the NYPA may reserve capability and energy from PP&L's Martins Creek Units 1 and 2 and PP&L's Martins Creek Units 3 and 4. Rates for sales under the Sales Agreement are set forth on Schedules A and B, thereto.

PP&L requests waiver of the notice requirements of Section 205 of the Federal Power Act and § 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective as of July 1, 1992. Initial service under the Sales Agreement will not begin before the requested effective date.

PP&L states that a copy of its filing was served on the NYPA, the Pennsylvania Public Utility Commission and the New York Public Service Commission.

Comment date: July 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

Bangor Hydro-Electric Co.

[Docket No. ER92–697–000]

Take notice that Bangor Hydro-Electric Company (Bangor) on July 6, 1992, tendered for filing an Initial Rate Schedule, Rate Schedule for Power Sales. The Rate Schedule provides for the sale by Bangor to other utilities which enter into Service Agreements with Bangor, capacity and associated energy at negotiated rates not to exceed Bangor's cost of service.

Bangor requests that the Commission waive its notice requirement in order to allow the Rate Schedule to become effective on July 15, 1992.

Comment date: July 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

Consumers Power Co.

[Docket No. ER92–691–000]

Take notice that on July 6, 1992, Consumers Power Company (Consumers) tendered for filing a Service Agreement with the Michigan Public Power Agency (MPPA) and Wolverine Power Supply Cooperative, Inc. (Wolverine) pursuant to Consumers' Open Access Transmission Service Tariff. The filed Service Agreement makes available to MPPA and Wolverine firm transmission service arrangements in order to facilitate formation of a new operating entity called the Municipal Cooperative Coordinated Pool. A copy of the filing was served upon the MPPA, Wolverine, and the Michigan Public Service Commission.

Comment date: July 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. Babcock-Utrapower Jonesboro

[Docket No. QF85–335–002]

On June 30, 1992, and July 2, 1992, Babcock-Utrapower Jonesboro (Applicant) tendered for filing amendments to its filing in this docket.

Together, the amendments provide additional information pertaining to the ownership structure of its small power production facility and the effect of the partnership's federal income tax election on the stream of benefits from the facility. No determination has been made that the submittals constitute a complete filing.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. Babcock-Ultrapower West Enfield

[Docket No. QF85–334–002]

On June 30, 1992, and July 2, 1992, Babcock-Ultrapower West Enfield (Applicant) tendered for filing amendments to its filing in this docket

Together, the amendments provide additional information pertaining to the ownership structure of its small power production facility and the effect of the partnership's federal income tax election on the stream of benefits from the facility. No determination has been made that the submittals constitute a complete filing.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. The Washington Water Power Co.

[Docket No. ER92–688–000]

Take notice that on July 2, 1992, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR part 35, the annual contract rate for the 15-Year Agreement for Purchase and Sale of Firm Capacity and Energy between The Washington Water Power Company (WWP) and Puget Sound Power & Light Company. WWP requests that the Commission accept the Agreement for filing, effective April 1, 1992, and waive the 60 day notice requirement.

A copy of the filing was served upon Puget Sound Power & Light.

Comment date: July 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protest should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–16960 Filed 7–17–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP92–589–000, et al.]

ANR Pipeline Co. et al.; Natural Gas Certificate Filings

July 13, 1992.

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

1. ANR Pipeline Co.

[Docket No. CP92–589–000]

Take notice that on July 9, 1992, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP92–589–000 is a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon 50 percent of its ownership of 3 metering facilities by sale to Trunkline Gas Company, under ANR's blanket certificate issued in Docket No. CP82–480–000, all as more fully described in the request which is on file with the Commission and open to public inspection.

ANR requests authorization to abandon 50 percent of its interest in the Red Lion, Farmersville and Castine meters, all located adjacent to the Lebanon Extension (owned jointly by ANR and Trunkline) in Ohio. ANR states that the abandonment and sale are proposed pursuant to an agreement with Trunkline. It is stated that the 3 meters would then be treated as Lebanon Extension facilities. It is explained that no customers would lose service as a result of the proposed abandonment. It is asserted that the meters were installed under blanket authorization in Docket No. CP82–480–000, issued to ANR's predecessor, Michigan Wisconsin Pipe Line Company.

Comment date: August 27, 1992, in accordance with Standard Paragraph G at the end of this notice.

2. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP92–578–000]

Take notice that on July 6, 1992, Arkla Energy Resources (AER), a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP–92–578–000, a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act, to construct and operate certain facilities in Arkansas and Oklahoma, and to abandon certain facilities in Oklahoma, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, AER intends to (1) construct and operate three new sales taps; (2) to operate one existing tap for delivery of gas for resale to a consumer other than the right-of-way grantor for whom the tap was originally installed; and (3) to abandon three sales taps in Seminole County, Oklahoma, all of the delivery of gas sold to Arkansas Louisiana Gas Company (ALG) for resale to domestic and commercial consumers in Arkansas and Oklahoma. AER also proposes to construct and operate one new delivery point for transportation to an end-user. AER further states that sales-service gas will be delivered from its general system supply, which it states is adequate to provide the service.

Comment date: August 27, 1992, in accordance with Standard Paragraph G at the end of this notice.

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

Lois D. Cashell,

Secretary.

[FR Doc. 92–16962 Filed 7–17–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RS92–5–000, et al., RS 92–6–000, et al.]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Location of Prefiling Conference

July 8, 1992.

Take notice that the prefiling conference to be convened in these proceedings pursuant to the notice issued June 30, 1992, will be held at the Washington Hilton and Towers, 1919 Connecticut Avenue, NW., Washington, DC. The conference will convene on July 21, 1992, at 10 a.m. and continue on July 22, if necessary. The conference will address the proposals of Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company to comply with Order No. 636.

For additional information, contact Donald A. Heydt (202) 208–0740.

Lois D. Cashell,

Secretary.

[FR Doc. 92–16963 Filed 7–17–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RS92–24–000]

Texas Gas Transmission Corp.; Conference

July 13, 1992.

Take notice that on July 23, 1992, a conference will be convened in the above-captioned docket to discuss Texas Gas Transmission Corporation's summary of its proposed plan for implementation of Order No. 636.

The conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Hearing Room 1, Washington, DC 20426. The conference will begin at 10 a.m. All interested persons are invited to attend. Attendance at the conference, however, will not confer party status. For additional information, interested persons may call Patrick Seferovich at (202) 208–0504 or Bob Szekely at (202) 208–0442.

Lois D. Cashell,

Secretary.

[FR Doc. 92–16961 Filed 7–17–92; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4153–9]

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 and includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 19, 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: Indoor Environmental Quality Questionnaire (EPA ICR #1619.01). This ICR requests approval for a new clearance.

Abstract: The Indoor Environmental Quality Questionnaire is a component of the EPA Building Assessment, Survey, and Evaluation (BASE) program. In this program, EPA is conducting a five-year indoor air quality (IAQ) study of 150-250 large commercial and public office buildings. The purpose of this study is to develop a national baseline assessment of the indoor air in such buildings. The activities EPA will conduct under this study include the Indoor Environmental Quality Questionnaire, building inspections, interviews with building maintenance workers, environmental measurements (e.g., ventilation rates, concentrations of indoor air pollutants), and other quantitative and qualitative assessments. By conducting this research, EPA will begin to be able to assess the key building parameters that affect IAQ and the incidence of certain IAQ-related health and comfort problems. The Indoor Environmental Questionnaire is a voluntary questionnaire asking for information pertaining to work station characteristics, working conditions, exposure to pollutants, health and well-being, and stress. Data from the Indoor Environmental Questionnaire will be used to compare the measured building parameters and health effects.

EPA intends to pilot test this survey in three buildings. After making any refinements necessary in response to the pilot test, EPA will proceed with the five-year study.

Burden Statement: The public reporting burden for this collection of information is estimated to average 14 minutes per response, including time for reviewing instructions and completing and reviewing the collection of information.

Respondents: Occupants of commercial facilities in a wide variety of fields and SIC codes.

Estimated Number of Respondents: 14,000 over 5 years

Estimated Total Annual Burden on Respondents: $14,720.

Frequency of Collection: Once.

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

Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affair, 725 17th Street, NW., Washington, DC 20503.

Dated: July 8, 1992.

John Girman,

Chief of Analysis Branch, Indoor Air Division.

[FR Doc. 92–16899 Filed 7–17–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4156–2]

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.

DATES: Comments must be submitted on or before August 19, 1992. To obtain a copy of this ICR contact Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Estimate of Municipal Wastewater Treatment Facility Requirements for the Needs Survey (ICR 0318.05). This ICR requests an extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Abstract: ICR 0318.05 seeks renewed OMB clearance for the information requirements associated with the 1994 Needs Survey. This survey is required under sections 205(a) and 516(b)(1) of the Clean Water Act (CWA), which direct EPA, in conjunction with the States and Territories, to conduct an inventory, or Needs Survey, of the nation's publicly-owned treatment works (POTWs) every two years. The Needs Survey is intended to address the construction needs and cost estimates of POTWs. Following completion of the survey, EPA will compile the results and submit them in a report to Congress.

The survey's requirements fall on the States and Territories, whose contributions consist of the following:

—Assembling the data on POTWs,
—Providing documentation where needed,
—Explaining certain categories of need based on construction costs,
—Explaining anomalies in the POTW data.

The POTWs themselves are not respondents in this survey, and will not be the object of any reporting or recordkeeping burden.

EPA's responsibilities include ensuring national consistency for the survey and preparing the final report for Congress. For the present collection, the report will reflect data from 1994 and will be submitted to Congress by February of 1995.

The total annual burden for this ICR is estimated at 14,638 hours, an increase of 2803 hours over the last Needs Survey. This increase is primarily due to the rise in the number of POTWs and also reflects the inclusion of requirements for Combined Sewer Overflows and Nonpoint Source and Stormwater data collections.

Burden Statement: The average burden associated with the Needs Survey is 1.1 hours per response. This total includes time for searching existing data sources, gathering the data needed, and completing and reviewing the collection of information.

Respondents: States and Territories.

Estimated No. of Respondents: 59.

Estimated Total Annual Burden on Respondents: 14,638 hours.

Frequency of Collection: Biennially.

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 15, 1992.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 92–17015 Filed 7–17–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL-4156-1]

Public Meetings on Combined Sewer Overflows

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA's Office of Water and the Office of Water's Management Advisory Group (MAG) will hold a MAG work group meeting with organizations that represent State and municipal governments, environmental and/or wastewater facility organizations and industry on July 23–24. The purpose of the meeting is to discuss development of a National Pollutant Discharge Elimination System permitting policy that will expedite implementation of the National Combined Sewer Overflow Strategy, issued by the EPA in 1989. The public is invited to attend, and at specified times, to contribute comments.

DATES: July 23–24 and if necessary, August 6–7 and August 25–26. All meetings will begin at 8:30 a.m. and end no later than 5 p.m. A determination on whether or not to proceed with subsequent meetings will be made at the conclusion of each meeting.

ADDRESSES: The July 23–24 meeting will be held at the Park Hyatt Hotel, 1201 Twenty-fourth St. NW., Washington, DC, 20037, (202) 789–1234. If the additional meetings are necessary, they will be held at the offices of RESOLVE/WWF, 1250 Twenty-fourth St., NW., Washington, DC 20037, (202) 778–9653.

FOR MORE INFORMATION CONTACT: For more information on substantive matters, please contact Rich Kuhlman, Office of Wastewater Enforcement and Compliance, at (202) 260–7361. For information on administrative matters, or to advise of your intent to attend, please contact Abby Arnold, EPA's co-convener at (202) 778–9653.

Dated: July 14, 1992.

Michael B. Cook,

Director, Office of Wastewater Enforcement and Compliance.

[FR Doc. 92–17018 Filed 7–17–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL-4155-9]

Diesel Fuel Sulfur Content; Petition for Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision.

SUMMARY: On April 30, 1991, the Governor of American Samoa submitted a petition for an exemption from the limitation on the sulfur content of diesel fuel under section 211(i) of the Clean Air Act, as amended (Act). This petition also sought an exemption for American Samoa from the requirements of certain regulations which specify diesel fuel requirements for use in on-highway motor vehicles and engines. See 40 CFR part 80. The petition sought the exemptions pursuant to section 325 of the Act.

Today's Final Decision grants an exemption to American Samoa from the sulfur content requirements for diesel fuel under section 211(i) (1) and (2) of the Clean Air Act. The exemptions are based on a finding that is unreasonable to require persons in American Samoa to comply with the sulfur content limitation of section 211(i) of the Act and those portions of EPA's motor vehicle diesel fuel regulations (40 CFR part 80) that pertain to the 0.05% sulfur limit required under section 211(i), due to unique geographical, meteorological and economic factors in American Samoa, as well as other significant local factors.

DATES: The exemptions are effective on August 19, 1992.

ADDRESSES: Copies of information relevant to this final notice of decision are available for inspection in public docket A–91–40 at the Air Docket (LE–131) of the EPA, room M–1500, 401 M Street SW., Washington, DC 20460, (202) 260–7548, between the hours of 8:30 a.m. to noon and 1:30 p.m. to 3:30 p.m. Monday through Friday. A duplicate public docket, R9–AS–DF–01, is also available at U.S. EPA, Region 9, Air & Toxics Division, 17th Floor, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1227, and is available between the hours of 8 a.m. to 4:30 p.m. Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Joseph B. Fernandes, Chemical Engineer, Fuels Section, Field Operations and Compliance Policy Branch, Field Operations and Support Division (6406J), 401 M Street SW., Washington, DC 20460, (202) 233–9016.

SUPPLEMENTARY INFORMATION:

I. Background

Section 211(i)(1) of the Act makes it unlawful, effective October 1, 1993, for any person to manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce motor vehicle diesel fuel which contains a concentration of sulfur in excess of 0.05 percent (by weight) or which fails to meet a cetane index minimum of 40. This prohibition is self-effectuating, although EPA is required to promulgate regulations to implement and enforce these requirements pursuant to section 211(i)(2). Section 211(i)(3) establishes the sulfur content for fuel used in the certification of heavy-duty diesel vehicles and engines. In addition, section 211(i)(4) requires the Administrator to take final action on any petition filed under section 324 [1] of the Act seeking an exemption from the requirements of section 211(i) within 12 months of the date of such petition.

Prior to enactment of the Clean Air Act Amendments of 1990, which added section 211(i), EPA promulgated regulations which closely mirror the sulfur content and minimum cetane index requirements of section 211(i) (55 FR 34120, August 21, 1990). EPA has published a Notice of Proposed Rulemaking amending these regulations so they conform with section 211(i) (56 FR 32533, July 17, 1991).

Section 325(a)(1) of the Act provides that upon application by the governor of Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, the Administrator may exempt any person or source in such territory from various requirements of the Act, including section 211(i). Such exemption may be granted if the Administrator finds that compliance with such requirement is not feasible or is unreasonable due to unique geographical, meteorological or economic factors of such territory, or such other local factors as the Administrator deems significant.

II. Petition for Exemption

On April 30, 1991, the Honorable Peter Tali Coleman, Governor of American Samoa, submitted a petition to exempt motor vehicle diesel fuel in American Samoa from the sulfur content limitation of section 211(i) and regulations promulgated under 40 CFR Part 80 (55 FR 34120, August 21, 1990). The petition did not seek an exemption from the minimum cetane index of 40

[1] Section 211(i)(4) mistakenly refers to exemptions under section 324 of the Act ("Vapor Recovery for Small Business Marketers of Petroleum Products"), while the proper reference is to section 325. Congress clearly intended to refer to section 325, as shown by the language used in section 211(i)(4), and the United States Code citation used in section 806 of the Clean Air Act Amendments of 1990, Public Law 101–549. Section 806 of the Amendments, which added paragraph i to section 211 of the Act, used 42 U.S.C. 7625–1 as the United States Code designation for section 324. This is the proper designation for section 325 of the Act. Also see 136 Cong. Rec. S17236 (daily ed. October 26, 1990) (statement of Sen. Murkowski).

requirement.[2] The petition was based on geographical, climatological, meteorological, air quality, economical and environmental factors.

According to the petition, "(t)he source to be exempted is diesel fuel for use in motor vehicles * * *". If granted, the exemption would therefore apply to all persons in American Samoa subject to the prohibitions of section 211(i) of the Act and the diesel fuel requirements in 40 CFR Part 80. The exemption would apply to all persons to the extent they manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce, in American Samoa, motor vehicle diesel fuel. This includes but is not limited to the Government of American Samoa.

The following discussion summarizes the contents of the petition.

A. Geography and Location of American Samoa

The Territory of American Samoa consists of seven islands of volcanic origin located approximately 2,500 miles south of Honolulu, Hawaii, almost 4,500 miles southwest of Los Angeles, California and 1,600 miles northeast of Auckland, New Zealand. The total land area is 76 square miles. The main island of Tutuila has a land area slightly over 52 square miles and is the home of approximately 45,000 of the Territory's 48,000 inhabitants and the capital, Pago Pago. Tutuila has approximately 92 miles of paved road where the maximum speed limit is 30 mph. Tutuila's volcanic terrain is highly mountainous. The other islands have no paved roads, except for Ta'u which has a small paved strip used by fewer than 50 vehicles.

B. Climate, Meteorology and Air Quality

The climate on Tutuila is tropical with an average rainfall of 180 inches annually. Temperatures range between 70 degrees F to 90 degrees F with an average humidity of 80 percent. Strong and ever-present trade winds, combined with the lack of any heavy industries, prevent any air pollution from gathering. American Samoa has no sulfur dioxide or sulfate particulate air pollution problem and does not foresee any. Air quality levels are below the national secondary ambient air quality standards for all pollutants. 40 CFR part 50. EPA has not identified any areas in the territory as having the potential for violation of the national ambient air quality standards within ten years. 40 CFR 52.2826(a) (1989), 51 FR 40675 (November 7, 1986).

C. Economic Factors

American Samoa is remote from the United States mainland and must rely on materials shipped in by sea or air. The cost of construction is 25–50 percent higher than on the mainland, yet the annual per capita income is only $3,900 and the highest minimum wage is $2.82 per hour. The unemployment rate is approximately 13 percent.

The American Samoa Government (ASG) is the owner of the only petroleum storage facility in the Territory, which is leased to PRI South Pacific, Inc. (PRI), a wholly-owned subsidiary of Pacific Resources, Inc., a petroleum refiner based in Honolulu, Hawaii, and in turn a wholly-owned subsidiary of Broken Hill Proprietary, Ltd., an Australian corporation. PRI shares the storage facility with Shell Company (Pacific Islands) Ltd. (Shell) and BP South-West Pacific, Ltd. (BP), both Australian corporations. The lease terminates on December 31, 1994. The petroleum storage facility was constructed by the United States Navy during 1942 as part of its World War II South Pacific operations. The ASG began a total upgrade of the facility in 1988, which was to be completed in 1992. However, due to lack of adequate funding, many projects had to be curtailed or delayed and completion does not appear likely until 1995 or beyond.

Without an exemption, the ASG claims it will be required to construct segregated tank storage, service lines and modifications to the load racks at an estimated minimum cost of $300,000, not including the necessary containment berms, which could add an additional $250,000 to the costs. The ASG does not have the funds to construct segregated storage at this time nor does it anticipate having funds available in the foreseeable future.

All petroleum currently consumed in American Samoa is imported in small tankers. Due to the lack of demand for 0.05 weight percent sulfur diesel fuel in the Pacific, Shell and BP have advised they will not furnish it to American Samoa. PRI estimates that diesel fuel which complies with section 211(i)(1)'s sulfur restrictions will cost $0.08 to $0.10 per gallon more than the diesel fuel currently imported to American Samoa. If the ASG is required to comply and construct segregated storage facilities, the petition states that a tax in excess of $0.25 per gallon would need to be imposed to recover the storage facility construction cost. Hence, the total increased cost of automotive diesel oil on Tutuila would be $0.35 per gallon. Fuel is supplied to the outer islands in 55 gallon drums by barge or small vessels from Tutuila, thus creating even higher costs.

D. Environmental Factors

Current ASG petroleum specifications for diesel fuel allow a maximum sulfur content of 0.4 weight percent and require a minimum cetane index of 40. The ASG set this sulfur content specification to provide high quality diesel fuel for the ASG's electric utility. By regulation, the ASG prohibits burning of any fuel in excess of 1.5 weight percent sulfur. The Territorial Energy Office (TEO) analysis of diesel fuel imports during fiscal year 1990 disclosed that the weighted average of the sulfur content was 0.1918 weight percent and the average cetane index was 52.4. The petroleum suppliers advised the ASG that they should be able to continue to supply diesel fuel at or below the current sulfur levels. The ASG's sulfur content restrictions apply to the diesel fuel used for all power generation, and both highway and off-highway vehicles.

American Samoa has only 60 vehicles licensed for highway use that require diesel fuel. The ASG owns 31 of these and the remaining 29 are commercial vehicles. The petition states that these vehicles are necessary for government and commercial use e.g. container hauling equipments are used in the dock and are generally diesel powered. They are used for loading and unloading of the cargo. Based on a TEO survey, these vehicles consume on average fewer than 14 gallons per week of diesel fuel. Based on the current diesel fuel sulfur weight percentage of diesel fuel in American Samoa, this totals less than 600 pounds of sulfur annually from all the vehicles. This small amount of sulfur emitted over a year, coupled with the trade winds which disperse any pollutant, does not constitute a health risk nor would it cause any air quality standard to be exceeded.

III. Public Participation

Following the November 18, 1991 publication of EPA's proposed decision, a thirty-day comment period was open which ended December 18, 1991. During this time, the Agency received no request for a public hearing. Comments were received from two parties, Volvo GM Heavy Truck Corporation (Volvo GM) and the Engine Manufacturers Association (EMA), both of whom

[2] Section 211(i) of the Act authorizes EPA to establish an equivalent alternative aromatic level to the minimum cetane index specification. EPA's current regulations provide for such an alternative aromatic level. 40 CFR 80.29(a) Since the American Samoa Government does not seek an exemption from the minimum cetane index requirement, presumably they also do not seek exemption from the alternative aromatic level requirement.

supported granting the petition. The following section includes the substantive issues raised regarding the waiver and EPA's response.

Volvo GM and EMA both suggested that EPA, in connection with granting ASG's petition, grant two additional exemptions in the case of 1994 and later model year engines in American Samoa: (1) An exemption from the section 203(a)(1) prohibition against the sale of engines not certified under section 206 as being in compliance with the applicable emission standards; and (2) an exemption from the section 203(a)(3) prohibition against tampering with certified engines. EMA went on to recommend an exemption for heavy-duty diesel engines manufacturers from the section 207(a) requirement that they warrant to the ultimate purchaser of engines affected by the fuel exemption that the engines will conform to applicable emissions regulations for their useful lives. The EMA also recommended exempting heavy-duty engine manufacturers from recall liability under section 207(c) for any engine affected by the fuel exemption.

As an initial matter, the Agency questions whether it has the authority to grant the exemption suggested by Volvo GM and EMA. Section 325 authorizes EPA to grant exemptions from Clean Air Act requirements "upon petition by the Governor of Guam, American Samoa, * * *" The exemptions Volvo GM and EMA requested were not also requested by the Governor of American Samoa. Since Congress was specific in authorizing EPA to grant exemptions in response to petitions from Governors of certain territories, it is unlikely that Congress meant to grant EPA broader authority to grant exemptions in response to any requests from any party.

In any event, action on these additional requests is not within the scope of this rulemaking. Since the requests were first made in comments on ASG's petition, the Agency's notice of proposed rulemaking contained no mention of them. Without the benefit of an EPA notice regarding the requests, it is doubtful that the public has had adequate notice or opportunity to comment on them. EPA thus is not in a position to take final action on the requests at this time.

Even if the Agency could grant the exemptions at this time, it would not be inclined to do so, as explained below.

Issue: Sale of Certified Engines

EPA believes that the prohibition against the sale of uncertified engines in American Samoa should continue to apply. After model year 1993, heavy-duty diesel engines probably will be equipped with devices which will be adversely impacted by the level of sulfur in diesel fuel allowed by the exemption being granted today, but it is likely that some emissions benefits can still be accrued. The average sulfur content in diesel fuel currently consumed in American Samoa is less the 0.2 weight percent. Engines designed to comply with the more stringent particulate emission standards applicable to 1994 and later model year engine will emit fewer particulates that will older engines even given 0.2 weight percent sulfur in the fuel.

Issue: Exemption From Tampering

EPA believes that a blanket waiver from the tampering prohibition for model year 1994 and later heavy-duty engines would allow tampering in situations where such tampering may result in an increase in emissions. For example, removal of an emissions related device that is not affected by the high sulfur fuel or is rendered less effective but not inoperative by the high sulfur fuel would increase emissions over what would have occurred in the absence of tampering.

However, some model year 1994 and later heavy-duty engines may be built with after treatment devices that may be rendered inoperative by the use of diesel fuel with sulfur content exceeding 0.05 weight percent. The exercise of enforcement discretion may be appropriate in the case of tampering with a device that has been or is likely to be rendered inoperative by the use of high sulfur diesel fuel. However, EPA should not allow tampering with an emissions control device that has been or is likely to be rendered less effective, but not rendered inoperative, as a result of the use of higher sulfur fuel.

Issue: Warranty Exemption

EPA believes an exemption from the warranty provisions of section 207 is unnecessary to protect manufacturers from unreasonable warranty recoveries by purchasers. The emission defect warranty requirements under section 207(a) of the Act require an engine manufacturer to warrant that the engine shall conform at the time of sale to applicable emission regulations and that the engine is free from defects which cause the engine to fail to conform with applicable regulations for its useful life. In practice, this warranty is applicable to a specific list of emission and emission related engine components.

It has been consistent EPA policy that misuse and/or improper maintenance of a vehicle or engine by the purchaser, including misfueling, may create a reasonable basis for denying warranty coverage for the specific emission and emission related engine components affected by this misuse. In this case, while use of fuel exempted from the sulfur content limitation cannot be considered "misfueling", it will have the same adverse effect: it will have an adverse effect on emissions control components. Thus, EPA believes that where the use of noncomplying diesel fuel will have an adverse impact on the emissions durability of specific engine parts or systems, such as a trap oxidizer, the manufacturer will have a reasonable basis for denying warranty coverage. However, as has consistently been EPA's policy, those components not adversely affected by the misfueling should continue to receive full emissions warranty coverage. In any event, the number of engines likely to be covered in American Samoa, and the potential for excessive costs or disputes, are extremely small.

Issue: Recall Liability

Heavy-duty engine manufacturers are responsible for recalling and repairing engines that do not comply with emission requirements for their useful life. The EPA tests engine classes to determine whether engines comply with applicable emission standards when properly used and maintained. Under section 207(c), if a substantial number of engines in a specific engine class do not comply when tested, that entire class can be recalled. If a situation arose in which an engine fueled with noncomplying diesel fuel were included in an EPA in-use compliance test program, EPA would determine, on a case-by-case basis, if the noncompliance were the result of the use of noncomplying diesel fuel. If it were determined that the noncomplying diesel fuel was the cause of the engine's failure to meet the applicable emission standards, that fact would be considered before seeking recall of the class. Given the very small number of diesel engines used in American Samoa, it is highly unlikely that noncompliance by those engines would ever result in an engine class being recalled. In cases in which it was determined that the overall class was subject to recall, however, individual engines would not be excluded from repair on the basis of fuel used. Manufacturers are responsible for repairing any engine in the recalled class regardless of its history of tampering or malmaintenance. The situation that would occur in American Samoa is no different and thus the manufacturers should remain liable for performing recall repairs on these engines when required.

IV. Final Decision

American Samoa must rely totally on the costly importation of petroleum supplies, including diesel fuel, as a result of its remote location, along with its lack of internal petroleum supplies or refining capability. Given the petroleum storage infrastructure in American Samoa, compliance with section 211(i) diesel fuel sulfur content requirements could be accomplished in only one of two ways.

First, ASG, as owner of the only storage facility for such fuel, could build segregated storage space for 0.05 weight percent sulfur diesel fuel. EPA believes that the cost of such construction, as discussed earlier would impose a great burden on the economy, and is financially unreasonable given the lack of commensurate environment benefits. The high cost of exacerbated by American Samoa's remote location. The second alternative for compliance would be allowed importation into American Samoa of only complying diesel fuel. In effect, instead of building another storage tank for low sulfur diesel fuel, only low sulfur diesel fuel would be imported for storage in the single tank. The single storage facility would then continue to service all the uses for diesel fuel, including power generation, on-highway fuel and off-highway fuel. The cost of this alternative is clearly exorbitant, given the on-highway diesel fuel comprised only 0.112 percent of all imports of diesel fuel.

It would cost over 4 million dollars per year to bring much less than one percent of the diesel fuel in compliance with section 211(i), and would be much more expensive than building segregated storage facilities.

This major economic burden would provide almost no environmental benefit, in a context where there are no current air pollution problems. There is no identified potential for violations of national ambient air quality standards in American Samoa. The Territory has only 92 miles of paved roads and fewer than 60 diesel-fueled vehicles licensed for highway use. The estimated 600 pounds of sulfur currently emitted by these vehicles is dispersed by the islands; trade winds and presents no public health or welfare risk at this time. Exemption from the section 211(i) requirements would not lead to future problems, in light of American Samoa's current regulatory limits and purchase specifications on diesel fuel sulfur content. In addition, the section 211(i) diesel sulfur requirements are designed primarily to protect the emission control hardware on model year 1994 and later heavy-duty vehicles, and the already very small American Samoa fleet can be expected to contain few if any of these vehicles for the foreseeable future.[1] Imposition of the section 211(i) requirements are therefore not necessary to either solve an air pollution problem or to avoid one in the future.

The economic and environmental factors discussed above flow directly from the unique geography, meteorology and economic situation of American Samoa. The severe economic burden which would be imposed by the section 211(i) requirements far outweighs the almost nonexistent environmental benefit from application of these requirements to American Samoa. The Agency therefore finds that compliance with the diesel sulfur content limitation of section 211(i) (1) and (2) of the Act, and compliance with 40 CFR 80.29(a), is unreasonable for persons on American Samoa, and therefore exempts any person or source in American Samoa from these provisions.

For the same reasons, the Agency also exempts persons in American Samoa from those provisions of section 211(g)(2) of the Act which prohibit the fueling of motor vehicles with high-sulfur diesel fuel.[4] Although American Samoa did not explicitly request exemption from this provision in its petition, it is reasonable to read the petition as including such a request. Section 211 (g) and (i) both restrict the use of high-sulfur motor vehicle diesel fuel, and exempting American Samoa from the section 211(i) sulfur content requirements but not from the section 211(g) related prohibition, would provide no relief in fact from the problems American Samoa presented in its petition.

[3] During the diesel fuel rulemaking, EPA considered the general applicability of the diesel fuel requirements to Hawaii and the Pacific territories. 55 FR 34134 (August 21, 1990) Comments submitted by ASG and Pacific Resources, Inc. in that rulemaking questioned whether the diesel fuel requirements should apply to Hawaii and the Pacific territories. EPA did not accept the commentors' suggested geographic limits on the scope of the rule, primarily because of the potential use of 1994 and later heavy-duty diesel vehicles in these areas. That decision cannot be compared to today's final decision, however, as EPA's focus in that rulemaking was Hawaii and the Pacific territories viewed as a whole. The basic focus of this final decision is one specific territory, American Samoa.

[4] This subsection makes it unlawful for any person to introduce or cause or allow the introduction into any motor vehicle of diesel fuel which they know or should know contains a concentration of sulfur in excess of 0.05 percent (by weight). The final action includes exemption from this prohibition, but does not include the prohibitions in section 211(g)(2) relating to the minimum cetane index or alternative aromatic levels.

V. Statutory Authority

Authority for the final action in this notice is section 325(a)(1) of the Clean Air Act, as amended (42 U.S.C. 7625–1(a)(1)).

VI. Administrative Designation and Regulatory Analysis

Under Executive Order (EO) 12291, the Agency must judge whether a regulation is "major" and thus subject to the requirement to prepare a regulatory impact analysis. This final decision is not a regulation or rule as defined in EO 12291, therefore, no regulatory impact analysis has been prepared.

VII. Impact on Small Entities

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact on small entities. Since today's final decision exempt entities in American Samoa from complying with regulatory requirements, a regulatory flexibility analysis is not needed.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and implementing regulations, 5 CFR part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

Dated: July 12, 1992.

William K. Reilly,

Administrator.

[FR Doc. 92–17013 Filed 7–17–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–946–DR]

Minnesota; Amendment to Notice of a 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 Minnesota (FEMA–946–DR), dated June 26, 1992, and related determinations.

EFFECTIVE DATE: July 7, 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 Minnesota, dated June 26, 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 June 26, 1992:

Nobles County for Public Assistance (already designated for Individual Assistance).
McLeod County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 92-17006 Filed 7-17-92; 8:45 am]

BILLING CODE 6718-02-M

Meeting; FEMA Security Practices Board of Review

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting, portions of which may be closed:

NAME: FEMA Security Practices Board of Review.

DATES: Friday, July 24, 1992.

PLACE: Federal Emergency Management Agency, John W. Macy, Jr. Conference Room, room 829, 500 C Street SW., Washington, DC 20472.

TIMES: July 24, 1992, 9 a.m. to 12 p.m.

PROPOSED AGENDA: Review the transcript, tasks, and remaining procedural matters from the last meeting; hear and discuss certain briefings; make preparations for the next meeting, including assignment of tasks.

SUPPLEMENTARY INFORMATION: The Review Board must complete its review and report by September 11, 1992. In view of this time limit and owing to the complex, sensitive, and urgent nature of FEMA security matters, less than 15 days' notice of the meeting is given, under 41 CFR 101-6.1015(b)-(2).

The meeting will be open to the public with approximately 10 seats available on a first-come, first-served basis. Member of the general public who plan to attend the meeting should contact the Office of the Director, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3923) on or before July 22, 1992.

The Director has determined that portions of the Board meeting may have to be closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and section 3(a) of the Government in the Sunshine Act, 5 U.S.C. 552b(c), because discussions may (1) disclose matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense, (2) relate solely to the internal personnel rules and practices of an agency, and (3) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of privacy.

Minutes of the meeting (minus those portions of the meeting which may be closed to the public) will be prepared and will be available for public viewing in the Office of the Director, Federal Emergency Management Agency, room 828, 500 C Street SW., Washington, DC 20472. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: July 13, 1992.

Wallace E. Stickney,

Director.

[FR Doc. 92-17007 Filed 7-17-92; 8:45 am]

BILLING CODE 6718-01-M

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of Acquisition Policy (VP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection, 3090-0235, Multiple Award Schedule Policy Statements (MAS) - Discount Schedule and Marketing Data Sheets (DSMD) and Price Reductions. DSMD sheets are used to collect data about certain sales, discount and marketing. The data are used to determine the commerciality of items offered, set the Government's negotiation objective and determine price reasonableness. The Price Reductions clause ensures that the Government maintains its relationship with a MAS contractor's customer or category of customer upon which the MAS contract is predicated.

ADDRESSES: Send comments to Ed Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

Annual Reporting Burden

DSMD sheets: 5,100 respondents; 15 average hours per response; 76,500 burden hours. Price Reductions clause: 1,830 respondents; 3 average hours per response; 12,720 burden hours.

FOR FURTHER INFORMATION CONTACT: Les Davison, (202) 501-4768. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), 7102, GSA Building, 18th & F St. NW., Washington, DC 20405, By telephoning (202) 501-2691, or by faxing your request to (202) 501-2727.

Dated: July 2, 1992.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 92-17008 Filed 7-17-92; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Guidelines for Cooperative Agreements for Drug Abuse Treatment—Heroin Initiative

AGENCY: Office for Treatment Improvement, ADAMHA, DHHS.

ACTION: The award of cooperative agreements to support immediate expansion of the number of heroin abuse treatment slots in 6 specific urban areas as part of ADAMHA's Heroin Initiative.

SUMMARY: This notice is to provide information to the public concerning ADAMHA's intent to award cooperative agreements for addressing heroin treatment needs between the Office for Treatment Improvement (OTI) and entities representing the interests of the greater metropolitan areas of the following cities: New York City, Newark, in Baltimore, Detroit, Seattle and Los Angeles. This is not a formal request for applications. Assistance will be provided only for the 6 cities listed above. Awards will be made to the State or local government agency responsible for administering substance abuse services. OTI's intent is that the most eligible government agency provide the services to eligible patients residing or working within the greater metropolitan areas of the cities involved and that the expansion is implemented in a timely manner.

AUTHORITY: Awards will be made under the statutory authority of section 516 of

the Public Health Service Act. The cooperative agreement is the appropriate mechanism to fund this activity since it is the intent of OTI that the treatment expansion developed by this initiative result from collaborative efforts among the State, local, and Federal officials responsible for substance abuse services with input from local providers. With the concurrence of the affected states, these cooperative agreements are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

BACKGROUND: New data released from the National Institute on Drug Abuse's Drug Abuse Warning Network (DAWN), which monitors drug-related emergency room episodes in the nation's hospitals, show a continuing upward trend in episodes involving heroin. New York City, Newark, Baltimore, Detroit, and Seattle had the largest DAWN reported annual increase in heroin users by the third quarter of 1991, thus the selection of these metropolitan areas for an award under the Heroin initiative. In addition, due to the recent civil disturbances and the disruption in drug abuse services in Los Angeles, this city has also been selected as an eligible area for an award. The magnitude of the heroin and associated public health problems in these 6 cities is such that the Department of Health and Human Services has designated them for an immediate expansion of drug abuse treatment and prevention activities.

The primary objectives for the Heroin Initiative Cooperative Agreements include:

(1) Expansion of ambulatory detoxification services within 60 days of award;

(2) Aggressive recruitment of heroin users who have recently begun heroin use and have not been treated previously for narcoticism, and individuals who have relapsed after a period of one year or more stable abstinence;

(3) Provision of screening for HIV, STD's, and TB for each patient should be at the point of original admission;

(4) Provision of case management and treatment services so as to effect a continuum of care for the target population; initiated with detoxification, followed by intensive outpatient, day treatment, or supportive outpatient as is individually appropriate, provision of relapse prevention services and for a small proportion, readmission following relapse to pharmacologic maintenance;

(5) Expansion of outpatient and pharmacologic maintenance services as necessary to implement a continuum of care;

(6) Although funds for prevention are not available under this announcement, recipients must agree to coordinate, as relevant, with the Office for Substance Abuse Prevention's (OSAP) high risk youth activities, including Community Partnership grantees, high risk youth grantees, the Urban Youth Campaign, Teen Drinking Prevention program, as well as other relevant prevention and media efforts to help grassroort activities that are directed toward prevention of further increases in heroin or other drug use among younger age groups;

(7) Participation the OTI Electronic Bulletin Board and OASAP RADAR NETWORK in order to provide and receive sentinel information or heroin use and prevention.

Case management through a continuum of care is an important element of this program. Applicants must demonstrate the capability to recruit the target population into detoxification services or maintenance services as is clinically appropriate and successfully refer them to an appropriate level of outpatient care and ultimately to relapse prevention services.

The highest priority target population for the services to be funded under these special cooperative agreements are heroin users who have recently begun use and have not been treated previously for narcoticism, and individuals who have relapsed after a period of one year or more of stable abstinence. Given the target population described above, the services that are expected to be emphasized are: (1) Ambulatory detoxification (including pharmacological and nonpharmacological supports); (2) intensive outpatient and/or day treatment; (3) supportive outpatient treatment (including relapse prevention); and, for those cases where there is no response to these approaches, (4) capacity for methadone maintenance. However, these cooperative agreements are intended to provide flexibility to respond to local needs as documented through needs assessment, epidemiology, and analyses of existing treatment capacity and utilization for narcotic addiction treatment.

AVAILABILITY OF FUNDS: In FY 1992 approximately $4.5 million is available to support this initiative. It is anticipated that awards will be made in September 1992 for a single budget period of approximately 12 months.

FOR FURTHER INFORMATION CONTACT: Ms. Susan L. Becker, OTI/ADAMHA, Rockwall II, 10th floor, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–3820.

The Catalog of Federal Domestic Assistance number for this initiative is 93.950.

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–16987 Filed 7–17–92; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

[Program Announcement 268]

Cooperative Agreements To Conduct Surveillance of Blood Contact and Other Adverse Events During Phlebotomies and Intravenous Catheter Insertions

Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces the availability of funds in fiscal year (FY) 1992 for cooperative agreements to conduct surveillance of blood contact and other adverse events (i.e., skin and mucous membrane contact, and needlesticks) during phlebotomies and intravenous (IV) catheter insertions in hospital settings.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of HIV Infection and Surveillance and Data Systems. (For ordering a copy of Healthy People 2000, see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**)

Authority

This program is authorized by sections 301(a), 311, and 317(k)(3) of the Public Health Service Act, (42 U.S.C. 241(a), 243, and 247b(k)(3)) as amended. Applicable program regulations are found in 42 CFR 52, Grants for Research Projects.

Eligible Applicants

Eligible applicants include nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, state and local health departments or their bona fide agents or instrumentalities, and small, minority and/or women-owned businesses are eligible for these cooperative agreements.

Availability of Funds

Approximately $300,000 will be available in FY 1992 to provide funding for 2–3 cooperative agreements. Awards are expected to range from $100,000 to $200,000. Funding estimates may vary and are subject to change. Funding is available for a 12 month budget period within a 1 year project period. No specific matching funds are required.

Purpose

The purpose of this cooperative agreement is to assist the recipient in conducting surveillance of blood contact and other adverse events during phlebotomies and peripheral IV catheter insertions in hospital settings. The overall benefit of this cooperative agreement is for the recipient to assess the health and safety of its workers who perform phlebotomies and peripheral IV catheter placements and to develop prevention programs. The specific objectives of the cooperative agreement are to:

1. Describe the nature, frequency, and circumstances of health-care worker exposure to patient blood related to phlebotomies and peripheral IV placements and to identify risk factors for such exposure;

2. Evaluate the efficacy of engineering controls (including the design of the medical device used), work practices, and personal protective equipment in preventing needlestick injuries during these procedures;

3. Describe the health-care workers' satisfaction with the design of the device being used; and

4. Generate data for the development of additional recommendations regarding engineering controls, work practices, and protective equipment appropriate to protect health-care workers during phlebotomy and peripheral IV placement.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under A., below, and CDC should be responsible for conducting activities under B., below:

A. Recipient Activities

1. Formulation of a plan that describes the development, implementation, and evaluation of a surveillance project which includes:

a. Description of the nature, frequency, circumstances, and risk factors for blood contact and other adverse events during phlebotomies and/or IV catheter insertions; and

b. Description of the design of the device(s) used, the use of gloves or other infection control precautions, and the health-care worker's knowledge of the patient's HIV status during these procedures.

2. Establishment of a specific and realistic plan of operation and a timetable for all activities including delineation of surveillance methodology, implementation, and data analysis and dissemination.

3. Development of a plan for surveillance of a sufficient number of events to draw meaningful conclusions regarding incidence and risk factors for blood contact (e.g., design of devices used, use of infection control precautions, knowledge of patient's HIV status). Possible approaches might include 1) surveillance conducted simultaneously on different wards where different devices or other infection control measures are used; and 2) surveillance conducted sequentially during time periods when different devices or infection control measures are used.

4. Utilization of this information to reduce hospital rates of blood contact and needlestick injuries and development of prevention programs for the institution.

5. Participation in the development and maintenance of a data management system for the study. Share data with CDC on a timely basis.

6. Identification and selection of appropriate staff for the program.

B. CDC Activities

1. Provision of technical assistance in the conduct of the study, including development of study design and data collection instrument, to the recipient, as needed.

2. Provision of assistance in the development of data management systems.

3. Coordination of data analysis, dissemination, and presentation of aggregated data from all recipients.

4. Provision of assistance in utilizing knowledge acquired from this surveillance for future prospective studies of blood contact and other adverse events during routine medical procedures.

5. Provision of aggregated data collected from this project for the development of recipient's institutional guidelines for engineering control, work practices, and personal protective equipment appropriate to protect health-care workers during routine medical proceudres.

Evaluation Criteria

The initial application will be reviewed and evaluated based upon the following criteria:

1. The applicant's understanding of the purpose and objectives of the cooperative agreement and willingness to cooperate with CDC in the design, implementation and analysis of the project. (15 Points)

2. The extent to which the applicant demonstrates knowledge and understanding of the background and need for such surveillance, and for utilizing surveillance data to evaluate infection control measures (e.g., engineering controls). (10 Points)

3. The quality and feasibility of the proposed program activities for achieving the objectives, including the applicant's ability to conduct surveillance of a sufficient number of events to draw meaningful conclusions in a reasonable time period. (20 Points)

4. The quality of the plans to coordinate and conduct the project, including a description of techniques for data collection, data management, and data analysis. (20 Points)

5. How the study will be administered, including the size, qualifications, duties and responsibilities, and time allocation of the proposed staff; the availability of the facilities to be used during the investigation; and a schedule for accomplishing the program activities, including time frames. (20 Points)

6. A statement of the applicant's demonstrated capabilities and experience in conducting such a project. (15 Points)

7. The extent to which the budget is reasonable, clearly justifiable, and consistent with the intended use of cooperative agreement funds. (Not scored)

Funding Priorities

Priority will be given to applicants who are presently conducting surveillance of the nature, frequency, and circumstances of blood contacts and other adverse events such as needlestick injuries during phlebotomies and peripheral IV catheter insertions. Also, priority will be given to applicants who have initiated or have plans to initiate the use of safer device technology for the prevention of blood contact and needlestick injuries during the performance of phlebotomies and IV catheter insertions. Applicants may elect to conduct surveillance of blood contact during one or both of these types of procedures.

Executive Order 12372 Review

Applicants are subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372. E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their state Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving

more than one state, the applicant is advised to contact the SPOC of each affected state. A current list of SPOCs is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, no later than 30 days after the application deadline date. (A waiver for the 60 day requirement has been requested.) The granting agency does not guarantee to "accommodate or explain" state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.118.

Other Requirements

HIV/AIDS Requirements

Recipients must comply with the document titled "Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions," (June 1992), a copy of which is included in the application kit. In complying with the requirements for a program review panel, recipients are encouraged to use an existing program review panel, such as the one created by the state health department's HIV/AIDS prevention program. If the recipient forms its own program review panel, at least one member must be an employee (or a designated representative) of a governmental health department consistent with the Content guidelines. The names of the review panel members must be listed on the Assurance of Compliance Form CDC 0.113, which is also included in the application kit. The recipient must submit the program review panel's report that indicates all materials have been reviewed and approved.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 must be submitted to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305, on or before August 21, 1992.

1. *Deadline:* Applications will be considered to meet the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the independent review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be accepted as proof of timely mailing.

2. *Late Applications:* Applications which do not meet the criteria in either 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management technical assistance may be obtained from Nealean Austin, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., Mailstop E-14, Atlanta, Georgia 30305, telephone (404) 842–6508.

Programmatic technical assistance may be obtained from Ruthanne Marcus, M.P.H., or Marsha A. Jones, HIV Infections Branch, Hospital Infections Program, National Center for Infectious Diseases, Centers for Disease Control, Mailstop A-07, Atlanta, Georgia 30333, telephone (404) 639–1547.

Please refer to Announcement Number 268 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1), referenced in the Introduction, through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

Dated: July 14, 1992.

Ladene H. Newton,

Acting Associate Director for Management and Operations, Centers for Disease Control.

[FR Doc. 92–16978 Filed 7–17–92; 8:45 am]

BILLING CODE 4160–18–M

[Announcement Number 253]

Availability of Funds for Fiscal Year 1992; Enhancement of Capacity To Assess Progress Toward Healthy People 2000 Objectives

Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces the availability of fiscal year (FY) 1992 funds for cooperative agreements to enhance state and local capacity to assess progress toward Healthy People 2000 Objectives for the Nation and to use assessment information for policy making and program management.

The areas of interest covered by this announcement include the capacity to assess and maintain surveillance for morbidity, mortality, risk factors, risk behaviors, environmental exposures, illness and medical outcomes, and access and utilization of preventive and health care services in defined populations. This health assessment at a minimum should be defined in terms of the Health Status Indicators and selected Year 2000 Health Objectives. Data assessment may also include other important issues in a population that could not be addressed by the Year 2000 Objectives because of data gaps.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. The activities in this announcement are directly related to two objectives in Healthy People 2000, Priority Area 22, "Surveillance and Data Systems." Objective 22.5 emphasizes the need for measurement of progress: "Implement in all States periodic analysis and publication of data needed to measure progress toward objectives for at least 10 of the priority areas of the national health objectives." Objective 22:5a emphasizes "Periodic analysis and publication of State progress toward the national objectives for each racial or ethnic group that makes up at least 10 percent of the State population." Objective 22.6 is geared toward systems for the transfer of health information related to the national health objectives among Federal, state, and local agencies. (For ordering a copy of Healthy People 2000, see the section **Where to Obtain Additional Information.**)

Authority

This program is authorized under the Public Health Service Act, Sections

301(a), 311(b) and 317 [42 U.S.C. 241(a), 243(b) and 247b], as amended.

Eligible Applicants

Eligible applicants are the official public health agencies of states or their bona fide agents or instrumentalities and regional consortia of such agencies. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments.

Availability of Funds

Approximately $1,000,000 is available in FY 1992 to fund approximately 6 awards. It is expected that the average award will be $165,000 ranging from $140,000 to $190,000. It is expected that the awards will begin on or about September 30, 1992, and are usually made for a 12-month budget period within a project period of up to 5 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of an acceptable application, satisfactory performance and the availability of funds.

In addition, recipients will receive training and technical assistance in mutually agreed areas. At the request of the applicant, Federal personnel may be assigned to a project in lieu of a portion of the financial assistance to assist in the project implementation and/or will enroll an employee of the recipient agency in the CDC Intern Training Program.

Purpose

The purpose of this project is to increase the assessment capacity of state and local health agencies and to develop new surveilliance models to measure currently under-assessed conditions or populations. Funds will be awarded for the purpose of developing integrated assessment activities within State health agencies for use in policy development and program management, including (1) identifying, evaluating, and integrating disparate data systems into a state-wide assessment model; (2) conducting comparable analyses of available health data, especially data related to the Health Status Indicators; (3) using health information from data systems to develop community-based plans included in assessment tools such as Assessment Protocol for Excellence in Public Health (APEX/PH), Planned Approach to Community Health (PATCH), Health Communities 2000: Model Standards, and Healthy People 2000; (4) developing a partnership with local health agencies within the state or consortium area and providing these agencies with technical assistance and analytic support; (5) developing a plan to address data gaps and other information needs: (6) working with CDC to enhance national surveillance systems and develop mechanisms for electronic data exchange; (7) implementing mechanisms to ensure that assessment is an integral part of public health in the state or consortium area; and (8) developing model surveillance and health information systems which could be transferred to other states.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under A., below, and CDC shall be responsible for conducting activities under B., below:

A. Recipient Activities

(If the recipient is a consortium, the term "state health agency" or "agency" shall mean the state health agencies within the consortium area.)

During the first year of the project, the recipient shall hire needed staff and work with CDC to undertake the following activities:

1. Designate an individual to coordinate and facilitate the activities listed below.

2. Develop a detailed evaluation of the assessment capacity of the state health agency and propose activities to meet identified weaknesses. The evaluation shall include a description of each major health statistics and surveillance system (including laboratory surveillance and diagnostic data) indicating its location, items, definitions, owner, and barriers to its use in an integrated assessment model. Topics to be addressed by the evaluation should include:

a. Definitional differences across data systems;

b. Organizational and technical issues that impede integration;

c. An evaluation of the agency's surveillance systems, using the approach described in the **GUIDELINES FOR EVALUATING SURVEILLANCE SYSTEMS;**

d. Major gaps in data needed for assessing progress toward the Year 2000 Objectives in those priority areas under the state health agency's span of control; (other major health information not necessarily under the agency's control, e.g., hospital discharge data, mental health data, should be discussed in terms of collaborative possibilities);

e. Agency's capacity to analyze and disseminate health data and surveillance information;

f. Extent to which health statistics and surveillance information are utilized by the agency's programs for priority setting and policy decisions;

g. Agency's involvement with local health agencies in the develolpment of data and analytic tools to meet local assessment needs; and

h. Training needs required to assist the agency in developing its assessment capacity.

3. Identify and place a state employee in CDC's Epidemiology Program Office (EPO) Surveillance Computing Internship Program. Eligible participants in the Internship Program include full time current employees of the state health department who have a background in public health surveillance and some computer experience.

The state will receive funding to supplement a portion of the state employee's salary for a period of 3 to 6 months while they are an intern. The intern will receive training in the operation and maintenance of electronic surveillance systems. The intern will travel to CDC for training, have the opportunity to network with similar staff in other states, and develop software to support surveillance activities in the state.

4. Collect and analyze data on the Health Status Indicators by appropriate sub-state groupings, e.g., geographical, ethnic. Develop a proposal for modifications to existing data systems to address the priority data needs identified by Committee 22.1.

5. Transmit health status indicator and other data to CDC via the Wide-ranging Online Data for Epidemiologic Reserach (WONDER) system in conjunction with other surveillance and health information systems. Use WONDER to retrieve data for assessment activities.

6. Implement a pilot program in a defined population for data collection and surveillance development of underassessed but high burden health conditions or populations.

In subsequent years the recipient shall implement activities to address assessment weakenesses (see number 2, above) and shall collaborate with other funded agencies and with CDC to develop methods for generalization of information learned through this project.

B. Centers for Disease Control Activities

1. CDC, through its offices and programs, will provide training in the following areas:

a. Analytic and methdologic issues; data quality;

b. Surveillance;

c. APEX; the uses of assessment data for policy development;

d. Development of new data systems for chronic disease surveillance;

e. Integration of laboratory data with other systems;

f. Electronic transfer of data; and

g. Appropriate use of data in the establishment of Year 2000 Health Objectives for state and local agencies, establishment of priorities, and development of policy and community health plans.

2. If the state elects to receive a CDC assignee, CDC will provide an assignee to work with the recipient in the evaluation of its assessment capacity and in developing strategies to strengthen those capacities. The assignee will be an epidemiologist whose training and experience are commensurate with the recipient's needs. Assignees will be detailed to the recipient for the duration of the project, or for as long as CDC and the recipient agree that the assignee is needed for the recipient to meet the project goals.

3. CDC will provide training to a recipient state employee through the EPO Computer Internship Program.

Evaluation Criteria

The initial application for the proposal for the enhancement of capacity of assess progress toward Healthy People 2000 Objectives will be reviewed on the evaluation criteria listed below:

A. Quality of goals and objectives and practicality of methods for comprehensive surveillance and assessment in providing information for decision makers. (25 points)

B. Evidence of ability to work with surveillance and other population-based data collection methodologies. Ability to coordinate comprehensive state surveillance and statistical systems which may span state organizational units or include non-state information sources. (25 points)

C. Evidence of an ongoing commitment to the use of data generated from assessment activities in policy development activities and the integration of information and surveillance systems with program management. (15 points)

D. Evidence of local health department involvement in the decision-making processes related to the project. (15 points)

E. Support for community processes through assistance in developing information for community use with assessment systems such as APEX or Model Standards. Provision of analytic support and/or technical assistance to local health departments, as needed. (10 points)

F. Evidence of a plan to make the program self-sufficient so that it becomes an integral part of the state and local program decision process. (10 points)

G. The extent to which the budget is reasonable and consistent with the intended use of cooperative agreement funds. (Not weighted)

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372. E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their state Single Point of Contacts (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC for each affected state. A current list of SPOCs is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Elizabeth M. Taylor, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Atlanta, Georgia 30305. The due date for state process recommendations is 60 days after the application deadline date for new and competing continuation awards. The granting agency does not guarantee to "accommodate or explain" for state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283:

Other Requirements

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Application Submission and Deadline

The original and two copies of the application PHS Form-5161-1 must be submitted to Elizabeth M. Taylor, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E-14, Atlanta, Georgia 30305, on or before August 7, 1992.

1. Deadline

Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the independent review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. Late Applications

Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description and information on application procedures are contained in the application package. Business management technical assistance may be obtained from Eddie L. Wilder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, (404) 842-6805. Programmatic technical assistance may be obtained from Susan Hawk, Program Analyst, room 630, National Center for Health Statistics, 6525 Belcrest Road, Hyattsville, Maryland 20782, (301) 436-3548.

Please refer to Program Announcement Number 253 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report, Stock No. 017-001-00473-1) referenced in the **Introduction** through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

Dated: July 14, 1992.

Ladene H. Newton,

Acting Associate Director for Management and Operations, Centers for Disease Control.

[FR Doc. 92-16976 Filed 7-17-92; 8:45 am]

BILLING CODE 4160-18-M

[Program Announcement Number 258]

Cooperative Agreement To Develop and Implement a Program That Will Contribute to the Primary Prevention of the Recurrence of Neural Tube Defects Through the Appropriate Use of Folic Acid Supplements; Availability of Funds for Fiscal Year 1992

Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces the availability of cooperative agreement funds in fiscal year (FY) 1992 to develop and implement a program that will contribute to the primary prevention of the recurrence of spina bifida and anencephaly (neural tube defects, NTD) through the appropriate use of folic acid supplements.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of Environmental Health and Maternal and Infant Health. (For ordering a copy of Healthy People 2000, see the section **Where To Obtain Additional Information.**)

Authority

This program is authorized under Sections 301 [42 U.S.C. 241] and 311 [42 U.S.C. 243] of the Public Health Service Act, as amended.

Eligible Applicants

Eligible applicants include nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, and other public and private organizations, and state and local health departments or their bona fide agents or instrumentalities, and small, minority and/or women-owned businesses are eligible for these cooperative agreements. Applicant institutions must work with discrete geographical areas such as counties, cities, or states with a minimum of 25,000 resident births per year; preference will be given to institutions working with 50,000 or more births per year.

Availability of Funds

Approximately $500,000 will be available in FY 1992 to fund two cooperative agreements. It is expected that each award will be $250,000. It is expected that the awards will begin on or about September 30, 1992, and are usually made for a 12-month budget period within a project period of up to 5 years. The funding estimate may vary and is subject to change.

Continuation awards will be based on satisfactory progress, need to continue the program, and the availability of funds.

Purpose

The purpose of this cooperative agreement is to enable an institution to develop and implement a program that will contribute to the primary prevention of the "recurrence" of spina bifida and anencephaly (neural tube defects, NTD) through the appropriate use of folic acid supplements. The program will have 4 parts:

1. A surveillance program to ascertain women who have an NTD-affected pregnancy who will be candidates for the use of folic acid supplements for subsequent pregnancies. The surveillance programs should be highly sensitive, capable of ascertaining at least 90% of NTD-affected pregnancies among women residents in a geographically defined population. In most areas of the U.S., this will require a surveillance system that encompasses diagnoses made by community health-care providers at 3 different stages: prenatally, at live birth, and stillbirth.

2. A program of information dissemination to make at-risk women detected by the surveillance system aware of (a) their increased risk of having a subsequent NTD-affected pregnancy, and (b) the preventive possibilities presented by the use of folic acid supplements.

3. A system to ascertain the outcomes of subsequent pregnancies of women who have been the targets of the information dissemination program (#2 above). This system will provide quantitative estimates of overall prevention effectiveness of the program.

4. A research project designed to learn more about the causes of NTD. It is expected that folic acid supplement use will prevent some, but not all, "recurrent" NTD. This project will thus focus on trying to discover why some cases are prevented while others are not. This will involve leaning more about the mechanism of NTD prevention by folic acid. In addition, the project will involve a search of non-nutritional causes of NTD.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A. below, and CDC will be responsible for conducting activities under B. below:

A. Recipient Activities

1. Design, a surveillance system to detect all women who have NTD-affected pregnancies in a defined population (e.g., state, county, city). Recipient to begin surveillance within 6 months of receipt of cooperative agreement.

2. Develop a plan to make such women (#1, above), aware of (1) their high risk repeating the NTD outcome in subsequent pregnancies, and (2) the potential for prevention by use of 4 mg folic acid per day at least one month prior to conception and through the first trimester of pregnancy. This information must be transmitted to the appropriate women within 3 months of the completion of their NTD-affected pregnancy. Recipient is to begin this activity as soon as eligible women are ascertained by surveillance system. (#1, above).

3. Develop a tracking system to ascertain subsequent pregnancy outcomes in all women who are given information about recurrence risks and folic acid prevention; the system must also have the capability to assess the degree to which women actually followed the recommendation. Recipient to begin activity as soon as eligible women are ascertained by surveillance system.

4. Develop a plan to enroll women ascertained by surveillance system in a case-control study designed to learn more about the causes of NTD. Participation in the study will involve interviews and collection of biological samples; similar information and specimens will also be obtained from controls. Since most women will be enrolled in the study because they have an NTD-affected pregnancy for the first time ("occurrent" pregnancy), the study will provide a mechanism to evaluate the role of vitamins in the occurrence of NTD. The recipient is to begin enrollment as soon as eligible women are ascertained by surveillance system.

5. Participate in a central data bank provided by the CDC, for the accumulation of information related to surveillance, folic acid prevention program effectiveness, and the study of causes of NTD.

B. CDC Activities

1. Work with recipients to design surveillance system, information dissemination plan, and follow-up system.

2. Work with recipients to develop an interview instrument for use in the study of causes and arrange for laboratory analysis of biological specimens.

3. Provide a central data bank for cooperative agreement recipients for the accumulation of information related to surveillance, folic acid prevention program effectiveness, and the study of causes of NTD.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

A. Applicant's Understanding of the Problem (10%)

The extent to which the applicant has a clear, concise understanding of the requirements, objectives, and purpose of the cooperative agreement. The extent to which the application reflects an understanding of the complexities of the surveillance program; the information dissemination program; the system needed to ascertain the outcomes of subsequent pregnancies; and the research project needed to carry out this proposal.

B. Organizational Experience (30%)

The extent to which the applicant has the skills and experience to implement the principal parts of this project; (1) a surveillance program; (2) programs to disseminate information; (3) other systems used to ascertain outcomes; and (4) research projects stemming from surveillance programs.

C. Approach and Capability (40%)

The extent to which the applicant has included a description of their approach to a surveillance program, a program of information dissemination, a system to ascertain the outcomes of subsequent pregnancies, and a concept of a research project designed to learn more about the causes of NTD. The applicant shall describe and indicate the availability of facilities and equipment necessary to carry out this project. Preference will be given to applicants serving populations with 50,000 or more births per year and also to applicants serving populations with high NTD occurrence rates.

D. Program Personnel (20%)

The applicant shall identify all current and potential personnel who will be utilized to work on this cooperative agreement, including qualifications and specific experience as it relates to the requirements set forth in this request. The extent to which the applicant describes a capability to assemble a competent and trained staff to conduct the requirements set forth in this request.

E. Budget Justification and Adequacy of Facilities (not scored)

The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

Executive Order 12372

Applications are not subject to review by Executive Order 12372, Intergovernmental Review of Federal Programs.

Other Requirements

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Catalog of Federal Domestic Assistance Number (CFDA)

The Catalog of Federal Domestic Assistance number is 93.283.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, on or before August 24, 1992.

1. Deadline

Applications shall be considered as meeting the deadline if they are either:

A. Received on or before the deadline date; or

B. Sent on or before the deadline data and received in time for submission for the review process. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. Late Applications

Applications which do not meet the criteria in 1.A. or 1.B. above are considered late applications and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, an application package and business management technical assistance may be obtained from Lisa G. Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mail Stop E–14, Atlanta, Georgia 30305, (404) 842–6630. Programmatic technical assistance may be obtained from J. David Erickson, D.D.S., Ph.D., Chief, Birth Defects and Genetic Diseases Branch, Division of Birth Defects and Developmental Disabilities, National Center for Environmental Health and Injury Control, Centers for Disease Control, 1600 Clifton Road, NE., Mail Stop F–45, Atlanta, Georgia 30333, Telephone: (404) 488–4967.

Please refer to Announcement Number 258 when requesting information or submitting the application.

Potential applicants may be obtained 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).

Dated: July 14, 1992.

Ladene H. Newton,

Acting Associate Director for Management and Operations, Centers for Disease Control.

[FR Doc. 92–16977 Filed 7–17–92; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Minneapolis District Office,

chaired by John Feldman, District Director. The topic to be discussed is regulation of new plant foods developed through biotechnology.

DATES: Thursday, August 6, 1992, 10 a.m. to 12 m.

ADDRESSES: University of Wisconsin Extension Office, 57 Fairground Dr., Madison, WI 53713.

FOR FURTHER INFORMATION CONTACT: Steve Davis, Public Affairs Specialist, Food and Drug Administration, U.S. Courthouse, 517 East Wisconsin Ave., rm. SB–06, Milwaukee, WI 53202, 414–297–3097.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: July 13, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–16932 Filed 7–17–92; 8:45 a.m.]

BILLING CODE 4160–01–F

National Institutes of Health

Division of Research Grants; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

The meeting will be open to the public to discuss administrative details relating to Special Emphasis Panel business for approximately one half hour at the beginning of the meeting. Attendance by the public will be limited to space available. The meeting will be closed thereafter in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications in the areas of the behavioral and neurosciences. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7534, will furnish a summary of the meeting and a roster of panel members. Substantive program information may be obtained from the Scientific Review Administrator whose telephone number is provided. Since it is necessary to announce meetings well in advance of the actual meeting, it is suggested that anyone planning to attend the meeting contact the Scientific Review Administrator to confirm the exact date, time and location.

Meeting to Review an Individual Grant Application in the Areas of the Behavioral and Neurosciences:

Scientific Review Administrator: Dr. Joseph Kimm (301) 496–7494.

Date of Meeting: July 20, 1992.

Place of Meeting: Embassy Suites Hotel, Washington, DC.

Time of Meeting: 2 p.m.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 10, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–17176 Filed 7–17–92; 8:45 am]

BILLING CODE 4140–01–M

Office of Assistant Secretary for Health

President's Council on Physical Fitness and Sports; Memorandum of Agreement Between the President's Council on Physical Fitness and Sports (PCPFS) and the American Alliance for Health, Physical Education, Recreation and Dance (AAHPERD)

AGENCY: Office of the Assistant Secretary for Health, HHS.

ACTION: Notice.

SUMMARY: The President's Council on Physical Fitness and Sports (PCPFS) and the American Alliance for Health, Physical Education, Recreation and Dance (AAHPERD) have determined that it is in the best interest of the nation to have a uniform fitness assessment and education program. Public comment on the appropriateness of this proposal is invited.

FOR FURTHER INFORMATION CONTACT: Christine G. Spain, Director, Research, Planning & Special Projects, PCPFS, 701 Pennsylvania Avenue, NW., suite 250, Washington, DC 20004, 202–272–3424.

SUPPLEMENTARY INFORMATION: The PCPFS consists of twenty private citizens, appointed by the President of the United States, who advise the President and the Secretary of the Department of Health and Human Services on ways and means to carry out the 10-point program outlined in Executive Order 12345, as amended. A full-time professional staff carries out PCPFS programs and conducts day-to-day business. The AAHPERD is a nonprofit membership organization representing professional educators. Both PCPFS and AAHPERD are two principal organizations in the nation concerned with physical fitness testing and improving the physical fitness level of the Nation's youth. PCPFS presently administers the "President's Challenge Physical Fitness Program," and AAHPERD presently administers the "Physical Best" program. It is believed to be in the best interest of the nation to have one uniform physical fitness assessment test, supported by an education program. In that regard, the PCPFS is encouraging comments on the following memorandum of agreement with AAHPERD for the development and operation of a single fitness test and education program which will be known as the "President's Youth Fitness Program."

PCPFS Mission

Begun in 1956 by President Eisenhower, the PCPFS operates under Executive Order No. 12345, as amended. The PCPFS is mandated to recommend programs to the President of the United States and the Secretary of the Department of Health and Human Services to encourage nationwide participation in physical fitness and sports activities.

PCPFS programs help focus public awareness on the importance of staying physically active by encouraging schools, business and industry, government, recreation agencies, sports and youth-serving organizations to step up their emphasis on developing and maintaining sound physical fitness and sports programs.

As the lead agency responsible for monitoring the nation's progress toward achieving the "Physical Activity and Fitness Objectives" of Healthy People 2000, the PCPFS emphasizes diverse programs which highlight health and physical fitness for all Americans. Since good habits are best set early in life, and virtually every youngster has the opportunity to attend school, there is a need for a sound physical fitness assessment and education program in the nation's school systems.

AAHPERD Mission

Since its founding in 1885, AAHPERD has been a major force in the research, development and promotion of quality educational programs to help improve the total health and fitness of all Americans. Today, AAHPERD's

national, regional and state networks represent 60,000 professionals in the fields of physical education, fitness, sport, health education, recreation, leisure and dance. These professionals work on a daily basis with the nation's youth in schools and communities throughout the land.

Following its establishment of the first national youth fitness norms in 1958, AAHPERD began promoting health-related fitness assessment and education in 1980. In 1987, as a leading national organization in physical education and physical fitness for the nation's children and youth, AAHPERD introduced the "Physical Best" program which has as its main objective the motivation of all children and youth to engage in physical activity in a manner which promotes health and physical well-being. The program's thrust is aimed at assessing current fitness levels and in helping students gain the knowledge, skills, and understanding necessary to assume responsibility for their fitness, now and throughout their lives.

Over 40 states currently endorse the "Physical Best" program for physical fitness assessment and education in school systems, and of this number, nine mandate utilization of the program. Individuals included in AAHPERD's national network and those working in the nation's schools have expressed great interest in the development and availability of the President's Youth Fitness Program (PYFP).

Memorandum of Agreement

The following Memorandum of Agreement, cited herein in its entirety, states that both parties agree to begin discussions. It was signed on May 4, 1992. Public comment is invited on the intention of both PCPFS and AAHPERD to unify the two physical fitness testing programs into one national assessment and education program to be entitled "The President's Youth Fitness Program."

Memorandum of Agreement Between the President's Council on Physical Fitness and Sports and the American Alliance for Health, Physical Education, Recreation and Dance Regarding the Administration of the "President's Youth Fitness Program"

Whereas: The President's Council on Physical Fitness and Sports (PCPFS) and the American Alliance for Health, Physical Education, Recreation and Dance (AAHPERD) are two of the principal organizations in the Nation concerned with physical fitness and fitness testing; and

Whereas: PCPFS presently administers the "President's Challenge" fitness assessment test and AAHPERD presently administers the "Physical Best" fitness assessment test and each recognizes the value of the respective tests; and

Whereas: It is in the best interest of the Nation to have a uniform fitness assessment and education program and the parties are desirous of developing and maintaining a close working relationship in the field of fitness education and assessment;

Now Therefore it is agreed between PCPFS and AAHPERD as follows:

I. Program Administration

Upon signing the Agreement, the two parties agree to begin working out the financial, administrative and other details of an arrangement for the operation of a fitness assessment and education program which will be designated the President's Youth Fitness Program. This Agreement is not intended to impose any binding financial commitments on either party nor is it intended to prejudice in any way competition or coordination among organizations which may be utilized in implementing any agreed upon program. Among the matters preliminarily agreed upon are the following:

A. AAPHERD and PCPFS contemplate a jointly administered Program in which the day-to-day operations will be the responsibility of AAHPERD or a similar public or private nonprofit organization experienced in the area of fitness and health.

B. Such an operating organization will maintain separate accounting and auditing records and procedures for this Program which will be available for inspection and copying by PCPFS at all times upon reasonable notice.

C. The Program will be developed in a way to make it financially self-sustaining and not require any cash outlays by PCPFS. As the day-to-day operator of the Program, the operating organization will be entitled to set off against proceeds, any reasonable expenses (including developmental expenses) it incurs in the initiation and maintenance of this program. The nature and amounts of any such expenses must be agreed upon by the parties.

II. Development of Program

Upon the signing of this agreement, two groups will be created:

A. The Executive Council

There will be created an Executive Council consisting of seven members, three of whom will be selected by each party with the seventh member being the Assistant Secretary for Health or his designee. The manner of selection and terms of the six members will be determined by the respective parties. The principal purpose of the Council will be to begin the discussions necessary to develop and successfully set in motion the President's Youth Fitness Program. After the development of those activities, it is expected that an Executive Council or a similar body will continue in existence as the administrative and policy setting entity for the operation of the Program.

B. The Research Advisory Committee

There will be created an eight-member Research Advisory Committee (RAC), the selection and terms of which will be determined by the Executive Council. The purpose of the RAC will be to discuss all aspects of the PCPFS/AAHPERD fitness education and assessment program and to make recommendations to the Executive Council. The Chairperson of the RAC will be designated a Special Advisor (unpaid) to the PCPFS. The RAC will be formed as soon as possible in order to review all aspects of fitness assessment and education that may be relevant to the President's Youth Fitness Program.

C. Federal Register Notice

To maximize input for other parties with an interest in this effort, a notice of this agreement will be published in the **Federal Register** with an opportunity to comment. The comments received will be taken into consideration in establishing the Program.

III. Program Composition

It is the current intention of the parties that the Program will be developed in accordance with the following guidelines, criteria, and elements:

A. Assessments will be based upon all test items used in the Physical Best Program.

B. All assessments and evaluations shall be based on criterion-referenced standards which shall be reviewed by the Research Advisory Committee. [Normative data will be included without compromising criterion-referenced health related fitness testing and assessment.]

C. To measure body composition, the two principal options under consideration are: (1) The sum of skinfolds (triceps and calf), and (2) the body mass index.

D. The three awards comprising the President's Youth Fitness Program will be the Presidential Physical Fitness Award, the National Physical Fitness Award, and the Participation Award. In

addition, the parties will consider the incorporation of a Surgeon General's Award to replace the Participation Award for all those who participate in the testing program.

E. The award system will be centered on behavioral criteria rather than on performance, in accordance with the following:

(1) Participation Award

A participation award will be based on the students completing a series of fitness activities over a designated period of time. Students achievements will be monitored by the Instructor.

Note: The Surgeon General's Award may eventually replace the Participation Award. The Surgeon General of the Public Health Service is identified with concern for each individual's health. To emphasize the importance of regular physical activity to health, a Surgeon General's Award could be given to students completing the agreed-upon test activities over a designated period of time. Student achievements will be monitored by the Instructor.

(2) National Physical Fitness Award

Upon completion of the Presidential Youth Fitness Test, students who set and accomplish improvement goals are eligible for the National Physical Fitness Award. This program will be monitored by the students' Instructor.

(3) Presidential Physical Fitness Award

To meet the requirements for this award, students must successfully meet the criterion-referenced standards on four of the five test items (all five test items must be taken).

(4) Continuous Fitness Award

Consideration should be given to establishing a long-term, "multi-year" award to reward the maintenance of continuous and positive fitness over a designated period of time.

IV. Current Activities and Commitments

Both parties recognize that the other is currently conducting fitness and assessment programs of its own. Nothing in this agreement is intended to obstruct or interfere with those programs or related contractual relationships currently outstanding. Nevertheless, in light of the expressed desire of the two parties to work together closely in the future each party will reduce, to the extent that it is reasonably able, its current inventories of equipment, stickers, seals and related materials to the point where a future consolidation of their respective programs will become feasible.

V. Conclusion

Although this Agreement does not commit either party to any financial obligations, it is intended to express the strong commitment of both parties to coordinate their activities so as to work in partnership to further the fitness and general health of the Nation.

Call for Research Advisory Committee Members

The proposed "President's Youth Fitness Program" is seeking volunteers with expertise in physical fitness to serve as members of an eight-member Research Advisory Committee that will study and recommend possible research and evaluation on current fitness assessment and education programs, with the goal of continued improvement of all aspects of the President's Youth Fitness Program. Expertise is needed in exercise physiology, exercise psychology, body composition, measurement, muscular strength/endurance, cardiovascular physiology, and fitness education, as well as other related areas.

Please send a letter of interest and curriculum vita by September 18, 1992 to: RAC Selection, PCPFS, 701 Pennsylvania Avenue, NW., suite 250, Washington, DC 20004

Dated: July 10, 1992.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 92-17030 Filed 7-17-92; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-920-02-4143-11]

Coal Leases; WY

AGENCY: Bureau of Land Management, Interior, Wyoming.

ACTION: Notice of Invitation for Sodium Exploration License (WYW127208).

SUMMARY: Pursuant to section 302(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1732(b), and to the regulations at title 43, Code of Federal Regulations, subpart 3524, members of the public are hereby invited to participate with United States Borax & Chemical Corporation (U.S. Borax) on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Sweetwater County, Wyoming.

T. 17 N., R. 108 W., 6th P.M., Wyoming
Sec. 6: Lots 8 thru 14, S2NE, SENW, E2SW, SE;
Sec. 8: All;
Sec. 18: All;
Sec. 20: All;
Sec. 28: All;
Sec. 30: Lots 5 thru 8, E2W2, E2;
Sec. 34: All;
T. 17 N., R. 109 W., 6th P.M., Wyoming
Sec. 12: 1 thru 10, SW, W2SE;
Sec. 14: All;
Sec. 20: All;
Sec. 22: All;
Sec. 24: Lots 1 thru 16;
Sec. 26: All;
Sec. 28: All;
Containing 8305.88 acres.

All of the sodium in the above-described land consists of unleased Federal sodium within the Green River Basin Known Sodium Leasing Area. The purpose of the exploration program is to conduct off-lease exploration by drilling.

ADDRESSES: The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management (BLM). Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW127208): Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming; and, Bureau of Land Management, Rock Springs District Office, Highway 191 North, Rock Springs, Wyoming.

SUPPLEMENTARY INFORMATION: Any party electing to participate in this exploration program must send written notice to both the BLM and U.S. Borax by the close of business August 19, 1992. The written notice should be sent to the following addresses: United States Borax & Chemical Corporation, Western Regional Exploration Office, Attn: Robert J. Kellie, Sparks, NV 89413, Bureau of Land Management, Wyoming State Office, Chief, Branch of Mining Law and Solid Minerals, P.O. Box 1828, Cheyenne, WY 82003.

Lynn E. Rust,

Chief, Branch of Mining Law & Solid Minerals.

[FR Doc. 92-16714 Filed 7-17-92; 8:45 am]

BILLING CODE 4310-22-M

[OR-100-09-6310-02; GP2-325]

Meeting

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of Advisory Council meeting.

SUMMARY: The District Advisory Council for the Bureau of Land Management, Roseburg District will meet between

August 13 and September 14, 1992. The specific date and time for the meeting will be announced approximately 10 days in advance in the local news media; anyone interested in attending can also contact the District Public Affairs Specialist (at the number shown below) to obtain this information. On the agenda are a general update on District activities, election of officers, and an advance briefing on the preferred alternative for the Roseburg District Resource Management Plan, which will be distributed for public review shortly after the meeting.

ADDRESS: Bureau of Land Management, Roseburg District Office, 777 NW Garden Valley Blvd., Roseburg, OR 97470.

FOR FURTHER INFORMATION CONTACT: Mel Ingeroi, Public Affairs Specialist, (503) 440–4930.

SUPPLEMENTARY INFORMATION: The meeting is open to the public, and a public comment period will be provided. Written statements for the Council can be mailed to the District Manager prior to the meeting or presented to the Council during the meeting. Summary minutes will be available for public review within 30 days of the meeting.

Dated: July 14, 1992.

Gordon L. Cheniae,

Associate District Manager.

[FR Doc. 92–16982 Filed 7–17–92; 8:45 am]

BILLING CODE 4310–33–M

[CA–020–4212–13; CACA 26721]

Issuance of Land Exchange Conveyance Document and Order Providing for Opening of Public Lands in Modoc County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this exchange was to acquire title to non-Federal lands that provide wetland-riparian habitat and critical deer winter range. The exchange will benefit the general public, the local agricultural economy, and provide improved management of Federal and non-Federal lands. The public interest was well served through completion of this exchange.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 516–978–4820.

1. The United States issued an exchange conveyance document to The Trust for Public Land on June 30, 1992, under section 206 of the Act of October 21, 1976, 43 U.S.C. 1716 (1988), for the following described lands:

Mount Diablo Meridian

T. 40 N., R. 7 E.,
  Sec. 14, N½SW¼ and SE¼SW¼;
  Sec. 15, E½NE¼ and NE¼SE¼;
  Sec. 23, SW¼NW¼, W½SW¼, and SE¼SW¼;
  Sec. 26, N½NW¼.
T. 39 N., R. 9 E.,
  Sec. 3, lot 2 and S½NE¼;
  Sec. 4, W½SE¼.
T. 42 N., R. 9 E.
  Sec. 10, NE¼NE¼, NW¼SE¼, and S½SE¼;
  Sec. 12, SE¼NE¼ and NE¼SE¼;
  Sec. 14, S½NW¼, and NW¼SW¼;
  Sec. 15, NE¼ and N½SE¼;
  Sec. 24, NE¼NW¼;
  Sec. 35, NW¼NE¼.
T. 41 N., R. 11 E.,
  Sec. 14, NE¼NW¼;
  Sec. 23, SW¼NW¼.
T. 42 N., R. 12 E.,
  Sec. 31, SE¼NE¼.

The areas described aggregate 1,480.78 acres of Federal lands in Modoc County.

2. In exchange for these lands, the United States acquired the following described lands from The Trust for Public Land:

Mount Diablo Meridian

T. 41 N., R. 14 E.,
  Sec. 8, E½SW¼ and SE¼;
  Sec. 9, S½SW¼;
  Sec. 16, all;
  Sec. 17, NE¼, NW¼, and W½SW¼;
  Sec. 18, SE¼SE¼.

The areas described aggregate 1,400 acres of non-Federal land in Modoc County.

The values of the Federal land and the non-Federal land in the exchange were appraised at $245,384 and $260,000, respectively. The value difference between the Federal land and non-Federal land is being equalized in accordance with the terms and conditions of the Cooperative Agreement for Equalization of Land Values.

3. At 10 a.m. on August 19, 1992, the lands described in Paragraph 2 above will be opened to the operation of the public land laws generally, subject to valid existing rights, the provision of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on August 19, 1992, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on August 19, 1992, the lands described in Paragraph 2 will be opened to location and entry under the United States mining laws and to the operation of the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

5. Of the lands described in paragraph 2 above, the following land will be subject to the public safety closure notice published in the **Federal Register** on December 17, 1991 (56 FR 65506) until revoked or modified by the authorized officer:

Mount Diablo Meridian

T. 41 N., R. 14 E.,
  Sec. 17, NE¼.

The area described contains 160 acres.

Dated: July 8, 1992.

Ed Hastey,

State Director.

[FR Doc. 92–16936 Filed 7–17–92; 8:45 am]

BILLING CODE 4310–40–M

[FWS 93520–3210]

Realty Action; Segregation of Public Lands in Kootenai, Benewah, Shoshone, Latah, Clearwater, and Idaho Counties, ID

SUMMARY: This notice is the preliminary notification of a legislated land exchange known as the "Arkansas-Idaho Land Exchange Act of 1992." Another Notice of Realty Action will be issued prior to issuance of a patent, which will describe the exchange in detail. The following described public lands are part of the "Arkansas-Idaho Land Exchange Act of 1992," and are segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, or pursuant to special legislation:

Boise Meridian, Idaho

T. 39 N., R. 1 E.,
  Sec. 8, NW¼SE¼.
T. 40 N., R. 1 E.,
  Sec. 14, S½NE¼, N½SE¼, and SW¼SE¼, excepting therefrom the interest of approved Mineral Survey 2806;
  Sec. 28, NE¼SW¼;
  Sec. 29, NE¼SE¼;

Sec. 33, NW¼NW¼.
T. 42 N., R. 1 E.,
Sec. 6, lots 4 and 6.
T. 46 N., R. 1 E.,
Sec. 2, lots 1 to 4;
Sec. 4, lots 1 and 2, SE¼NE¼, and SW¼SE¼;
Sec. 5, lot 2;
Sec. 7, lots 1, 2, and 3, NE¼, E½W½, and N½SE¼;
Sec. 8, lots 1 to 5, N½NW¼, SW¼NW¼, and NW¼SW¼.
Sec. 9, W½W½;
Sec. 10, E½NE¼;
Sec. 12, NW¼NE¼;
Sec. 24, SW¼SE¼.
T. 48 N., R. 1 E.,
Sec. 6, lots 11, 13, 14 and 15, SW¼SW¼, and NW¼SE¼;
Sec. 22, NE¼NE¼.
T 29 N., R. 2 E.,
Sec. 27, lot 4.
T. 42 N., R. 2 E.,
Sec. 1, E½SE¼.
T. 43 N., R. 2 E.,
Sec. 4, NE¼SE¼;
Sec. 10, NE¼NE¼;
Sec. 12, SW¼SW¼ and S½SE¼;
Sec. 13, N½N½ and SE¼NE¼;
Sec. 14, N½NE¼;
Sec. 15, SE¼SW¼ and SW¼SE¼.
T. 44 N., R. 2 E.,
Sec. 2, lots 2, 3, and 4, S½NW¼, and NW¼SW¼;
Sec. 3, lots 3 and 4;
Sec. 10, W½NE¼, E½NW¼, and NW¼SE¼;
Sec. 12, SE¼NE¼;
Sec. 20, SE¼NE¼;
Sec. 24, SE¼NE¼ and SE¼;
Sec. 25, N½NE¼ and SW¼NE¼;
Sec. 32, W½NE¼.
T. 45 N., R. 2 E.
Sec. 34, S½N½, N½S½ and SW¼SW¼.
T. 46 N., R. 2. E.,
Sec. 1, N½SW¼ and S½SE¼;
Sec. 2, lots 3 and 4, SW¼NE¼, and NE¼SE¼;
Sec. 12, E½NE¼;
Sec. 13, SE¼NE¼;
Sec. 20, S½SW¼;
Sec. 24, SE¼NE¼;
Sec. 25, E½E½ and S½SE¼;
Sec. 30, E½NE¼ and SW¼SE¼.
T. 47 N., R. 2 E.,
Sec. 25, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 26, SE¼SE¼;
Sec. 27, W½NE¼, NW¼, NE¼SW¼, and W½SE¼;
Sec. 31, lot 1;
Sec. 34, N½NE¼ and SE¼NE¼
Sec. 35, N½NE¼, NW¼, and NW¼SW¼.
T. 43 N., R. 3 E.,
Sec. 11, SE¼SW¼ and S½SE¼;
Sec. 12, SE¼SW¼;
Sec. 13, W½NW¼;
Sec. 14, NE¼, NE¼NW¼, N½SE¼, SW¼SE¼, and NW¼SE¼SE¼;
Sec. 15, W½NW¼, SE¼NW¼, N½SW¼, and SE¼SW¼;
Sec. 19, E½SE¼;
Sec. 20, All;
Sec. 21, W½NE¼, W½, W½SE¼, and SE¼SE¼;
Sec. 22, W½NE¼, SE¼NE¼, NE¼NW¼, NE¼SW¼, S½SW1/4, and SE¼;
Sec. 23, W½NW¼NE¼ and W½NW¼SW¼;
Sec. 27, W½NE¼ and W½;
Sec. 28, E½, NE¼NW¼, and S½SW¼;
Sec. 29, NW¼NE¼, S½SW¼, and S½SE¼;
Sec. 30, S½SE¼;
Sec. 31, E½, SE¼SW¼;
Sec. 32, W½NE¼, W½, and S½SE¼;
Sec. 33, N½N½, SW¼NE¼, S½SW¼ and W½SEW¼;
Sec. 34, NW¼NE¼, N½NW¼, and SE¼NW¼.
T. 44 N., R. 3 E.,
Sec. 3, lot 2, SW¼NE¼, and E½SW¼;
Sec. 4, S½NE¼ and NW¼SE¼;
Sec. 5, S½NW¼, NW¼SW¼, and SE¼SE¼;
Sec. 6, S½NE¼;
Sec. 8, SW¼NE¼ and NE¼SE¼;
Sec. 9, NE¼NE¼.
T. 45 N., R. 3 E.,
Sec. 2, lots 4 and 5, S½NW¼, SW¼, W½SE¼, and SE¼SE¼;
Sec. 3, lots 1, 2, 3, 4, 7, and 8, S½NE¼, SE¼NW¼, NE¼SW¼, SW¼SW¼, NW¼SE¼, and SE¼SE¼;
Sec. 4, lots 1 to 4;
Sec. 9, SW¼NW¼, W½SW¼, and SE¼SW¼;
Sec. 11, W½NE¼ and N½NW¼;
Sec. 14, S½SW¼ and SW¼SE¼;
Sec. 22, N½NE¼ and SE¼SE¼;
Sec. 24, N½N½;
Sec. 26, NE¼ and E½SE¼;
Sec. 32, S½NE¼ and N½SE¼;
Sec. 34, NE¼SE¼.
T. 45 N., R. 4 E.,
Sec. 2, lots 1 to 4, W½SW¼, and E½SE¼;
Sec. 3, lots 1 to 8, S½N½ and S½;
Sec. 4, lots 1 to 8, and S½N½;
Sec. 5, lots 1 and 8, SE¼NE¼, NE¼SW¼, S½SW¼, and SE¼;
Sec. 7, lots 1 to 5, 9, 10, and 13, and E½W½;
Sec. 9, all;
Sec. 14, NE¼NE¼;
Sec. 17, SE¼NW¼ and S½;
Sec. 18, lots 13 and 14, W½NE¼, and NE¼NW¼;
Sec. 28, NW¼NE¼.
T. 32 N., R. 5 E.,
Sec. 13, SW¼NW¼;
Sec. 14, W½NE¼NE¼, SE¼NE¼NE¼, N½NW¼, and SW¼NW¼;
Sec. 15, N½NE¼ and SE¼NE¼;
Sec. 18, NE¼NE¼;
Sec. 23, SE¼SE¼;
Sec. 24, NW¼SW¼;
Sec. 26, NE¼NE¼;
Sec. 27, SE¼NE¼;
T. 34 N., R. 5 E.,
Sec. 32, SW¼NE¼.
T. 38 N., R. 1 W.,
Sec. 17, NW¼SE¼.
T. 39 N., R. 1 W.,
Sec. 2, SW¼NE¼;
Sec. 7, lot 7;
Sec. 26, SW¼SE¼;
Sec. 29, lot 4;
Sec. 30, lot 3;
Sec. 37, lots 1, 2, and 3.
T. 40 N., R. 1 W.,
Sec. 31, SE¼NW¼.
T. 44 N., 1 W.,
Sec. 34, lot 3.
T. 46 N., R. 1 W.,
Sec. 8, NE¼NW¼ and S½NW¼;
Sec. 12, N½ and N½SW¼.
T. 48 N., R. 1 W.,
Sec. 1, lots 9, 10, and 11, N½SW¼, SE¼SW¼, and SE¼;
Sec. 3, SE¼NE¼;
Sec. 8, S½NW¼;
Sec. 33, lot 4 and NW¼NW¼.
T. 44 N., R. 2 W.,
Sec. 12, N½NW¼.
T. 45 N., R. 2 W.,
Sec. 4, lot 3.
T. 46 N., R. 2 W.,
Sec. 14, lot 1.
T. 48 N., R. 4 W.,
Sec. 14, SE¼NW¼.
T. 49 N., R. 5 W.,
Sec. 15, S½NW¼, NE¼SW¼, and NW¼SE¼.

The areas described aggregate 19, 222 acres.

FOR FURTHER INFORMATION CONTACT: Geoffrey Haskett, Chief, Division of Realty, Fish and Wildlife Service, Arlington Square 622, 4401 N. Fairfax Drive, Arlington, VA 22203, Phone (703) 358–1713 or Fritz U. Rennebaum, District Manager, 1808 N. Third Street, Coeur d' Alene, Idaho 83814, Phone (208) 769–5000.

SUPPLEMENTARY INFORMATION: The publication of this notice in the **Federal Register** segregates the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, or pursuant to special legislation. As provided by the regulations of 43 CFR 2201.1(b), and subsequently tendered application, allowance of which is discretionary shall not be accepted, shall not be considered as filed and shall be returned to the applicant. The segregative effect of this notice will terminate two years from the date of publication in the **Federal Register**, upon issuance of patent or publication of an opening order in the **Federal Register**, whichever occurs first.

Kemp Conn,

Deputy Assistant Director, Land and Renewable Resources.

[FR Doc. 92–16986 Filed 7–17–92; 8:45 am]

BILLING CODE 4310–55–M

[G–010–G2–0115–4212–11; NMNM 86622]

Albuquerque District; Realty Action—Recreation and Public Purposes Act Classification; New Mexico

AGENCY: Bureau of Land Management, Farmington Resource Area, Interior.

ACTION: Notice of realty action. Recreation and public purposes lease/

patent of public land in San Juan County, New Mexico.

SUMMARY: The following described public land has been determined suitable for classification for leasing and later patenting to the City of Farmington under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Farmington proposes to use the land for a law enforcement officers' weapons training facility.

New Mexico Principal Meridian

T. 29 N., R. 13 W.,
Sec. 20, E½NW¼SE¼.

Containing 20 acres, more or less.

COMMENT DATES: For 45 days from date of publication in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance or classification of the lands to the Bureau of Land Management at the address given below. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action becomes the final determination of the Department of the Interior. The classification becomes effective 60 days from the date of publication of this Notice.

FOR FURTHER INFORMATION CONTACT: Information related to this action, including the environmental assessment, is available for review at the Bureau of Land Management, Farmington Resource Area Office, 1235 La Plata Highway, Farmington, New Mexico 87401.

SUPPLEMENTARY INFORMATION: Publication of this Notice in the **Federal Register** segregates the public land described above from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. The segregative effect will terminate: (1) Upon publication in the **Federal Register** of an opening order; or (2) upon issuance of a patent, whichever occurs first.

The lease or patent, when issued, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. Provisions of the Resource Conservation and Recovery Act of 1976 (RCRA) as amended, 42 U.S.C. 6901–6987 and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) as amended, 42 U.S.C. 9601 and all applicable regulations.

3. Reservation to the United States of a right-of-way for ditches and canals in accordance with 43 U.S.C. 945.

4. All minerals shall be reserved to the United States together with the right to prospect for, mine and remove the minerals.

5. All valid existing rights, e.g. rights-of-way and leases of record.

The land is not needed for Federal purposes. Leasing and later patenting is consistent with current Bureau of Land Management policies and land use planning. The estimated intended time of lease issuance is September 21, 1992, with the patent being issued upon substantial development taking place. The proposal serves the public interest because it would provide a convenient fire-arms instructional and training facility for law enforcement officers.

Dated: July 10, 1992.

Mike Pool,
Area Manager.

[FR Doc. 92–17069 Filed 7–17–92; 8:45 am]
BILLING CODE 4310–FB–M

[UT–942–02–5700–11; UTU–66955, UTU–66959, UTU–67350]

Realty Action, Noncompetitive (Direct) Sale of Public Land in Carbon County, UT

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action, UTU–66955, UTU–66959, UTU–67350, Noncompetitive (Direct) Sale of public land in Carbon County, Utah

SUMMARY: Notice is given that the following described parcels of public land have been examined, and through the development of local land-use planning decisions, based upon public input, resource considerations, regulations, and Bureau policies, the parcels have been found suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA) (90 Stat. 2750; 43 U.S.C. 1713) using noncompetitive (direct) sale procedures (43 CFR 2711.3–3):

UTU–66955

Salt Lake Meridian, Utah
T. 12 S., R. 12 E.,
section 19, E½NE¼;
section 20, SE¼SW¼

The described land aggregates 120.00 acres more or less.

UTU–66959

Salt Lake Meridian, Utah
T. 12 S., R. 12 E.,
section 19, SW¼NE¼.

The described land aggregates 40.00 acres more or less.

UTU–67350

Salt Lake Meridian, Utah
T. 12 S., R. 12 E.,
section 20, SW¼NE¼, W½SE¼.

The described land aggregates 120.00 acres more or less.

The parcels are difficult and uneconomic to manage as public lands are not needed for any resource program, and are not suitable for management by the Bureau or any other Federal department or agency.

The parcels are being offered as noncompetitive (direct) sales in accordance with 43 CFR 2711.3–3 to Steve and Kerry Allred (UTU–66955) Orangeville, Utah, Earlene Black (UTU–66959) of Huntington, Utah, and Joe Iriart (UTU–67350) of Price, Utah.

The land will not be offered for sale until at least sixty (60) days after publication of this notice in the **Federal Register**. The sale will be at no less than the appraised fair market value of $6,000.00 (UTU–66955), $2,000.00 (UTU–66959), and $6,000.00 (UTU–67350).

Publication of this notice in the **Federal Register** segregates the public land from the operation of the public land laws and the mining laws. The segregative effect will end upon issuance of a patent, or two hundred seventy (270) days from the date of the publication, whichever occurs first.

The Terms and Conditions Applicable to the Sales are

1. All minerals, including oil and gas, shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

2. A right-of-way will be reserved for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 26 Stat, 391; 43 U.S.C. 945).

3. The sale of land will be subject to all valid existing rights, reservations, and privileges of record. Existing rights, reservations, and privileges of record include, but are not limited to, Federal oil and gas leases UTU–49940 and UTU–64502.

Sale Procedures

The buyers will be required to submit ten (10) percent of the fair market value of the property on the date the property is offered for sale. The remainder of the full purchase price shall be submitted prior to the expiration of one hundred eighty (180) days from the date of the sale. The lands will be offered for sale at the Price River Resource Area office. If the lands are not sold on the sale date, they will remain for sale over-the-counter until sold or withdrawn from the

market. Over-the-counter bidder qualifications are noted below.

Bidder Qualifications

Bidder must be U.S. citizens 18 years of age or over, a State or State instrumentality authorized to hold property; a corporation authorized to hold property; or a corporation authorized to own real estate in the State of Utah.

Bid Standards

The BLM reserves the right to accept or reject any and all offers or withdraw the land from sale if, in the opinion of the Authorized officer, consummation of the sale would not be fully consistent with section 203(g) of FLPMA or other applicable laws.

Comments

For a period of forth-five (45) days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532. Objections will be reviewed by the Utah State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Supplementary Information: Additional information concerning the lands and the terms and the terms and conditions of the sale may be obtained from Mark Mackiewicz, Area Realty Specialist, Price River Resource Area, 900 North 700 East, Price, Utah 84501, (801) 637–4584, or from Brad Groesbeck, District Realty Specialist, Moab District Office, 82 East Dogwood Drive, P.O. Box 970, Moab, Utah 84532, (801) 259–6111.

July 10, 1992.

Kenneth V. Rhea,

Acting District Manager.

[FR Doc. 92–17005 Filed 7–17–92; 8:45 am]

BILLING CODE 4310–DQ–M

Minerals Management Service

Outer Continental Shelf Western Gulf of Mexico Oil and Gas Lease Sale 141; Correction Notice

AGENCY: Minerals Management Service, Interior.

ACTION: Correction.

On Friday, July 10, 1992, the Notice of Sale for Western Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 141, to be held August 19, 1992, was published in the **Federal Register** at 57 FR 30854–30863.

Paragraph 12(d) of the Notice which lists Federal acreage under lease is amended by adding Garden Banks Blocks 142, 186, and 187 to the listing on page 30858. The leases on these blocks have been placed under a Suspension of Production, and the blocks are unavailable for lease in Sale 141.

Questions may be directed to Supervisor, Sales and Support Unit, Office of Leasing and Environment, Gulf of Mexico Regional Office. Telephone: (504) 736–2768.

Dated: July 14, 1992.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 92–17003 Filed 7–17–92; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Mississippi River Coordinating Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Mississippi River Coordinating Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: August 12, 1992, 8:30 p.m. to 12 p.m.

ADDRESS: Inver Hills Community College, Liberal Arts Building, room 210, 8445 College Trail; Inver Gove Heights, Minnesota.

FOR FURTHER INFORMATION CONTACT: Superintendent, Mississippi National River and Recreation Area, 175 East 5th Street, suite 418, St. Paul, Minnesota 55101, (612) 290–4160.

SUPPLEMENTARY INFORMATION: The Mississippi River Coordinating Commission was established by Public Law 100–696, November 18, 1988.

Dated: July 8, 1992.

William W. Schenk,

Acting Regional Director, Midwest Region.

[FR Doc. 92–16973 Filed 7–19–92; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT CORPORATION

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Fred D. Allen, (202) 467–9367, FA/AS/ISS, room 3726 NS, Washington, DC 20523–0042.

Date Submitted: July 3, 1992.

Submitted Agency: Agency for International Development.

OMB Number: 0412–0003.

Form Number: AID–1550–3.

Type of Submission: New Collection.

Title: Title II, Public Law 480 Commodities-Annual Estimate of Requirements—Fiscal Year.

Purpose: The Annual Estimate of Requirements (AER) is used by the Office of Food for Peace to obtain information critical for the planning and budgeting cycle of the Public Law 480 title II Program. The AERs include planned recipient and ration levels, number of distributions, operating reserves that are needed and inventories on hand.

Annual Reporting Burden

Respondents: 56; *annual responses:* 1; *average hours per response:* 24; *burden hours:* 1,344.

Reviewer: Lin Liu (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Date: July 2, 1992.

Elizabeth Baltimore,

Information Support Services Division.

[FR Doc. 92–16934 Filed 7–17–92; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[No. MC-C-30198]

Advantage Tank Lines, Inc.—Petition for Declaratory Order—Ex-Pipeline Movements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of proceeding.

SUMMARY: In response to a petition by motor carrier Advantage Tank Lines, Inc., the Commission has instituted this declaratory order proceeding under 5 U.S.C. 554(e) to determine whether certain transportation of petroleum and petroleum products it provides between points in Michigan is in interstate commerce subject to the Commission's regulatory jurisdiction. At issue are the facts and circumstances surrounding the transportation of certain petroleum and petroleum products that move into Michigan by pipeline prior to their being handled by petitioner. The Commission is providing interested persons an opportunity to participate in this proceeding and is inviting their comments.

DATES: Any person interested in participating in this proceeding as a party of record by filing and receiving written comments must file a notice of intent to do so by July 30, 1992. (A copy of the notice should be sent to petitioner's representative.) Following receipt of the notices, the Commission will issue a service list of the parties. Petitioner will have 10 days after service of this list to provide each party with a copy of the petition and any additional material which it may file with the Commission in support of its position. Initial written comments (an original and 10 copies) must be filed within 30 days after service of the list. All parties will have 50 days after service of the list to reply. All parties must send a copy of all comments and replies to each other party of record.

ADDRESSES: Send written notices of intent to participate to:

Office of the Secretary, Case Control Branch, room 1324, Attn: Docket No. MC-C-30198, Interstate Commerce Commission, Washington, DC 20423, and

James W. Muldoon, Muldoon & Ferris, 2733 W. Dublin-Granville Rd., Columbus, OH 43235-4268.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Schwartz, (202) 927-5316, or Richard B. Felder, (202) 927-5610. (TDD for hearing impaired: (202) 927-5721).

SUPPLEMENTARY INFORMATION: Advantage Tank Lines, Inc., and Clark Oil & Refining Corp. have entered into an agreement under which Advantage is to provide the contract carrier transportation of gasoline from a distribution facility in Detroit, MI, to various retail locations in Michigan. Clark's gasoline moves by pipeline from refineries situated in Blue Island and Wood River/Hartford, IL, to the Detroit facility prior to its being tendered to Advantage.

While Advantage was providing transportation for Clark under the agreement between parties, a Michigan State Police officer gave the carrier a State of Michigan Commercial Vehicle Citation for operating without intrastate authority issued by the Michigan Public Service Commission. Advantage believes that, when it handles Clark's shipments, it is properly operating under authority issued by the ICC in No. MC-24766.

Advantage has petitioned the ICC for a declaratory order finding that the involved transportation is in interstate, not intrastate, commerce and thus is subject to the ICC's regulatory jurisdiction. By decision, this Commission has determined that the petition presents a controversy sufficient to warrant the institution of a proceeding under 5 U.S.C. 554(e).

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 927-7428. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: July 14, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-17038 Filed 7-17-92; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 429X)]

CSX Transportation, Inc.—Abandonment Exemption—in Harrison County, WV

Applicant CSX Transportation, Inc., has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonment* to abandon its 6.5-mile rail line between milepost BSA-17.0, at Shinnston, and milepost BSA-19.0, at Haywood, including the Robinson Run Branch between milepost BSD-0.0 and milepost BSD-4.5, in Harrison County, WV.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period, and (4) that the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

This exemption will be effective on August 19, 1992, unless stayed or a formal expression of intent to file an offer of financial assistance (OFA) is filed. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/ rail banking requests under 49 CFR 1152.29 [3] must be filed by July 30, 1992. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 10, 1992, with Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, 500 Water Street J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEE will issue an environmental assessment

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[1] A stay will be issued routinely where an informed decision on environmental issues, whether raised by a party or by the Commission's Section of Energy and Environment (SEE), cannot be made before the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental grounds is encouraged to file promptly so that the Commission may act on the request before the effective date.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C. 2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

(EA) by July 24, 1992. Interested persons may obtain a copy of the EA by writing to SEE (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 9, 1992.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–17037 Filed 7–17–92; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

California State Standard; Approval

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

ACTION: Approval of standard: Hand fed food patty machines.

SUMMARY: This Notice approves the California standard for Hand Fed Food Patty Machines, submitted for approval on May 10, 1991. This standard is an independent State standard for which there is no Federal equivalent. Where a State standard adopted pursuant to an OSHA-approved State plan differs significantly from a comparable Federal standard or is a State-initiated standard, the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (the Act) requires that the State standard must be "at least as effective" in providing safe and healthful employment and places of employment. In addition, if the standard is applicable to a product distributed or used in interstate commerce, it must be required by compelling local conditions and not pose any undue burden on interstate commerce.

On April 20, 1992, OSHA published a **Federal Register** notice (57 FR 14435) requesting public comment on both the "at least as effective" criterion as well as the product clause test of section 18(c)(2) of the Act. This notice invited interested persons to submit by May 20, 1992, written comments and views regarding the California standard and whether it should be approved by the Acting Assistant Secretary. In response to this notice, OSHA did not receive any comments from the public.

EFFECTIVE DATE: July 20, 1992.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

A. Background

The requirements for adoption and enforcement of safety and health standards by a State with a State plan approved under section 18(b) of the Act, are set forth in section 18(c)(2) of the Act and in 29 CFR part 1902, 29 CFR 1952.7, and 29 CFR 1953.21, 1953.22 and 1953.23. OSHA regulations require that States respond to the adoption of new or revised permanent federal standards by State promulgation of comparable standards within six months of OSHA publication in the **Federal Register** (29 CFR 1953.23(a)); a 30-day response time is required for State adoption of a standard comparable to a Federal emergency temporary standard (20 CFR 1953.22(a)). Independent State standards also must be submitted for OSHA's review and approval. Newly adopted State standards or revisions to existing standards must be submitted for OSHA review and approval under procedures set forth in 29 CFR 1953, but are enforceable by the State prior to Federal review and approval. Section 18(c)(2) of the Act provides that if State standards which are not identical to Federal standards are applicable to products which are distributed or used in interstate commerce, such standards must be required by compelling local conditions and must not unduly burden interstate commerce. (This latter requirement is commonly referred to as the "product clause.")

On May 1, 1973, notice was published in the **Federal Register** (38 FR 10717) of the approval of the California State plan and the adoption of subpart K to part 1952 containing the decision. The California State plan provides for the adoption of State standards in the following manner.

The Cal/OSHA Standards Board, comprised of seven members representing management, labor, occupational safety, occupational health, and the general public, reviews new Federal standards, as well as proposed State-initiated standards presented by the California Division of Occupational Safety and Health, and those suggested by interested parties. The Standards Board appoints advisory committees with special expertise to develop a draft standard. Hearings are held to obtain input from the public. After a standard is adopted by the Standards Board, it is reviewed by the Office of Administrative Law and signed by the Secretary of State. The standard generally becomes effective 30 days after signing.

After the normal open period for public review and comment, the California Standards Board adopted a standard for Hand Fed Food Patty Machines on January 24, 1991. The standard became effective on March 23, 1991. By letter dated May 10, 1991, with attachments, from R.W. Stranberg, formerly Acting Chief Deputy Director, to Frank L. Strasheim, Regional Administrator, the State submitted the standard (8 CCR section 4554) and incorporated the standard as part of its occupational safety and health plan.

The State's standard addressed the inherent hazards in operating this type of machinery and initiates safety regulations for the guarding of hand fed food patty forming machines. OSHA does not have specific standards for hand fed food patty machines. Therefore, OSHA's Directorate of Safety Standards Programs compared this standard to OSHA's Instruction STD 1–12.9, General Requirements for All Machines, and concluded that the State's standard addresses those specific areas of point of operation guarding necessary to provide safe handing of hand fed food patty machines by employees.

B. Public Participation

A **Federal Register** notice requesting public comment on both the "at least as effective" criterion as well as the product clause test of section 18(c)(2) of the Act was published on April 20, 1992 (57 FR 14435). This notice invited interested persons to submit by May 20, 1992, written comments and views regarding the California standard on hand fed food patty machines and whether it should be approved by the Acting Assistant Secretary. In addition, comments were specifically sought on whether the standard is applicable to products which are distributed or used in interstate commerce; required by compelling local conditions; and, unduly burdens interstate commerce. In response to the April 20, 1992, **Federal Register** notice, OSHA did not receive any public comment on the standard.

C. Decision

Having reviewed the State submission and having received no objections to the approval of the standard, OSHA has determined that:

(1) The California standard is at least as effective as Federal OSHA's General Requirements for All Machines, and addresses those specific areas of point of operation guarding necessary to provide safe handling of hand fed food patty machines by employees. Thus, OSHA determines that the State standard meets the "at least as effective" criterion of section 18(c)(2) of the Act; and,

(2) The record on this standard includes no evidence, developed by or submitted to OSHA, that the standard is not in compliance with the product clause test of section 18(c)(2) of the Act; therefore, the standard is presumed to be in compliance with section 18(c)(2) of the Act.

OSHA, therefore, approves the California standard for hand fed food patty machines.

D. Location of Supplement for Inspection and Copying

A copy of the California standard applicable to hand fed food patty machines, along with approved State provisions for adoption of the standard, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor, 71 Stevenson Street, San Francisco, California 94105; California Department of Industrial Relations, California Division of Occupational Safety and Health (Cal/OSHA), 455 Golden Gate Avenue, 4th Floor, San Francisco, California 94102; Office of the Director, Federal-State Operations, OSHA, U.S. Department of Labor, room N-3700, 200 Constitution Avenue, NW., Washington, DC 20210.

This decision is effective July 20, 1992.

Authority: Sec. 18, 84 Stat. 1608 [29 U.S.C. 667]; 29 CFR Part 1902, Secretary of Labor's Order No.1 1-90 (55 FR 9633).

Signed the 15th day of July 1992, in Washington, DC.

Dorothy L. Strunk,

Acting Assistant Secretary.

[FR Doc. 92-16999 Filed 7-17-92; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities; Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506:

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on 202/786-0282.

SUPPLEMENTARY INFORMATION: The proposed meetings 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 discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated September 9, 1991, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of title 5, United States Code.

1. *Date:* August 3, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Classical, Medieval, and Renaissance Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

2. *Date:* August 3, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in European History, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

3. *Date:* August 4, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers and Fellowships for College Teachers and Independent Scholars applications in Music, Dance, History and Criticism, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

4. *Date:* August 4, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Anthropology, Archaeology, and Psychology, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

5. *Date:* August 5, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Romance Languages and Literatures, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

6. *Date:* August 6, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Art History, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

7. *Date:* August 6, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Philosophy, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

8. *Date:* August 7, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Fellowships for University Teachers applications in Anthropology; Sociology; Archaeology; and Psychology, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993

9. *Date:* August 7, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: The meeting will review Fellowships for College Teachers and Independent Scholars applications in American History I, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993

10. *Date:* August 10, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.

Program: This meeting will review Fellowships for University Teachers and Fellowships for College Teachers and Independent Scholars applications in African, Asian, and Latin American History submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993

11. *Date:* August 10, 1992.
Time: 9:30 a.m. to 4:00 p.m.
Room: 430.
Program: This meeting will review all applications to International Research, submitted to the Division of Research Program, for projects beginning after January, 1993.

12. *Date:* August 10, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review Fellowships for University Teachers applications in British Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January , 1993.

13. *Date:* August 11, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in American Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

14. *Date:* August 11, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Fellowships for University Teachers applications in Philosophy, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993

15. *Date:* August 17, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Fellowships for University Teachers applications in Rhetoric and Criticism; Communication; Theater and Film History, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993

16. *Date:* August 17, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Art History, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993

17. *Date:* August 18, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Fellowships for University Teachers applications in European History, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993

18. *Date:* August 18, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in British Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993

19. *Date:* August 19, 1992
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Fellowships for University Teachers applications in American History and Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993

20. *Date:* August 19, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in American History II, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

21. *Date:* August 20, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Political Science; Law and Jurisprudence, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

22. *Date:* August 20, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Rhetoric; Communication; Theater; Film, and American Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

23. *Date:* August 21, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Comparative Literature; Germanic; Slavic; Asian Languages and Literatures; and Linguistics, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

24. *Date:* August 21, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Religious Studies, submitted to the Division of Fellowships and Seminars, for projects beginning January, 1993.

25. *Date:* August 24, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Politics and Society, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

26. *Date:* August 25, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Languages and Literatures I, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

27. *Date:* August 25, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Languages and Literatures II, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

28. *Date:* August 26, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Classical, Medieval, and Renaissance Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

29. *Date:* August 26, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in American Literature and Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January, 1993.

30. *Date:* August 27, 1992.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Religious Studies submitted to the Division of

Fellowships and Seminars, for projects beginning after January, 1993.

David C. Fisher,

Advisory Committee Management Officer.

[FR Doc. 92–16947 Filed 7–17–92; 8:45 am]

BILLING CODE 7536–01–M

National Council on the Humanities; Meeting

July 13, 1992.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, DC on August 13–14, 1992.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out her functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on August 13–14, 1992, will not be open to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated September 9, 1991.

The agenda for the sessions on August 13, 1992, will be as follows:

8:30–9 a.m. Coffee for Council Members—room 526.
(Open to the Public)

Committee Meetings

(Open to the Public) Policy Discussion

9–10 a.m. Education Programs—room M–14.

Fellowship Programs—room 315.

Public Programs—room 415.

Research Programs/Preservation and Access—room 507.

State Programs and Office of Outreach—room M–07.

10 a.m. until Adjourned (Closed to the Public) Discussion of specific grant applications before the Council.

The morning session on August 14, 1992, will convene at 9 a.m., in the 1st Floor Council Room, M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:
(Coffee for Staff and Council members will be served from 8:30–9 a.m.)

Administration of Oath of Office for New Council Members, Minutes of the Previous Meeting, Reports

A. Introductory Remarks
B. Introduction of New Staff
C. Contracts Awarded in the Previous Quarter
D. Budget Report
E. Legislative Report
F. Committee Reports on Policy and General Matters Overview
1. Education Programs
2. Fellowships Programs
3. Public Programs
4. Research Programs
5. Preservation and Access
6. State Programs and Office of Outreach

The remainder of the proposed meeting will be given to the consideration of specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. David C. Fisher, Advisory Committee Management Officer, Washington, DC 20506, or call area code (202) 786–0322, TDD (202) 786–0282. Advance notice of any special needs or accommodations is appreciated.

David C. Fisher,

Advisory Committee Management Officer.

[FR Doc. 92–16946 Filed 7–17–92; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 45th meeting on Wednesday and Thursday, July 29–30, 1992, 8:30 a.m. until 6 p.m., in room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to protect information provided in confidence by a foreign source (5 U.S.C. 552b(c)(4)).

The agenda for the subject meeting shall be as follows:

A. Meet with representatives of the U.K. Radioactive Waste Management Advisory Committee to discuss items of mutual interest.

B. Review and comment on an NRC staff technical position on repository design for thermal loads.

C. Discuss a supplemental request for additional information on a systems analysis approach to reviewing the overall high-level waste program.

D. Discuss with a representative of the Institute of Scrap Recycling Industries radioactive contamination found in metal scrap, recent actions, and recommendations.

E. Continue preparation of a report on the pace of progress in site characterization activities associated with the proposed high-level waste repository.

F. Hear a briefing by the NRC staff on the recent Supreme Court decision regarding the Low-Level Waste Policy Amendments Act (tentative).

G. Hear a report on the activities of the NRC's Federal Liaison (tentative).

H. Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492–4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492–4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: July 14, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92–17023 Filed 7–17–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–220]

Niagara Mohawk Power Corp.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Niagara Mohawk Power Corporation (the licensee) to withdraw its March 31, 1992, as supplemented May 13, 1992, application for proposed amendment to Facility Operating License No. DPR–63 for the Nine Mile Point Nuclear Station Unit No. 1, located in Oswego County, New York.

The proposed amendment would have revised Technical Specifications 3.1.1b(1) and 4.1.1b(1) to allow operation with control rod 22–31 potentially uncoupled for the remainder of cycle 10, which is currently scheduled to end in January 1993.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Determination, and Opportunity for Hearing published in the Federal Register on April 15, 1992, (57 FR 13149). However, by letter dated July 7, 1992, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated March 31, 1992, as supplemented May 13, 1992, and the licensee's letter dated July 7, 1992, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the State University of New York, Penfield, Library, Reference and Documents Department, Oswego, New York.

Dated at Rockville, Maryland, this 13th day of July 1992.

For the Nuclear Regulatory Commission.

Donald S. Brinkman,

Senior Project Manager, Project Directorate I–I, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–17029 Filed 7–17–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power and Light Co., Allegheny Electric Cooperative, Inc.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Pennsylvania Power and Light Company (the licensees) to withdraw its January 26, 1990 application for proposed amendment to Facility Operating License Nos. NPF–14 and NPF–22 for Susquehanna Steam Electric Station, Units 1 and 2, located in Luzerne County, Pennsylvania.

The proposed amendment would have revised the plant technical specifications to delete the isolation functions of the differential temperature leak detection systems for reactor coolant piping outside the containment.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the Federal Register on February 21, 1990 (55 FR 6114). However, by letter dated June 30, 1992, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated January 26, 1990, and the licensee's letter dated June 30, 1992, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Rockville, Maryland this 14th day of July 1992.

For the Nuclear Regulatory Commission.

George F. Maxwell,

Acting Project Manager, Project Directorate I–2 Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–17028 Filed 7–17–92; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Sherry Turpenoff, (202) 606–0950.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on June 16, 1992 (56 FR 26879). Individual authorities established or revoked under Schedules A and B and established under Schedule C between May 1 and May 31, 1992, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30, 1992.

Schedule A

The following exception was established:

Department of the Air Force

One position of Commander, Air National Guard Readiness Center, GM–301–15, located at Andrews Air Force Base, Maryland. Effective May 12, 1992.

Schedule B

No Schedule B authorities were established or revoked during May.

Schedule C

Department of Agriculture

One Confidential Assistant to the Administrator, Foreign Agricultural Service. Effective May 4, 1992.

One Executive Assistant to the Administrator, Farmers Home Administration. Effective May 22, 1992.

Commission on Civil Rights

One Special Assistant to a Commissioner. Effective May 19, 1992.

Department of Commerce

One Special Assistant to the Assistant Secretary for Import Administration, International Trade Commission. Effective May 4, 1992.

Consumer Product Safety Commission

One Staff Assistant to a Commissioner. Effective May 15, 1992.

One Secretary (Office Automation) to the Chairman. Effective May 15, 1992.

Department of Defense

One Staff Assistant to the Under Secretary of the Army. Effective May 8, 1992.

One Special Assistant to the Assistant Secretary of Defense (Special Operations/Low Intensity Conflict). Effective May 11, 1992.

Department of Education

Two Confidential Assistants to the Director, Scheduling and Briefing Staff. Effective May 4, 1992.

One Special Assistant to the Assistant Secretary, Office of Human Resources and Administration. Effective May 8, 1992.

One Special Assistant to the Assistant Secretary, Office of Policy and Planning. Effective May 8, 1992.

One Confidential Assistant to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs. Effective May 11, 1992.

Department of Energy

One Special Assistant to the Assistant Secretary, Office of Domestic and International Energy Policy. Effective May 4, 1992.

One Staff Assistant to the Principal Deputy Assistant Secretary, Office of Domestic and International Energy Policy. Effective May 4, 1992.

One Public Affairs Coordinator to the Director, Office of Policy and Program Information, Office of Environmental Restoration and Waste Management. Effective May 6, 1992.

One Staff Assistant to the Director of Scheduling and Logistics. Effective May 11, 1992.

Equal Employment Opportunity Commission

One Confidential Assistant to the Director, Office of Communications and Legislative Affairs. Effective May 29, 1992.

Environmental Protection Agency

One Director, Executive Secretariat, to the Chief of Staff. Effective May 12, 1992.

One Staff Assistant to the Associate Assistant Administrator for Administration and Resources Management. Effective May 19, 1992.

One Staff Assistant to the Director, Public Liaison Division, Office of Communications, Education and Public Affairs. Effective May 29, 1992.

Federal Emergency Management Agency

One Executive Assistant to the Director. Effective May 12, 1992.

Federal Labor Relations Authority

One Staff Assistant to the General Counsel. Effective May 29, 1992.

Department of Health and Human Services

One Speechwriter to the Director of Speechwriting, Public Affairs. Effective May 8, 1992.

One Deputy to the Director, Office of Community Services, Administration for Children and Families. Effective May 11, 1992.

One Special Assistant to the Chief of Staff, Office of the Secretary. Effective May 22, 1992.

Department of Housing and Urban Development

One Special Assistant to the Deputy Assistant Secretary for Single Family Housing. Effective May 27, 1992.

Department of the Interior

One Special Assistant (Communications and Outreach) to the Director, Minerals Management Service. Effective May 1, 1992.

One Special Assistant to the Assistant Director—External Affairs, U.S. Fish and Wildlife Service. Effective May 18, 1992.

International Trade Commission

One Staff Assistant (Legal) to the Commissioner. Effective May 22, 1992.

Department of Labor

One Deputy Legislative Officer to the Deputy Assistant Secretary for Congressional and Intergovernmental Affairs. Effective May 1, 1992.

One Staff Assistant to the Assistant Secretary, Mine Safety and Health Administration. Effective May 4, 1992.

One Secretary's Representative (Chicago, IL) to the Assistant Secretary, Office of Congressional and Intergovernmental Affairs. Effective May 11, 1992.

One Secretary's Representative to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective May 22, 1992.

One Staff Assistant to the Assistant Secretary for Policy. Effective May 29, 1992.

One Staff Assistant to the Secretary of Labor. Effective May 29, 1992.

National Aeronautics and Space Administration

One Writer-Editor to the Administrator. Effective May 8, 1992.

One Administrative Assistant to the Administrator. Effective May 22, 1992.

Office of National Drug Control Policy

One Confidential Assistant to the Deputy Director, Supply Reduction. Effective May 4, 1992.

One Research Assistant to the Executive Director, National Commission on Measured Responses to Achieve a Drug Free America by 1995. Effective May 18, 1992.

One Executive Assistant to the Executive Director, National Commission on Measured Responses to Achieve a Drug Free America by 1995. Effective May 18, 1992.

Office of Personnel Management

One Deputy to the Director, Office of Congressional Relations. Effective May 22, 1992.

Office of Science and Technology Policy

One Assistant to the Director for External Affairs. Effective May 22, 1992.

Department of State

One Chief, Public Information Division, Supervisory Public Affairs Specialist to the Director, Office of Public Liaison, Bureau of Public Affairs. Effective May 11, 1992.

One Protocol Officer (Visits) to the Foreign Affairs Officer, Office of the Chief of Protocol. Effective May 11, 1992.

One Special Programs Assistant to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs. Effective May 18, 1992.

One Legislative Office to the Director of Congressional Relations, Bureau of Management. Effective May 11, 1992.

Department of the Treasury

One Special Assistant to the Deputy Assistant Secretary (Public Affairs). Effective May 1, 1992.

One Special Assistant (Project Coordination) to the Assistant Secretary (Management). Effective May 4, 1992.

One Staff Assistant to the Deputy Assistant Secretary (Public Affairs). Effective May 4, 1992.

One Director, Office of Corporate Finance, to the Deputy Assistant Secretary (Corporate Finance). Effective May 4, 1992.

United States Information Agency

One Public Affairs Specialist to the Associate Director for Broadcasting, Director of the Bureau of Broadcasting. Effective May 29, 1992.

United States Trade Representative

One Executive Secretary to the United States Trade Representative. Effective May 22, 1992.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

Office of Personnel Management.

Douglas A. Brook,

Acting Director.

[FR Doc. 92–16930 Filed 7–17–92; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30919; International Series Release No. 418; File No. SR-OCC-92-16]

Self-Regulatory Organization; The Options Clearing Corp.; Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to End-of-Month Foreign Currency Options and End-of-Month Cross-Rate Foreign Currency Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on June 26, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR-OCC-92-16) as described in items I, II, and III below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice and order to solicit comments from interested persons and to grant approval of the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

OCC hereby proposes to amend article XV, section 1(h) and article XX, section 1(i) of its by-laws to provide that the expiration date for certain "end-of-month" foreign currency options and "end-of-month" cross-rate foreign currency options is the Saturday following the last Friday of the expiration month.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at three places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed change to article XV, section 1(h) and article XX, section 1(i) of OCC's By-laws is to accommodate the proposed plan of the Philadelphia Stock Exchange ("PHLX") to provide for the listing of short term foreign currency options that will expire on the Saturday following the last Friday of each month ("end-of-month options").[2] The PHLX's proposed rule change will affect both foreign currency options and cross-rate foreign currency options. Therefore, it is necessary for OCC to amend the definition of "expiration date" with respect to foreign currency options (article XV, section 1(h) of OCC's By-laws) and cross-rate foreign currency options (article XX, section 1(i) of OCC's By-laws) to include a separate expiration date for end-of-month foreign currency options and for end-of-month cross-rate foreign currency options.

End-of-month foreign currency options and end-of-month foreign cross-rate options would be cleared through OCC's International Clearing System as are all other currency options. For purposes of calculating margin, both types of end-of-month options will be added to the existing margin class and product groups. When exercise settlement dates coincide, a Clearing Member's exercises and assignments relating to end-of-month foreign currency options will be netted for purposes of settlement with the Clearing Member's exercises and assignments relating to other dollar-denominated foreign currency options in exactly the same way that exercise and assignment activity in foreign currency options is presently netted. However, because cross-rate foreign currency options are all European style options, exercise settlement dates of end-of-month cross-rate foreign currency options will never coincide with exercise settlement dates of other cross-rate foreign currency options, and therefore, no such netting will occur.

The proposed rule change is consistent with section 17A of the Act because it applies the same systems, procedures, and safeguards to the clearance and settlement of end-of-month foreign currency options and end-of-month cross-rate foreign currency options that are presently used successfully by OCC with all currency options. The rule change will therefore facilitate the prompt and accurate clearance and settlement of such options.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission believes OCC's proposal to amend the definition of "expiration date" with respect to foreign currency options and cross-rate foreign currency options is consistent with the Act and particularly with section 17A of the Act.[3] Section 17A(b)(3)(F) of the Act [4] requires that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. The Commission believes OCC's proposal to amend the definition of expiration date is consistent with that requirement because it will enable OCC to clear short term foreign currency options traded on the PHLX.

OCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in the **Federal Register**. Because the Commission has published notice and is prepared to approve the PHLX's proposed rule change relating to end-of-month foreign currency options and end-of-month cross-rate foreign currency options, accelerated approval will permit the trading and clearing of these products to begin sooner and, thereby, will more quickly remove impediments to and help to perfect the mechanism of the national system for the clearance and settlement of securities transactions as required by section 17A of the Act. The Commission, therefore, finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing.

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 30669, International Series Release No. 380 (May 6, 1992), 57 FR 20313.

[3] 15 U.S.C. 78q-1 (1988).

[4] 15 U.S.C. 78q-1(b)(3)(F) (1988).

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–OCC–92–16 and should be submitted by August 10, 1992.

V. Conclusion

On the basis of the foregoing, the Commission finds that OCC's proposed rule change is consistent with the Act and, in particular, with Section 17A of the Act.

It is therefore ordered, under section 19(b)(2) of the Act, that the proposal (File No. SR–OCC–92–16) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–16954 Filed 7–17–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30918; International Series Release No. 419; File No. SR–OCC–92–17]

Self-Regulatory Organization; The Options Clearing Corporation; Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Cross-Rate Foreign Currency Option's Unit of Trading, Commencement Time, Exercise Settlement, and OCC's Right To Reject Cross-Rate Foreign Currency Transactions for Non-Payment of Premium

July 13, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on June 26, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR–OCC–92–17) as described in Items I, II, and III below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice and order to solicit comments from interested persons and to grant approval of the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

OCC hereby proposes to make the following changes to its By-laws and Rules: (i) Amend article XX, section 4(b) of its By-laws to correspond with the proposed rule change of the Philadelphia Stock Exchange ("PHLX") to reduce the contract size of cross-rate foreign currency options listed on the PHLX;[2] (ii) amend article I, section 1 C(11) and article VI, sections (5) and (8)(b) of its By-laws in order to fully effectuate OCC's right to reject unaccepted Exchange transactions in cross-rate foreign currency options when the purchasing Clearing Member fails to pay the premium therefor; and (iii) amend chapter XXI, rule 2106(b) of its Rules to provide OCC with sufficient time to confirm that a Clearing Member has fulfilled its exercise settlement obligation to OCC in respect of cross-rate foreign currency options before OCC fulfills its reciprocal settlement obligations to the Clearing Member.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Reduction of Contract Size of Cross-Rate Foreign Currency Options

The purpose of the proposed rule change to article XX, section 4(b) of OCC's By-laws is to allow OCC to adjust the unit of trading of cross-rate foreign currency options to correspond with the proposed plan of the PHLX to reduce the contract size of cross-rate foreign currency options listed on the PHLX. Because the PHLX's proposed reduction in the contract size (unit of trading) will apply to outstanding cross-rate foreign currency option contracts, it is necessary to amend article XX, section 4(b) of OCC's By-laws to authorize OCC to make the necessary adjustments in all cross-rate foreign currency option contracts outstanding at the time of the change. The language of the proposed article XX, section 4(b) is patterned in part after existing language regarding adjustments to index option contracts in article XVII, section 3(c) of OCC's By-laws.

2. Delayed Commencement Time

The purpose of the proposed amendments to article I, section 1 C(11) and article VI, sections 5 and 8(b) of OCC's By-laws is to fully effectuate OCC's right, set forth in article XX, section 5 of OCC's By-laws, to reject unaccepted Exchange transactions in cross-rate foreign currency options in the event that OCC fails to receive payment of certain premiums at or before the settlement time. At the time OCC filed its Rules and By-laws governing cross-rate foreign currency options, it reserved the right to reject certain Exchange transactions in cross-rate foreign currency options for nonpayment of premiums.[3] In order to insure that OCC is able to receive the full benefit of that provision, it is necessary to provide for a delayed commencement time so that OCC will always be able to determine whether it has received payment at or before the settlement time of all premiums denominated in the same trading currency due to OCC from the Purchasing Clearing Member in the account in which the Exchange transaction was effected. The proposed definition would state that the commencement time for cross-rate foreign currency options is three hours after the settlement time for the Exchange transaction in which the option was purchased. This is the same definition of commencement time applicable to index Participations and Market Baskets as set forth in article I, section 1 C(11) of OCC's By-laws.

The proposed amendment to article VI, section 8(b) of OCC's By-laws is necessary to conform that provision to

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] File No. SR–PHLX–92–14.

[3] Securities Exchange Act Release No. 29920, International Series Release No. 340 (Nov. 7, 1991), 56 FR 58105 (File No. SR–OCC–91–04).

reflect OCC's right to reject Exchange transactions in cross-rate foreign currency options. Article VI, section 5 of OCC's By-laws is proposed to be amended to make an additional conforming reference to article XX, section 5 of OCC's By-laws in order to provide that, as with Index Participations and Market Baskets transactions, a cross-rate currency option transaction may be rejected before the applicable commencement time when OCC would otherwise be deemed to have accepted the transaction.

3. Amended Exercise Settlement Provisions

The purpose of the proposed change in chapter XXI, rule 2106(b) is to provide OCC with sufficient time on the exercise settlement date of cross-rate foreign currency options to verify that a Clearing Member has fulfilled its obligation to OCC either to deliver the underlying foreign currency, in the case of a Delivering Clearing Member, or to pay the aggregate exercise price, in the case of a Receiving Clearing Member, before OCC fulfills its reciprocal performance obligations. OCC has determined that the current provisions in chapter XXI, rule 2106(b) of its Rules are too narrow because even when the settlement time for the currency due to OCC is prior to the settlement time for the currency that OCC is required to pay, it may not be sufficiently prior to that time to allow OCC to confirm its receipt from the Clearing Member of the countercurrency and, if necessary, to give instructions to the applicable bank to stop performance on OCC's payment obligation. OCC anticipates that it will invoke the amended provision to require, in the case of options on British pounds that are denominated in German marks, that Clearing Members required to pay marks or deliver pounds to OCC must do so on the foreign business day preceding the exercise settlement date.

The proposed rule change is consistent with Section 17A of the Act because it will facilitate the prompt and accurate clearance and settlement of cross-rate foreign currency options. Also, the additional confirmation time provided by the amended commencement time definition, the clarification of OCC's right to reject transactions for nonpayment of premiums, and the amended exercise settlement provisions applicable to cross-rate foreign currency options will allow OCC to better protect itself in the event of a Clearing Member default and will, thereby, promote the safeguarding of investors' securities and funds.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission believes OCC's proposal to amend its By-laws and Rules to: (i) Correspond with the proposed rule change by the PHLX to reduce the contract size of cross-rate foreign currency options listed on the PHLX; (ii) fully effectuate OCC's right to reject unaccepted Exchange transactions in cross-rate foreign currency options when the purchasing Clearing Member fails to pay the premium therefor; and (iii) provide OCC with sufficient time to confirm that a Clearing Member has fulfilled its exercise settlement obligations to OCC in respect of cross-rate foreign currency options before OCC fulfills its reciprocal settlement obligations to the Clearing Member is consistent with the Act and particularly with section 17A of the Act.[4] Section 17A(b)(3)(F) of the Act [5] requires that the rules of a clearing agency be designed to assure the safeguarding of the securities and funds in its custody or control or for which it is responsible. The Commission believes OCC's proposal enhances OCC's ability to protect itself in the event of a Clearing Member default and, thereby, promotes the safeguarding of investors' securities and funds which are in OCC's custody or control or for which OCC is responsible.

OCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in the **Federal Register**. Because the Commission is prepared to approve the PHLX's proposed rule change relating to reduction of the contract size of cross-rate foreign currency options, accelerated approval will permit the PHLX to carry out its proposal to make the contract size for cross-rate foreign currency options the same as that for other foreign currency options. Furthermore, accelerated approval will allow OCC to immediately put in place the above described amendments to its By-laws and Rules and, thereby, to more quickly promote the safeguarding of investors' securities and funds which are in OCC's custody or control or for which OCC is responsible. Therefore, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–OCC–92–17 and should be submitted by August 10, 1992.

V. Conclusion

On the basis of the foregoing, the Commission finds that OCC's proposed rule change is consistent with the Act and, in particular, with section 17A of the Act.

It is therefore ordered, under section 19(b)(2) of the Act, that the proposal (File No. SR–OCC–92–17) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–16955 Filed 7–17–92; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 781–1 (1988).

[5] 15 U.S.C. 781–1(b)(3)(F) (1988).

[Rel. No. IC-18842; 811-6503]

The Argentina Growth Fund, Inc.; Application

July 10, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Argentina Growth Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on June 18, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 4, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 272-3023, or Barry D. Miller, Senior Special Counsel, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a closed-end non-diversified management investment company incorporated under the laws of the State of Maryland. On December 13, 1991, Applicant filed a Notification of Registration pursuant to section 8(a) of the Act on Form N-8A. Applicant did not file a registration statement pursuant to section 8(b) of the Act.

2. Applicant has never made a public offering of its securities.

3. Applicant has no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding.

4. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-17009 Filed 7-17-92; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Application To Withdraw From Listing and Registration; (Lancit Media Productions, Ltd., Common Stock, $0.001 Par Value; Warrants) File No. 1-10781

July 14, 1992.

Lancit Media Productions Ltd. ("Company") has filed an application with the Securities and Exchange Commission, ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified securities from listing and registration on the Boston Stock Exchange, Inc. ("BSE" or "Exchange").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

According to the Company, it is requesting the delisting from the BSE due to the lack of activity of the issuer's securities on the BSE since such securities were listed, and the limited market exposure the issuer's securities have on the BSE.

Any interested person may, on or before August 4, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-16958 Filed 7-17-92; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Application To Withdraw From Listing and Registration; (Craftmade International, Inc., Common Stock, $0.01 Par Value) File No. 1-10471

July 14, 1992.

Craftmade International, Inc. ("Company") has filed an application with the Securities and Exchange Commission, ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE" or "Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, it is requesting the delisting of its Common Stock from the BSE because it is contemplating inclusion of its Common Stock in the National Market System of the National Association of Securities Dealers Automated Quotation System at or around the end of the Company's fiscal year which concludes June 30, 1992.

Any interested person may, on or before August 4, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-16957 Filed 7-17-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25579; International Series Release No. 417]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

July 10, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 3, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es). specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New England Electric System, et al. (70-8007)

New England Electric System ("NEES"), registered holding company, and its wholly owned utility subsidiaries, Granite State Electric Company ("Granite State"), Massachusetts Electric Company ("Mass Electric") and the Narragansett Electric Company ("Narragansett"), all located at 25 Research Drive, Westborough, Massachusetts 01582, have filed an application-declaration under section 6(a), 7, 9(a), 10, and 12(c) of the Act and Rules 42, and 50(a)(5) thereunder.

Applicants request authorization, through August 1, 2002, for Granite State, Mass Electric and Narragansett (collectively, "Subsidiaries") to purchase, on the open market, from time to time through August 1, 2002, shares of NEES common stock and to pay the shares to their respective outside directors ("Directors"). The shares will be in addition to retainers and fees already paid to the Directors for their board service and will constitute further compensation for such service. Shares will be purchased by each Subsidiary with the Subsidiary's treasury funds at such time and in such amounts as to enable the Subsidiary to pay its Director for each current year. Subsidiaries will not purchase excess shares and hold them for future payment to their Directors. Initially, compensation for service on each board will include 50 NEES common shares to be paid to each Director service on the board on August 1 of each year. The number of shares paid to each Director may change from time to time and need not be the same for each Subsidiary. The total number of shares purchased by the Subsidiaries as a group, through August 1, 2002, will not exceed, in the aggregate, 20,000 shares, which represents, as of June 30, 1992, approximately 0.03% of the total of all outstanding NEES common shares. Based on a New York Stock Exchange closing price of $32.75 per shares as of June 30, 1992, the estimated maximum cost of purchasing 20,000 shares is $655,000.

Entergy Corp., et al. (70-8010)

Entergy Corporation ("Entergy"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered public-utility holding company, Electec, Inc. ("Electec"), 639 Loyola Avenue, New Orleans, Louisiana 70113, Entergy's wholly owned nonutility subsidiary company, and Entergy Power, Inc. ("EPI"), 425 West Capitol Avenue, Little Rock, Arkansas 72201, Entergy's public-utility subsidiary company ("Applicants"), have filed an application-declaration under sections 2(a)(8), 3(a)(5), 3(b), (6)(a), 7, 9(a), 10, 12(b), 13(b) and 13(f) of the Act and Rules 10, 43, 45, 51, 83, 86, 87, 90, 91 and 95 thereunder.

Applicants seek authority, among other things, to invest up to $50 million in one of two newly formed Argentine electric-utility companies that own and operate transmission and distribution systems in the City of Buenos Aires and the surrounding area ("Distribution Company"). Entergy has acquired an option (the "Option") to participate in a consortium ("Consortium") with five other nonaffiliated entities [1] to acquire from the government of Argentina, pursuant to public competitive bidding, a 51% interest in Distribution Company. The remaining 49% of the shares of Distribution Company will be held by the Argentine government, with 10% to be transferred to employees of Distribution Company, and the remainder to be sold in Argentina and internationally pursuant to public offerings. A Chilean member of the Consortium, Distribuidora Chilectra Metropolitana, S.A., will operate Distribution Company.

If the bid made by the Consortium is successful, the members of the Consortium intend to form Investor Company to acquire a 51% ownership interest in Distribution Company. Entergy Argentina S.A. ("Entergy Argentina"), a new, to-be-acquired, wholly owned Argentine subsidiary company of Electec, proposes to acquire up to 15% of Investor Company and will have the right to elect one of its directors and perhaps one member out of eight members of the board of directors of Distribution Company.[2] The Consortium members' principal rights, with respect to Distribution Company, are to have no more than two voting members out of three on the Comptrolling Committee of Distribution Company,[3] and to have five voting members out of eight voting members on the board of directors of Distribution Company.[4] Entergy seeks authority to exercise its Option prior to January 27, 1993, and thus to acquire indirectly up to a 7.7% voting interest in Distribution Company.

Although the actual amount of Entergy's indirect investment will not be determined until a formal bid is made, the application states that Entergy's share of the costs and contingent liabilities in connection with the acquisition and ownership of its indirect interest in Distribution Company over approximately the next three years is not expected to exceed $50 million. To finance its investment, Entergy proposes to acquire up to 50,000 shares of the common stock of Electec for $1,000 per share. Electec, in turn, proposes to

[1] The other Consortium members are three Chilean companies, three Argentine companies and a United States utility company. The Chilean companies are Empresa Nacional de Electricidad, S.A. (10%), Enersis, S.A. and Distribuidora Chilectra Metropolitana, S.A. (collectively 37.5%); the Argentine companies are Banco Frances (10%), Perez Companc, S.A.C.F.I.M.A. and Sade, S.A.C.C.I.F.I.M. (collectively 37.5%); and, the United States company is PSI Resources, Inc. (5% with an option to acquire an additional 5%).

[2] A change in ownerships structure may be required under the Act.

[3] The Comptrolling Committee ("Comision Fiscalizadora") in Argentine corporations represents the shareholders before the board of directors.

[4] The shares of Distribution Company not acquired by the Consortium (49%), also will be represented on the board. Distribution Company employees will be entitled to one voting member and two voting members are designated for the future public shareholders. Each member of the Distribution Company board will have one vote.

acquire the common stock of Entergy Argentina.[5]

Entergy's principal obligations will be the following: (1) to pay its percentage share of the Consortium's common expenses in connection with the submission of the bid to acquire Distribution Company (not to exceed $150,000); (2) to pay its share of the purchase price to the appropriate members of the Consortium,[6] to make the required working capital contributions and to assume certain contingent liabilities of Distribution Company;[7] and (3) not to assign or dispose of its equity share in Distribution Company for a period extending five years after the date of the transfer of the shares of Distribution Company by the Argentine government unless otherwise agreed by, among others, the government of Argentina.

In addition, Electec proposes to provide technical advisory services to Distribution Company with respect to operation, maintenance, strategic planning, customer service, marketing, information systems and others matters. Any such services will be provided on a competitive basis that neither favors nor discriminates against affiliates of Distribution Company. Electec expects that on an annual basis the provision of such services may range up to a maximum of $1 million, with the average likely to be $750,000 annually. It is anticipated that the consulting services will involve no more than ten staff employees, working on a task basis, requiring no Entergy system employees to reside in Argentina. It is estimated that such advisory work would not exceed five employee-years annually from Entergy system personnel.

Applicants request that any consulting arrangement between Electec and Distribution Company be exempt from section 13 and the rules promulgated thereunder.[8]

Electec may obtain services from its associate companies, Arkansas Power & Light Company ("AP&L"), Louisiana Power & Light Company ("LP&L"), Mississippi Power and Light Company ("MP&L"), New Orleans Public Service Inc. ("NOPSI"), EPI and Entergy Services, Inc. ("ESI") to carry out its advisory arrangements with Distribution Company. Electec will reimburse its associate companes at cost. Electec has been previously authorized to obtain services from AP&L, LP&L, MP&L, NOPSI and ESI (HCAR No. 23200, January 12, 1984). Applicants also request authorization for Electec to obtain services from EPI directly and for Electec to reimburse EPI at cost.

Applicants request an order under section 3(b) exempting Entergy Argentina, Investor Company and Distribution Company, as subsidiary companies, from the provisions of the Act, and under section 3(a)(5), exempting Electec, Entergy Argentina and Investor Company as holding companies, from the provisions of the Act.

Applicants state that none of Entergy Argentina, Investor Company or Distribution Company will derive a material part of their income, directly or indirectly, from sources within the United States, and will not operate, or have any subsidiary company that operates, as a public-utility company in the United States. In addition, Applicants state that none of Electec, Entergy Argentina and Investor Company are, nor will they derive a material part of their income from, subsidiary companies which are companies the principal business of which within the United States is that of a public-utility company.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-17010 Filed 7-17-92; 8:45 am]

BILLING CODE 8010-01-M

[5] Under Argentine law, a corporation must have a minimum of two shareholders. As a result, although Electec will own virtually all of the common stock of Entergy Argentina, one share is expected to be held by a nominee of Electec.

[6] The bidding documents issued by the government of Argentina require that a portion of the purchase price be paid by bidders purchasing for cash in the open market and presenting as part of the tender price Argentine public debt securities. Entergy requests authorization, if appropriate, indirectly through the Investor Company to acquire such Argentine public debt securities.

[7] The principal contingent liabilities include the assumption by the Investor Company in the event of a default by either Edenor and Edesur of certain short-term debt of Edenor or Edesur. At the time of transfer to the winning bidders, Edenor and Edesur will have short-term debt of approximately $95 million and $136 million, respectively, payable not later than December 1, 1992. Any obligations flowing from such contingent liabilities are included within Entergy's request for authorization to invest indirectly up to $50 million in the Investor Co.

[8] Applicants make no representation that the consulting services to be provided to Distribution Company will be provided at greater than or less then cost.

DEPARTMENT OF STATE

[Public Notice 1649]

United States Organization for the International Telegraph & Telephone Consultative Committee (CCITT); Study Group B Meeting

The Department of State announces that Study Group B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Wednesday, August 26, 1992 and Wednesday, December 9, 1992 in room 1912 from 9:30 a.m. to 5 p.m., Department of State: 2201 C Street NW, Washington, DC 20520.

The purpose of the meetings will be to prepare for the Interegnum Working Group meetings of CCITT working parties of Study Group XI, in September/October '92 and of Study Group XVIII Working Parties in January, 1993. The Agenda of the August meeting will review the results of the June, 1992 final meeting of Study Group XVIII. Both meetings will consider contributions to either working party meeting, consider nominees for U.S. Delegations to working party meetings, review proposed structure and questions proposed for Study Group XI and XVIII during the 1993–1996 Plenary Period, and consider any other business raised within the terms of reference of U.S. Study Group B.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Persons who plan to attend should so advise the Office of Gary Fereno, Department of State, (202) 647–0201, FAX (202) 647–7407. The above includes government and non-government attendees. Public visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a photo ID with them to the meeting in order to be admitted. All attendees must use the C Street entrance.

Dated: July 2, 1992.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.

[FR Doc. 92-16938 Filed 7-17-92; 8:45 am]

BILLING CODE 4710-45-M

[Public Notice 1660]

United States Organization for the International Telegraph and Telephone Consultative Committee (CCITT) Study Group D Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) and the Message Handling Service—Management Domain (MHS–MD) Ad Hoc Group will meet on August 3–5, 1992, at the American National Standards Institute, 11 West 42nd Street, N.Y.C. from 9 a.m. to 5 p.m. Those expecting to attend this meeting should notify Beth Sommerville at (202) 642–4796. The Group will also meet on September 30, October 1–2, 1992 at the U.S. Department of State: Room 6320 from 8:30 a.m. to 5 p.m.

The agenda of these meetings will be to review documentation on Registration Requirements and Procedures, continued work on drafting and behavioral document for registered U.S. management domains, and to consider any other business within the scope of U.S. Study Group D.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Persons who plan to attend should so advise the Office of Gary Fereno, Department of State, (202) 647–0201, FAX (202) 647–7407. The above includes government and non-government attendees. Public visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a photo ID with them to the meeting in order to be admitted. All attendees must use the C Street entrance.

Dated: July 7, 1992.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.

[FR Doc. 92–16939 Filed 7–17–92; 8:45 am]

BILLING CODE 4710–45–M

Office of the Secretary

[Public Notice 1661]

Delegations of Authority 193–3; Amendment of Delegations of Authority to the Under Secretary for Management

By virtue of the authority vested in me as Secretary of State, including the authority of section 4 of the Act of May 26, 1949 (22 U.S.C. 2658), I hereby order that:

Delegation of Authority 193, dated January 7, 1992, as amended, is hereby amended by adding a new section 4e. under "Functions Delegated to the Under Secretary for Management" to read as follows:

"e. The functions of the President under sections 102(a)(3) and 162 (b) and (d) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138), delegated to the Secretary of State by Memorandum of February 10, 1992. In keeping with that memorandum, the functions delegated by this subparagraph shall be exercised in coordination with the Director of the Office of Management and Budget and the Assistant to the President for National Security Affairs."

Dated: June 25, 1992.

James A. Baker, III,

Secretary of State.

[FR Doc. 92–16940 Filed 7–17–92; 8:45 am]

BILLING CODE 4710–10–M

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

National Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., announcement is hereby published for a meeting of the National Advisory Board. The meeting is open to the public. Please note that elsewhere in ths issue of the **Federal Register** is a meeting notice for the National Housing Advisory Board, which will meet in the afternoon following the National Advisory Board meeting.

DATES: The meeting is scheduled for Monday, August 3, from 9 a.m. to 12 noon.

ADDRESSES: The meeting will be held at the Federal Deposit Insurance Corporation, Board Room 6010, 550 17th Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 1777 F Street NW., Washington, DC 20232, 202/786–9675.

SUPPLEMENTARY INFORMATION: Pursuant to section 21A(d) of the Federal Home Loan Bank Act, the Thrift Depositor Protection Oversight Board had established a National Advisory Board and six Regional Advisory Boards to advise the Oversight Board and the RTC on the desposition of real property assets of the Corporation.

Agenda: A detailed agenda will be available at the meeting. The meeting will include briefings from the chairpersons of the six Regional Advisory Boards on their respective meetings held throughout the country between July 15 and 31, 1992. Discussions will focus on the meeting series agenda topics which includes a review of RTC's disposition strategies for hard-to-sell assets and the extent and geographic distribution of RTC real estate owned in relation to the real estate markets in which it participates.

Statements: Interested persons may submit, in writing, data, information or views on the issues pending before the National Advisory Board prior to or at the meeting. Seating is available on a first come first served basis for this open meeting.

Dated: July 15, 1992.

Jill Nevius,

Committee Management Officer.

[FR Doc. 92–17055 Filed 7–17–92; 8:45 am]

BILLING CODE 2222–01–M

National Housing Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act 5 U.S.C. app., announcement is hereby published for the meeting National Housing Advisory Board. The meeting is open to the public. Please note that elsewhere in this issue of the **Federal Register** is a meeting notice for the National Advisory Board, which will meet in the morning prior to the National Housing Advisory Board meeting.

DATES: The meeting is scheduled for Monday, August 3, from 1 to 3 p.m.

ADDRESSES: The meeting will be held at the Federal Deposit Insurance Corporation, Board Room 6010, 550 17th Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 1777 F Street NW., Washington, DC 20232, 202/786–9675.

SUPPLEMENTARY INFORMATION: In accordance with section 21A(d)(2) of the Federal Home Loan Bank Act, as amended by the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991, the Thrift Depositor Protection Oversight Board has established a National Housing Advisory Board to advise the Oversight Board on policies and programs related to the provision of affordable housing. The National Housing Advisory Board consists of the Secretary of the Department of Housing and Urban Development and the chairpersons of the six Regional Advisory Boards established under section 21A (d)(3) of the Federal Home Loan Bank Act. The charter for the National Housing Advisory Board was filed on February 20, 1992.

Agenda

A detailed agenda will be available at the meeting. The meeting will include briefings from the Board's chair and from the chairpersons of the six Regional Advisory Boards on their respective meetings held throughout the country between July 15 and 31, 1992. Discussions will focus on the RTC's single-family and multi-family affordable housing disposition programs.

Statements

Interested persons may submit, in writing, data, information, or views on the issues pending before the National Advisory Board prior to or at the meeting. Seating for the open meeting is available on a first come first served basis.

Dated: July 15, 1992.

Jill Nevius,

Committee Management Officer.

[FR Doc. 92–17056 Filed 7–17–92; 8:45 am]

BILLING CODE 2222–01–M

Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of meeting.

DATES: Wednesday, August 5, 1992, 3 to 4 p.m.

ADDRESSES: Federal Deposit Insurance Corporation, Board Room 6010, 550 17th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bonnie Limbach, Director, Corporate Communications, 1777 F Street NW., Washington, DC 20232, (202) 786–9672.

SUPPLEMENTARY INFORMATION:

Discussion Agenda

- RTC Update.
- Report of National Advisory Board.
- Report of National Housing Advisory Board. Closed session to follow

Dated: July 15, 1992.

Jill Nevius,

Committee Management Officer

[FR Doc. 92–17057 Filed 7–17–92; 8:45 am]

BILLING CODE 2222–01–M

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended July 2, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48223.
Date filed: June 29, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 27, 1992.
Description: Application of Aero Costa Rica Acori, S.A. d/b/a Aero Costa Rica, pursuant to section 402 of the Act and subpart Q of the Regulations, requests a foreign air carrier permit to engage in scheduled foreign air transportation of persons, property and mail as follows: Between San Jose, Costa Rica and Miami, Florida.

Docket Number: 48224.
Date filed: June 30, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 28, 1992.
Description: Application of Aerovias Especiales de Carga, Ltda., pursuant to section 402 of the Act and subpart Q of the Regulations, requests a foreign air carrier permit to engage in scheduled and charter foreign air transportation of property and mail as follows: (a) Scheduled authority between Bogota-Miami-Bogota, (b) Such charter authority as may be permitted under part 212 of the Department's Economic Regulations.

Docket Number: 48226.
Date filed: June 30, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 28, 1992.
Description: Application of Roadair Feeder Service Ltd. d/b/a Roadair Lines, pursuant to section 402 of the Act and subpart Q of Regulations, requests a foreign air carrier permit to provide scheduled and charter foreign air transportation of persons, baggage and goods between points in the United States and Canada

Docket Number: 48228.
Date filed: June 30, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 28, 1992.
Description: Application of Transportes Aereos Guatemaltecos, Pursuant to section 402 of the Act and Subpart Q of the Regulations seeks authority to provide general cargo, such as fresh produce, computers, cars and clothing transport between Miami, Florida, USA and points in Guatemala with intermediate stops in El Salvador, San Jose, Costa Rica, San Pedro, Sula Honduras, Belize and Nicaragua.

Docket Number: 45723.
Date filed: June 29, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 27, 1992.
Description: Application of Transportes Aereos Ejecutivos, S.A. de C.V., pursuant to section 402 of the Act and subpart Q of the Regulations applies for amendment of its foreign air carrier permit issued to it in Order 89–8–29, to permit TAESA to engage in the scheduled air transportation of persons, property and mail between Puerto Vallarta, on the one hand, and Laredo, Texas, on the other hand.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92–16989 Filed 7–17–92; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Proposed Terminal Control Area at Nashville, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of informal airspace meetings.

SUMMARY: This notice announces fact-finding informal airspace meetings to

solicit information from airspace users and others concerning a proposal to establish a Terminal Control Area (TCA) for the Nashville, TN, area. The establishment of a TCA is being considered due to the increased volume of traffic arriving and departing Nashville.

DATES: Comments must be received on or before October 26, 1992. These informal airspace meetings will be held on August 24 and August 25, 1992.

ADDRESSES: The location of the informal airspace meetings is as follows:

Date: Monday, August 24 and Tuesday, August 25, 1992.
Time: 7 p.m. to 10 p.m.
Location: Tennessee Air National Guard, 118th Tactical Airlift Wing, Building 708, Knapp, Boulevard, Nashville, TN 37217.

Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

FOR FURTHER INFORMATION CONTACT: James W. Stephenson, Air Traffic Manager, Airport Traffic Control Tower, Nashville Metropolitan Airport, 515 Olen Taylor Drive, Nashville, TN 37217: telephone: (615) 781–5460.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) These meetings will be informal in nature and will be conducted by a representative of the Administrator, FAA Southern Region. Each participant will be given an opportunity to make a presentation, although a time limit may be imposed.

(b) These meetings will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

(c) Any person wishing to make a presentation to the panel will be asked to sign in and estimate the amount of time needed for such presentation so that timeframes can be established. This will permit the panel to allocate an appropriate amount of time for each presenter. The panel may allocate the time available for each presentation in order to accommodate all speakers. These meetings will not be adjourned until everyone on the list has had an opportunity to address the panel. These meetings may be adjourned at any time if all persons present have had the opportunity to speak.

(d) Position papers or other handout material relating to the substance of the meetings may be accepted. Participants wishing to submit handout material should present three copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(e) These meetings will not be formally recorded. However, a summary of the comments made at these meetings will be filed in the docket.

Agenda

Opening Remarks and Discussion of Meeting Procedures
Public Presentations
Closing Comments.

Issued in Washington, DC, on July 14, 1992.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92–16994 Filed 7–17–92; 8:45 am]

BILLING CODE 4910–13–M

Passenger Facility Charge (PRC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In May 1992, there were six applications approved.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Lake Tahoe Airport, South Lake Tahoe, California.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $928,747.
Earliest Permissible Charge Effective Date: August 1, 1992.
Duration of Authority to Impose: March 1, 1997.
Class of Air Carriers Not Required to Collect PFC's: None.
Brief Description of Projects Approved: Acquire two snow plows, Install south hazard beacon, Security fence, Snow blower, Access control system, Erosion control/safety areas, Enhance FAA tower visibility, Feasibility study/clear areas, Aircraft, rescue, and firefighting (ARFF) access roads.
Brief Description of Projects Disapproved: Replace snow cat rescue vehicle, Replace two snow blowers, Saw/seal runway, Expand ARFF/snow equipment building, Front end loader.
Determination: Section 158.33(a)(1) requires the public agency to begin implementation of a project no later than 2 years after receiving approval to use PFC revenue on that project. Therefore, all projects approved in this application must begin implementation no later than May 1994. The schedule submitted with the application shows implementation dates of November 1994 through November 1996 for the five disapproved projects listed above.

Home purchase program.

Determination: The FAA has determined that the purpose of this program is to establish a fund to purchase, retrofit, and resell, with deeded easements, homes of those residents impacted by airport noise. This program is not included in any adopted planning document nor have any noise contours been published showing eligible areas. In addition, the program as proposed does not contain specific requests nor has there been made a determination of specific costs which will be incurred. Based on these findings, the FAA is unable to conclude that the project will result in mitigation of noise impacts resulting from the airport and that the program will be implemented within 2 years as required by regulation.

Decision Date: May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Rodriquez, San Francisco Airport District Office, (415) 876–2775.

Public Agency: Golden Triangle Regional Airport, Columbus, Mississippi.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $1,693,211.
Earliest Permissible Charge Effective Date: August 1, 1992.
Duration of Authority to Impose: September 1, 2006.
Class of Air Carriers not Required to Collect PFC's: None.
Brief Description of Projects Approved: Renovate terminal building.
Brief Description of Projects Disapproved: Acquire communication equipment, Overlay taxiways and apron, Overlay and groove runway.
Determination: Section 158.33(a)(1) requires the public agency to begin implementation of a project no later than 2 years after receiving approval to use PFC revenue on that project. Therefore, all projects approved in this application must begin implementation by no later than May 1994. The schedule submitted with the application shows implementation dates of fiscal years

1995 and 1996 for the three disapproved projects listed above.

Decision Date: May 8, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Elton E. Jay, FAA Jackson Airports District Office, (601) 965–4628.

Public Agency: Lawton Metropolitan Area Airport Authority, Lawton, Oklahoma.

Application Type: Impose and Use PFC Revenue.

PFC Level: $2.00.

Total Approved Net PFC Revenue: $334.078.

Earliest Permissible Charge Effective Date: August 1, 1992.

Duration of Authority to Impose: January 1, 1996.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Project Approved: Construct phase I of terminal expansion, Aircraft rescue and firefighting (ARFF) vehicle and mechanical lift device. Emergency power generator and electric security gates, Engine runup apron and distance-to-go markets, T-hangar taxiways and general aviation drainage improvements.

Brief Description of Projects Partially Approved: Reconstruction of ARFF access road.

Determination: The public agency is requesting PFC funds for the matching share of a planned AIP grant. The total estimated cost of the reconstruction of the ARFF road is $60,033. The majority of this project is AIP eligible; however, the wash rack for ARFF vehicles is not eligible; therefore, the approved amount has been reduced by the PFC portion of the wash rack costs.

Brief Description of Projects Disapproved: Airport access roads, Rehabilitate airfield pavements, Update airport master plan.

Determination: Part 158.33(a)(1) requires the public agency to begin implementation of a project no later than 2 years after receiving approval to use PFC revenue on that project. The schedule submitted with the application shows implementation dates of May 1995 for the three disapproved projects listed above.

Decision Date: May 8, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. William Perkins, Airports Division, FAA Southwest Region Office, (817) 624–5979.

Public Agency: Tulsa Airports Improvement Trust, Tulsa, Oklahoma.

Application Type: Impose PFC Revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $8,450,000.

Earliest Permissible Charge Effective Date: August 1, 1992.

Duration of Authority to Impose: August 1, 1994.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved: Tusla/Riverside emergency communications equipment, Aircraft rescue and firefighting (ARFF) vehicle replacement, Taxiway Alpha Holding Apron and Taxiway Delta reconstruction, Taxiway X-ray extension, Construct ARFF facility, Taxiway Juliet extension, Taxiway Whiskey reconstruction.

Brief Description of Project Withdrawn: Construct air carrier runway.

Determination: The Tulsa Airports Improvement Trust withdrew this project from its application by letter to the FAA.

Brief Description of Projects Disapproved: Taxiway Tango extension, Runway 8/26 extension.

Determination: These projects do not meet the requirements of section 158.33(c), which states that the authority to impose a PFC shall expire: (1) 3 years after the charge effective date unless the public agency has applied for authority to use, PFC revenue authority to use has been approved, or a request for extension (not to exceed 2 years) to submit an application for project approval has been granted; or, (2) 5 years after the charge effective date unless the public agency has obtained project approval. The schedule submitted with the application shows implementation dates of 1999 through 2001 for the two disapproved projects listed above.

Decision Date: May 11, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. William Perkins, Airports Division, FAA Southwest Region Office, (817) 624–5979.

Public Agency: Memphis-Shelby County Airport Authority, Memphis, Tennessee.

Application Type: Impose PFC Revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $26,000,000.

Earliest Permissible Charge Effective Date: August 1, 1992.

Duration of Authority to Impose: December 1, 1994.

Class of Air Carriers Not Required to Collect PFC's: On-demand air taxi/commercial operators that (1) do not enplane or deplane passengers at the Memphis International Airport's (MEM) main passenger terminal buildings and (2) enplane less then 500 passengers per year at MEM.

Determination: The FAA has determined that the requested class accounts for less than 1 percent of the enplanements at MEM and that the requested class is reasonable, not arbitrary, nondiscriminatory, and otherwise in compliance with the law; therefore, this request is approved.

Brief Description of Projects Approved: Reconstruct Runway 18L–36R, Taxiways and other airfield and planning projects.

Brief Description of Projects Deferred: Land Acquisition, roadways and utilities, Third parallel runway, Extend Runway 18L–36R.

Determination: The decision on these projects is being deferred at this time at the request of the Memphis-Shelby County Airport Authority.

Decision Date: May 28, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Bowers, FAA Memphis Airports District Office, (901) 544–3495.

Public Agency: Niagara Frontier Transportation Authority, Buffalo, New York.

Application Type: Impose PFC Revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $189,873,000.

Earliest Permissible Charge Effective Date: August 1, 1992.

Duration of authority to Impose: March 1, 2026.

Class of Air Carriers Not Required to Collect PFC's: The Niagara Frontier Transportation Authority (NFTA) requests to exclude the class of "air taxi/commercial operator" from the requirement to collect PFC's. This class of carriers is further defined by the NFTA as follows:

"Air taxi/commercial operator" shall include, without regard to number of passengers or payload capacity, revenue passengers transported for student instruction, nonstop sightseeing flights that begin and end at the same airport and are conducted within a 25 statute mile radius of the airport, ferry or training flights, aerial photography or survey charters, and firefighting charters.

Determination: The NFTA's request that commercial operators having a maximum seating capacity of 10 passengers or a maximum payload capacity of less than 6,000 pounds not be required to collect the PFC is approved. The NFTA should confirm, on annual basis using prior year enplanement data, that this class does not exceed one percent of the total enplanements at Greater Buffalo International airport.

Brief Description of Projects Approved: Construct new passenger terminal facility, Demolition of

American airlines hangar and air cargo building, aircraft apron, runway 14–32 safety improvements, Acquisition/demolition of Buffalo Airport Center (BAC), Circulatory roadway system improvements, Acquistion/demolition of airways Hotel, Flyover (Kensington expressway Interchange).

Decision Date: May 29, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Brito, FAA New York Airport District Office, (718) 553–1882.

Cumulative List of Applications Previously Approved

Huntsville International Airport, Huntsville, Alabama

Date approved: March 6, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $20,831,051.
Earliest charge effective date: June 1, 1992.
Estimated charge expiration date: November 1, 2008.

Muscle Shoals Regional Airport, Muscle Shoals, Alabama

Date Approved: February 18, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $104,100.
Earliest charge effective date: June 1, 1992.
Estimated charge expiration date: February 1, 1995.

Stapleton International Airport/Denver International Airport, Denver, Colorado

Date Approved: April 28, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $2,330,734,321.
Earliest charge effective date: July 1, 1992.
Estimated charge expiration date: January 1, 2026.

Savannah International Airport, Savannah, Georgia

Date Approved: January 23, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $39,501,502.
Earliest charge effective date: July 1, 1992.
Estimated charge expiration date: March 1, 2004.

Capital Airport, Springfield, Illinois

Date Approved: March 27, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $682,306.
Earliest charge effective date: June 1, 1992.
Estimated charge expiration date: May 1, 1994.

Gulfport-Biloxi Regional Airport, Gulfport, Mississippi

Date Approved: April 3, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $384,028.
Earliest charge effective date: July 1, 1992.
Estimated charge expiration date: December 1, 1993.

Hattiesburg-Laurel Regional Airport, Moselle, Mississippi

Date Approved: April 15, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $119,153.
Earliest charge effective date: July 1, 1992.
Estimated charge expiration date: January 1, 1998.

Minneapolis-St. Paul International Airport, Minneapolis, Minnesota.

Date Approved: March 31, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $23,408,819.
Earliest charge effective date: June 1, 1992.
Estimated charge expiration date: April 1, 1993.

McCarran International Airport, Las Vegas, Nevada

Date Approved: February 24, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $428,054,380.
Earliest charge effective date: June 1, 1992.
Estimated charge expiration date: February 1, 2004.

Portland International Airport, Portland, Oregon.

Date Approved: April 8, 1992.
Level of PFC: $3.00.
Total approved net PFC revenue: $17,961,850.
Earliest charge effective date: July 1, 1992.
Estimated charge expiration date: July 1, 1994.

Issued in Washington, DC, on July 13, 1992.

Leonard L. Griggs, Jr.

Assistant Administrator for Airports.

[FR Doc. 92–16992 Filed 7–17–92; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Marquette County Airport, Marquette, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Marquette County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before August 19, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Harold R. Pawley, Airport Manager, of the County of Marquette, Michigan, at the following address: Marquette County Airport, 198–B Airport Road, Negaunee, Michigan 49866.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Marquette, Michigan, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Peter A. Serini, Manager, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7300. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Marquette County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 29, 1992, the FAA determined that the application to impose a PFC submitted by the County of Marquette, Michigan, was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 1, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 1992.

Proposed charge expiration date: December 31, 1997.

Total estimated PFC revenue: $766,106.

Brief description of proposed project(s): Land Acquisition; Fencing; Rehabilitate, Extend, and Widen Runway 1/19 with Associated Taxiways; Lighting; Signs; Visual Approach Aids, and Security System.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxis and Charters.

Any person may inspect the application in person at the FAA office listed above under **"FOR FURTHER INFORMATION CONTACT."**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of Marquette, Michigan.

Issued in Des Plaines, Illinois, on July 8, 1992.

James H. Washington,

Acting Manager, Airports Division, Great Lakes Region.

[FR Doc. 92–16990 Filed 7–17–92; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Participation in the Intelligent Vehicle-Highway System (IVHS) Field Operational Test Program

AGENCY: Federal Highway Administration (FHWA), US DOT.

ACTION: Notice of interest areas; request for participation.

SUMMARY: The U.S. Department of Transportation (US DOT) is seeking offers from the public and private sector to form partnerships to conduct operational tests in support of the national Intelligent Vehicle-Highway Systems (IVHS) program. The IVHS operational test program is designed to evaluate system concepts, technologies, institutional and/or financial arrangements that hold the promise of improving mobility and transportation productivity, enhancing safety and reducing congestion on the Nation's highways. This announcement is one of a series that will be issued annually to identify key IVHS technologies or program areas where the US DOT is seeking offers for operational tests. The selection criteria contained in this announcement will be used to assess an operational test's potential for contributing to the advancement of the national IVHS program, to evaluate the proposed technical and management approaches for the test, and to determine the appropriateness of the proposed Federal role in the project. A complete description of the IVHS operational test program, and the role of the various US DOT administrations in this program, is contained in the **Federal Register** announcement, "Intelligent Vehicle-Highway Systems (IVHS) Field Operational Test Program," published on May 8, 1992.

DATES: Operational test offers must be received on or before October 19, 1992.

ADDRESSES: Offers to participate in the IVHS operational test program should be submitted to the Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) through the participating State or local transportation or other public agency for transmittal to FHWA or FTA Regional Office, or directly to the National Highway Traffic Safety Administration (NHTSA) or other US DOT agency as appropriate. NHTSA offers may be submitted to the Office of Crash Avoidance Research (NRD–50), 400 Seventh Street, SW., Washington, DC 20590. If a public agency is not a participant in an FHWA or FTA project, offers may be submitted directly to the US DOT, FHWA, Operational Test Division (HTV–12), 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. George Schoene, FHWA Office of Traffic Management and IVHS, HTV–12, (202) 366–6479; Mr. August Burgett, NHTSA Office of Crash Avoidance Research, NRD–50, (202) 366–5672; Mr. Ronald Boenau, FTA Office of Technical Assistance and Safety, UTS–30, (202) 366–4995; or Ms. Julie Dingle, Office of the Chief Counsel, HCC–32, (202) 366–0780, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Intelligent Vehicle-Highway System (IVHS) program consists of a range of advanced technologies and system concepts which, in combination, can improve mobility and transportation productivity, enhance capacity and safety, maximize the use of existing transportation facilities, conserve energy resources, and reduce adverse environmental effects. The aim of the national IVHS program is to deploy advanced technologies to help solve transportation problems and improve safety. An operational test integrates existing technology, research and development (R&D) products, institutional and perhaps regulatory arrangements to test one, and usually more, new technological, institutional or financial elements in a real world test bed. Operational tests are conducted in an operational highway environment under "live" transportation conditions. This distinguishes operational tests from research projects or other kinds of testing, for example, simulation testing, inservice fleet evaluations, or tests on test tracks or other facilities that are temporarily closed to the public.

Operational tests also serve as the transition between R&D and full scale deployment of IVHS technologies. An IVHS research study may become an integral part of an operational test to permit an independent evaluation of how well newly developed IVHS technologies work under real operating conditions and assess the benefits and public support for the product or system.

IVHS operational tests are conducted as cooperative ventures between the US DOT and a variety of public and private partners, including State and local governments, private companies, universities and possibly others. Potential private sector participants in IVHS operational tests are encouraged, when appropriate, to work with appropriate State and local transportation agencies or other public sector organizations in the preparation of proposed cooperative ventures. An IVHS operational test will typically involve a carefully crafted partnership which is negotiated among Federal, State, local, private and other institutions. Funding for the technical and administrative responsibilities are shared among the partners in the operational test.

IVHS Corridors Program

The Intelligent Vehicle-Highway Systems Act, an element of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, Public Law 102–240, 105 Stat. 1914, 2189, established the IVHS Corridors Program. These IVHS corridors will provide long-term sites for multiple operational tests and will serve as showcases for implementation of IVHS technologies.

The ISTEA provides specific criteria that the US DOT is using to designate three to ten priority corridors that would especially benefit from IVHS. Among the criteria specified in the ISTEA for designating the priority corridors are traffic density above the national average, severe or extreme ozone non-attainment, a variety of transportation facilities and an inability to significantly expand capacity. These criteria, especially regarding ozone non-attainment, limit potential priority corridors sites to four areas of the country: a northeast corridor along I–95; a midwestern area that includes Chicago and parts of Indiana and Wisconsin; an area around Houston Texas; and an area in southern California, including Los Angeles and San Diego.

In addition to the priority corridors, other sites will be designated as corridors by the US DOT as part of the Corridors Program. These other corridors may be either urban, rural or commercial vehicle in nature and must possess the characteristics necessary to advance the national IVHS program.

Funding Levels

The ISTEA provides two categories of funds for operational tests. The first is the IVHS Corridors Program described above. The Corridors Program is authorized at $71 million in fiscal year 1992 and $86 million per fiscal years 1993 through 1997, for a total of $501 million over six years. The ISTEA states that at least 50 percent of the funds for the Corridors Program must be spent in the designated priority corridors. The remaining funds will be spent in the other corridors.

Each year, a portion of the authorized Corridors Program funding will be used to support previously approved, ongoing projects within the corridor sites. The

amount of these funding commitments will vary from year to year. It is expected that approximately $40 to $60 million per fiscal year will be available to fund new operational test projects at the designated priority and other corridor sites.

In addition to the Corridors Program, the "Other IVHS Activities" category in the ISTEA is authorized at $23 million for FY 92 and $27 million per fiscal year for 1993 through 1997. Approximately $10 million per fiscal year will be available from this category of funds to support additional operational tests at sites not designated for the Corridors Program. Opportunities for additional discretionary funding also may be available from the FTA and NHTSA. The exact amount to be made available for operational tests each year from any category of funds will depend on the number and quality of offers submitted and other funding priorities.

Since operational tests vary in size, scale and funding level, the following list illustrates the funding levels in several ongoing, multi-year projects:

Project	Total cost	Total Federal IVHS Funds
TravTek, Orlando, FL.	$12 million	$3 million.
ADVANCE, Chicago, IL.	40 million	20 million.
DIRECT, Detroit, MI.	5 million	2.5 million.

A Cooperative Agreement will generally be used as the contract document to transfer Federal IVHS funds to a State DOT or other project partner for implementing the operational test.

Areas of Interest

The list below identifies key IVHS technologies or program areas in which operational tests are needed to advance the national IVHS program as discussed in the *Strategic Plan for Intelligent Vehicle-Highway Systems in the United States* [1] adopted by IVHS AMERICA.

In addition to the application of specific technologies, the IVHS program encompasses innovative institutional concepts or arrangements for procuring, installing, operating or managing advanced traffic management and traveler information systems. Examples might include a design-build approach to system procurement and implementation; franchising arrangements or licensing agreements for system operation; contracting to the private sector for system operation; privatization of complete system design, installation and operation; and other procurement innovations. Operational tests which combine innovative institutional concepts with the technologies or program areas identified below would be of particular interest.

Technologies or Program Areas

1. Systems that provide direct benefit to travelers in rural areas in terms of improved safety, mobility and productivity. Technologies for use in rural systems could include components from Advanced Traveler Information Systems (ATIS), Advanced Public Transportation Systems (APTS), Commercial Vehicle Operations (CVO), or Advanced Vehicle Control System (AVCS). Some examples of functions or features of interest in a rural IVHS system include:

(a) Systems to detect and provide advisory and warning messages on roadway conditions or other hazards,

(b) Systems that automatically request emergency assistance,

(c) Navigation systems that provide route guidance based on current traffic conditions and information systems for motorist services and tourist attractions,

(d) Dynamic warning systems to warn at-risk vehicles of potentially hazardous conditions such as curves, steep grades, etc., and

(e) Real-time para-transit systems for rural and/or suburban areas.

2. Advanced traveler information systems which encompass various technologies and approaches for providing a wide range of service to the traveler and/or driver. Functions and features of interest include:

(a) Systems to provide real-time information, at home, at work, and in-route, so that travelers can make informed decisions about departure time, travel mode choice, and route selection,

(b) Personal, portable advanced traveler information systems that provide appropriate real-time traffic and traveler information to reduce travel time and improve safety,

(c) Information systems with special commercial functions for public service vehicles and/or commercial fleets such as taxis, transit, and delivery trucks, to provide improved fleet management, productivity gains and mission time reductions,

(d) Systems to disseminate real-time traffic and travel information using low cost communications techniques, for example FM sideband radio transmission. Both urban and rural applications of these systems are of interest,

(e) User-friendly kiosks which provide real-time information on transit routes, opportunities and schedules linking specific locations to waiting passengers. Systems which also include changeable message signs to provide real-time information onboard transit vehicles and at transit stops are of particular interest.

(f) Systems to provide real-time transit information at home, in work places, and at high user volume trip locations. Systems to provide dynamic ride sharing and trip matching information, at home and in work places are also of interest.

3. Advanced traffic management systems that integrate existing traffic signal and freeway surveillance and control systems for area wide, cooperative control in a large multi-jurisdictional metropolitan area, without incurring large additional costs.

4. Alternative surveillance and detection capabilities for real-time traffic control, incident detection and management, and other advanced traffic management features.

5. Environmental and roadway conditions sensor systems to assist the driver in navigating or to detect fog, ice, wind, etc. for improved safety and traffic management.

6. Systems for commercial vehicles to improve industry productivity and fleet management, facilitate remote driver and vehicle safety inspections,and automatically record regulatory information to reduce the paperwork and reporting requirements for both States and industry.

7. Advanced vehicle control systems which encompass various technologies and approaches for providing enhanced collision avoidance capability, including:

(a) Systems for detecting lane departure, and

(b) Systems for detecting obstacles.

Operational Test Offer Preparation

An offer to participate in the operational test program should contain sufficient information to enable an evaluation of the merits of the technologies in the proposed test, how closely the test supports the overall IVHS program goals, the appropriateness of the proposed test site, and how strong a commitment the potential project partners have to the successful completion of the project. The offer should not exceed 50 pages in length and, to the extent possible, contain details regarding potential schedules, financial arrangements within the project partnership, proposed

[1] Published by IVHS AMERICA on May 20, 1992. Available to IVHS AMERICA members for $25 and to non-members for $50 from IVHS AMERICA, 1776 Massachusetts Ave., NW., Washington, DC 20036–1993; telephone (202) 857–1242.

scope of the project and the anticipated results. To facilitate review, please submit ten copies, plus an unbound reproducible copy, of the offer. All submittals should be printed on 8½ by 11 inch paper.

The offer should spell out proposed cost share arrangements with enough detail to determine whether the resources being committed to the potential project are sufficient to assure successful completion. Special attention should also be paid to clearly stating the goals and expected results of the project, along with plans which have been made to ensure that the results can be fairly and completely evaluated.

Review Process

A review process has been established to evaluate responses to this notice soliciting participation in the IVHS operational test program. A US DOT multi-agency committee will review offers for joint venture and/or multimodal operational tests to determine how well they meet existing IVHS information needs, what unique contributions each makes to the overall IVHS program, and to assess the capabilities and commitments of the project partners. The selection criteria below will be used to judge the degree to which an offer addresses the technical, financial, and project management aspects of the proposed operational test. The selection process will focus on measures such as the overall contribution to IVHS program knowledge base, suitability of the proposed site to support overall IVHS program test objectives, and the ability of the existing infrastructure to support the test program. A critical aspect of the selection process will be judging the various factors that could influence the successful outcome of the proposed test. This will include an assessment of the financial resources that are to be committed to the project.

Selection Criteria

I. Relationship to National Program

The proposed IVHS Operational Test shall:

1. Directly contribute to the higher priority issues or needs of the US DOT IVHS program involving advanced technologies that offer several of the following:

a. Increased mobility and operational efficiency,

b. Improved safety,

c. Contributions towards clean air and energy efficiency goals,

d. Increased transit ridership and efficiency,

e. Increased vehicle occupancy levels through the improved operation of high occupancy vehicle facilities,

f. Enhanced commercial productivity and regulatory efficiency,

g. Improved commercial vehicle safety,

h. Improved U.S. international competitiveness.

2. Advance the development and eventual implementation of the proposed technology or system. Demonstrate that there is an acceptable basis for believing that the technologies being tested will ultimately be successfully deployed or implemented.

3. Have meaningful, distinguishable features involving technical, institutional, market, or other important characteristics which have not been addressed in operational tests to date. Projects should not replicate past or current tests unless such replication provides a significant contribution to advancing the IVHS program.

4. Fit within a logical evolution of the IVHS program and/or supporting technology.

II. Project Management and Proposed Partnership

The proposed IVHS Operational Test plan shall:

1. Provide an overall level of confidence that the test will be successfully completed.

2. Demonstrate an acceptable level of commitment, management capability and business reliability of the partners and, where possible, strong State and local support for the project when they are partners.

3. Demonstrate that there is a commitment by all partners to a national technology sharing effort and a willingness to dedicate the time and effort required to share the technical and institutional results of the test with others.

4. Clearly define the roles and responsibilities of the principal partners and demonstrate that they have the ability to perform their assigned responsibilities. For large or complex tests, an experienced systems manager to support the project is desirable.

5. Provide sufficient background to validate the accuracy of the cost and schedule estimates for the operational test.

6. Minimize any potential negative effects of the test and demonstrate an awareness and approach for dealing with complicating technical or institutional factors which might adversely affect the test. Innovative or challenging ways for dealing with these factors will be of particular interest.

7. Identify the proposed agreements for sharing of technology developed under this operational test.

8. Identify long range plans for full scale deployment of the technologies when the operational test has been completed.

III. Suitability of the Test Site, Vehicle Fleet and Infrastructure

The proposed Operational Test shall:

1. Demonstrate that the operational test is part of a continuing, ongoing transportation management program or that there is a good opportunity for components of the operational test to evolve into operational systems after the testing is completed.

2. Demonstrate that the size and characteristics of the test and site are adequate for meaningful evaluation of the proposed system and/or technology and that the test and site have the operational or environmental characteristics to challenge the operation, reliability and durability of the product/prototype being evaluated.

3. Assure that local public transportation services are in place, as necessary, to assure a valid market test of the operational test technology and that the local public transportation providers are interested in the adoption of new technologies.

4. Provide the opportunity to evaluate the safety benefits of systems and/or operations where such issues are important considerations.

5. Maintain adequate records to support the project evaluation with regard to operation and maintenance, etc. of the device/system being tested.

IV. Federal Role

The proposed Operational Test shall:

1. Assure that the Federal government role in the operational test is consistent with the Department's statutory role and responsibilities.

2. Assure Federal participation in the design and conduct of the project evaluation is sufficient to ensure that the project is independently evaluated on a national program scale.

3. Assure that the proposed contribution to the operational test is consistent with agency policy and appropriate to the type and scope of the test. By statute, the maximum share of an operational test funded from Federal funds, including IVHS funds, cannot exceed 80%. The remaining 20% must be from non-federally derived funding sources and must consist of either cash, substantial equipment contributions which are wholly utilized as an integral part of the project, or personnel services dedicated full-time to project purposes

for a substantial period, as long as these staff are not otherwise supported with Federal funds. In order to maximize available Federal IVHS dollars and consistent with agency policy, prospective partners are encouraged to increase their share to 50%. Additional funds provided over the required 20% minimum may come from a variety of funding sources any may include the value of federally-supported projects directly associated with the IVHS project. These contributions may come from State, local government, or private sector participants.

4. Demonstrate that Federal IVHS funds are not being used when regular Federal-aid, State, or private funds can and should be used or where the primary benefit of the operational test is in areas of private sector responsibility.

5. Assure that Federal participation in the proposed test is an appropriate use of the Federal government's resources.

Negotiation and Approval Process

Based on the above selection criteria, a US DOT review committee will identify those offers which have the greatest potential for successful participation in the US DOT IVHS program.

For those offers that satisfy the selection criteria, the lead US DOT agency will begin negotiations with the project partners to reach mutually agreeable terms for an IVHS operational test. It should be noted that the development of the final project may require extensive, and sometimes lengthy, negotiations between the parties. Only upon successful completion of these negotiations would a partnership be formed.

(Secs. 6051 through 6059, Pub. L. 102-240, 105 Stat. 1914, 2189; 23 U.S.C. 315)

Issued on: July 10, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92-16965 Filed 7-17-92; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements

Pursuant to 49 CFR part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Block Signal Application (BS-AP)-No. 3179

Applicant: Consolidated Rail Corporation

Mr. J.F. Noffsinger, Chief Engineer—C&S, 15 North 32nd Street, Philadelphia, Pennsylvania 19104-2849.

The Consolidated Rail Corporation seeks approval of the proposed discontinuance and removal of four controlled signals, numbers 38R, 40L, and 42R, on the Hagerstown Secondary Track and No. 1 Running Track, between "Town" Interlocking, milepost 73.7 and "Hager" Interlocking, milepost 74.8, Harrisburg Division, near Hagerstown, Maryland.

The reason given for the proposed changes is to retire facilities no longer required for present operation.

BS-AP-No. 3180

Applicant: Atchison, Topeka and Santa Fe Railway Company

Mr. Russell E. Hagberg, Vice President—Transportation, 1700 East Golf Road, Schaumburg, Illinois 60173-5860.

The Atchison, Topeka and Santa Fe Railway Company seeks approval of the proposed modification of the signal system, on the main and secondary tracks, between C.A. Junction, Missouri, milepost 418.2 and East Sibley, Missouri, milepost 424.9, on the Illinois Division, Marceline Subdivision, consisting of the discontinuance and removal of the automatic train stop equipment from the trackage.

The reason given for the proposed changes is that the trackage is presently authorized for 79 mph passenger train movements and the automatic train stop equipment is unnecessary.

BS-AP-No. 3181

Applicant: Atchison, Topeka and Santa Fe Railway Company

Mr. Russell E. Hagberg, Vice President-Transportation, 1700 East Golf Road, Schaumburg, Illinois 60173-5860.

The Atchison, Topeka and Santa Fe Railway Company seeks approval of the proposed modification of the signal system, on the main and secondary tracks, between Holiday, Kansas, milepost 0.0 and Emporia, Kansas, milepost 111.8, on the Illinois Division, Topeka Subdivision, consisting of the discontinuance and removal of the automatic train stop equipment from the trackage.

The reason given for the proposed changes is that the present maximum authorized speed over the trackage is 79 mph and the automatic train stop equipment serves no purpose.

BS-AP-No. 3182

Applicant: CSX Transportation

Mr. W.J. Scheerer, Chief Engineer—Train Control, 500 Water Street, Jacksonville, Florida 32202.

CSX Transportation seeks approval of the proposed discontinuance and removal of the traffic control system on the single main track between milepost SG 575.0 and milepost SG576, near Howells, Georgia, on the Atlanta Division, consisting of the conversion all power-operated switches to hand-operation, the removal of all signals, and the designation of the trackage to yard limit operation.

The reason given for the proposed changes is to eliminate facilities no longer needed for present day operation.

BS-AP No. 3183

Applicant: CSX Transportation

Mr. W.J. Scheerer, Chief Engineer—Train Control, 500 Water Street, Jacksonville, Florida 32202.

CSX Transportation seeks approval of the proposed reduction of the limits of the traffic control system on the single main track between milepost Z138.0 and milepost Z139.3, near Erwin, Tennessee, on the Corbin Division, Blue Ridge Subdivision, consisting of the removal of one signal, the relocation of one signal, and the conversion of an automatic block signal to an operative approach. The carrier proposes to operate the trackage under yard limits rules.

The reason given for the proposed changes is to eliminate facilities no longer needed for present day operation.

BS-AP-No. 3184

Applicant: CSX Transportation

Mr. W.J. Scheerer, Chief Engineer—Train Control, 500 Water Street, Jacksonville, Florida 32202.

CSX Transportation seeks approval of the proposed reduction of the limits of the traffic control system on the single main track between milepost 90.7 and milepost 93.0, near Bruceton, Tennessee, on the Mobile Division, Bruceton Subdivision, consisting of the removal of one signal and the operation of the trackage under yard limit rules.

The reason given for the proposed changes is to eliminate facilities no longer needed for present day operation.

BS-AP-No. 3185

Applicaht: National Railroad Passenger Corporation

Mr. P.A. Cannito, Vice President-Engineering, 30th and Market Streets, Philadelphia, Pennsylvania 19104.

The National Railroad Passenger Corporation seek approval of the proposed modification of the automatic block signal system and supplemental cab signal system arranged for movements with the current of traffic, on the two main tracks, between Shore Line Junction Interlocking, milepost 75.2, near New Haven, Connecticut, and Cranston Interlocking, milepost 181.2, near Cranston, Rhode Island, Boston Division. The carrier proposes the discontinuance and removal of the intermediate wayside signals retaining only approach and home signals in connection with the installation of a traffic control system, with the cab signals expanded to include five additional speed/aspects, and speed control for high speed operation. All hand-operated switches in the main tracks will be electrically locked.

The reason given for the proposed changes is to retire facilities no longer required for future operation with electrification and higher speeds.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, SW., Washington, DC 20590 within 45 calendar days of the date of issuance of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on July 13, 1992.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 92-16964 Filed 7-17-92; 8:45 am]

BILLING CODE 4910-16-M

National Highway Traffic Safety Administration

Docket No. 92-17; Notice 2

Determination That Nonconforming 1985 Daimler Limousines are Eligible for Importation

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

ACTION: Notice of determination by NHTSA that nonconforming 1985 Daimler Limousines are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1985 Daimler Limousines not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified model 1985 Daimler Limousine), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective July 20, 1992.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION: Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that.

(I) the motor vehicle is * * * substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 (of the Act), and of the same model year * * * as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards * * *.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the Federal Register.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (Registered Importer No. R-90-005) petitioned NHTSA to determine whether 1985 Daimler Limousines are eligible for importation into the United States. NHTSA published notice of the petition on April 17, 1992 (57 FR 13792) to afford an opportunity for public comment. The notice referenced a letter that the petitioner had furnished from the vehicle's manufacturer, Jaguar Cars. Inc., in which that manufacturer stated that it "certified the 4.2 liter Daimler limousine for [the] 1985 model year" and that "two were brought in as complying, certified cars." The reader is referred to the Federal Register notice for additional details on the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #12 is the vehicle eligibility number assigned to vehicles admissible under this notice of final determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a non-U.S. certified 1985 Daimler Limousine is substantially similar to a 1985 Daimler Limousine originally manufactured for importation into and sale in the United States and certified by its manufacturer under section 114 of the National Traffic and Motor Vehicle Safety Act, and that the non-U.S. certified 1985 Daimler Limousine is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at CFR 1.50 and 501.8.

Issued on: July 14, 1992.

William A. Boehly,

Associate Administrator for Enforcement.

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

The Federal Republic of Yugoslavia (Serbia and Montenegro), Notification of Status of Controlled Yugoslav Entities

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: General Notice No. 1.

SUMMARY: The Treasury Department has been asked to clarify the status of various entities in which the

Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) may have an interest or which may be located in the Federal Republic of Yugoslavia (Serbia and Montenegro) may have an interest on which may be located in the Federal Republic of Yugoslavia (Serbia and Montenegro) for purposes of Executive Orders 12808 and 12810. Based on information currently available to the Office of Foreign Assets Control, the following partial list of entities owned or presumed to be controlled by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) has been compiled.

FOR FURTHER INFORMATION CONTACT: Loren L. Dohm, chief, Blocked Assets Division, Tel.: (202) 622–2440, or William B. Hoffman, Chief Counsel, Tel.: (202) 622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC.

SUPPLEMENTARY INFORMATION: On May 30, 1992, the President issued Executive Order 1208, declaring a national emergency with respect to Serbia and Montenegro, and invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). The Executive order blocks all property and interests in property of the Governments of Serbia and Montenegro, as well as all property and interests in property in the name of the former Government of the Socialist Federal Republic of Yugoslavia or the Government of the Federal Republic of Yugoslavia. On June 4, 1992, the President issued Executive Order 12810, imposing additional sanctions on the Federal Republic of Yugoslavia (Serbia and Montenegro), consistent with United Nations Security Council Resolution 757, dated May 30, 1992.

The Executive order block, *inter alia*, all property and interests in property of the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro). The term "Government of the Federal Republic of Yugoslavia (Serbia and Montenegro)" includes:

(1) The state and the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), as well as any political subdivision, agency, or instrumentality thereof, including the National Bank of Yugoslavia, the Yugoslav National Army, the Yugoslav Chamber of Economy, the National Bank of Serbia, the Serbian Chamber of Economy, the National Bank of Montenegro, and the Montenegrin Chamber of Economy;

(2) Any partnership, association, corporation, or other organization substantially owned or controlled by the foregoing;

(3) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act, directly or indirectly, on behalf of any of the foregoing; and

(4) Any other person or organization determined by the Director of the Office of Foreign Assets Control to be included within this section.

The entities appearing on the "Blocked Yugoslav Entities Currently Identified" list are owned or deemed to be controlled by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) and are therefore blocked by sections 1 and 2 of Executive Order 12808 and section 1 of Executive Order 12810. In addition, many of these entities are located in the Federal Republic (Serbia and Montenegro) and thus subject to the transfer restrictions contained in section 2(g) of Executive Order 12801. Section 2(g) prohibits transfers to or for the benefit of the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) or persons or entities located in the Federal Republic of Yugoslavia (Serbia and Montenegro).

This list is not all-inclusive. All entities located or organized in the Federal Republic of Yugoslavia (Serbia and Montenegro), and their foreign subsidiaries, are presumed to be controlled by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro). U.S. person are prohibited from engaging in transactions with such entities, unless the transactions are licensed by the Office of Foreign Assets Control. In addition, all assets within U.S. jurisdiction owned or controlled by these entities are to be treated as blocked. U.S. persons are not prohibited, however, from paying funds owed to these entities into blocked accounts held in domestic U.S. financial institutions. Entities on the list known to be located in the United States are marked by an asterisk (*)

Entities wishing to provide information concerning ownership or control of any listed entity by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), or to apply for licenses to authorize specific transactions or classes of transactions, should write to the Office of Foreign Assets Control.

Warning: This list is subject to revision as additional information becomes available. Do not assume that a particular entity is free of ownership or control by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) or that it is located outside Serbia or Montenegro based solely on its absence from the "Blocked Yugoslav Entities Currently Identified" list.

Authority: 50 U.S.C. 1701 *et seq.*; 50 U.S.C. 1601 *et seq.*; 22 U.S.C. 287c; 49 U.S.C. App. 1514; E.O. 12808, 57 FR 23299 (June 2, 1992); E.O. 12810, 57 FR 24347 (June 9, 1992).

Blocked Yugoslav Entities Currently Identified

Banks and Financial Institutions

Agencia d.d., New York
Agrobanka Belgrade
AY Bank Limited (formerly known as "Anglo-Yugoslav" Bank)
Banque Franco Yougoslave
Beogradska Banka d.d. (formerly known as "Beobanka d.d." and "Udruzena Beogradska Banka")
Dafiment Bank
First Corporate Bank
Inex Banka, d.d.
International GENEX Bank
Jugobanka d.d. (also known as "Yugobanka")
Jugoskandik d.d.
Jugoslovenska Banka za Medjunarodnu Ekonomsku Saradnju (also known as "YUBMES" or "Yugoslav Bank for International Economic Cooperation")
Jugoslovenska izvozna i kreditna banka d.d. (also known as "Yugoslav Export and Credit Bank Group" and "JIK Banka d.d.")
Karic Banka d.d.
Kreditna Banka Beograd
Mesovita Banka d.d. (also known as "PKB Banka")
Montenegrobanka d.d. (formerly known as "Investiciona Banka Titograd")
Montex Banka d.d.
National Bank of Montenegro (also known as "Narodna Banka Crne Gore")
National Bank of Serbia (also known as "Narodna Banka Srbije")
National Bank of Yugoslavia (also known as "Banque Nationale de Yougoslavie" and Narodna Banka Jugoslavije")
Niksa Banka
Novosadska Banka d.d.
Osnovna Banka Kreditna Banka Beograd
Osnovna Privredno-Investiciona Banka (also known as "Investbanka")
Panonska Banka d.d.
Privredna banka Beograd d.d.
Privredna banka Novi Sad d.d.
Slavija Banka
Sluzba Drustvena Knigovodstva (also known as "SDK" or "Social Accounting Service")
Smederevska Banka d.d.
Societe Generale Yugoslav Bank d.d.
Udruzena Kosovska Banka (also known as "Associated Bank of Kosovo")
Union Banka d.d.
Vojvodjanska Banka d.d.

Nonbanking Institutions

Aerodrom Beograd (also known as "Airport Belgrade")
Aeroinzinjering
Agro-Univerzal
Agroexport
Agrooprema
Agropanonija
Agropromet
Agrovojvodina

AIK Sumadija
AIK Vranje
Air Jugoslavia
AS Impex/Aeroservis
Astro-Orion
Autotehna
Aviogenex
AVNOJA 57
Balkanija
Beomedicina
Brodoimpex
CENTROCOOP (also known as "CENTROCOOP Export-Import Enterprise")
CENTROCOOP—Belkamen
CENTROCOOP—Hladnjaca Bar
CENTROCOOP—Invest
CENTROCOOP—Proizvodnja
Centroexport
Centroprojekt
Centrotekstil
Centrotextil Inc.*
Chamber of Economy of Montenegro (also known as "Privredna Komora Crne Gore")
Chamber of Economy of Serbia (also known as "Privredna Komora Srbije")
Chamber of Economy of Yugoslavia (also known as "Privredna Komora Jugoslavije")
Coopex
Dinara
Drvno Industrijsko Preduzece (also known as "DIP")
Dunav (also known as "Danube")
Dunav-Tisa-Dunav
Duvanska Industrija
EI Bull HN
EI-Fabrika Radio Cevi
EI-Nis
Elektrometal
Elektroprivreda Crne Gore (also known as "Montenegro Electric Power Company")
Elektroprivreda Srbije (also known as "Serbia Electric Power Industry")
Elektrotimok
Elind
Energoprojekt Promet
Energoprojekt, Inc.*
Fabeg
Fabrika Kablova
Fabrika Opreme i Delova
Fabrika Stakla—Zajecar
Fabrika Ventila za Pneumatiku
Fam
FAP-FAMOS
Federal Directorate of Supply and Procurement
FERONIKL—Glogovac
General Motors YU
Generalexport (also known as "GENEX")
Genex Kristal
GIK Komgrap
Global
GOSA
Grupo ICD-PAMS-SG
Gumaplast
Hemofarm
Hempro
HISAR—Fabrika za Preradu Voca i Povrca (also known as "Canned Fruit and Vegetable Production of Prokuplje")
I.P.T. Company, Inc.*
ICN-Galenika
Ikarus
IMK 14 Oktobar (also known as "Metalworking Machines and Components Industry 14 October")
Imlek
Impex Overseas Corporation *
IMR—Industrija Motora Rakovica (also known as "Motor Industry of Rakovica")
IMT—Industrija Motora I Traktora (also known as "Machines and Tractors Industry")
Industrija Kablova
Industrija Kotrljajucih Lezaja
Industrijaimport
Inex Turist
Inexamer Commercial Corporation *
Informatika
Inkotehna
Inos
Institut za Sisteme
Institut za Spoljnu Trgovinu (also known as "Foreign Trade Institute")
Interexport
Interkomerc
International Trade Marketing
Interprogress Trading Corporation *
Interservis
Intertehna
Invest Import
Investinzenjering
Itrans
Ivo Lola Riber—Beograd
JAT (also known as "Yugoslav Airlines" or "Jugoslovenski Aerotransport" or "Javno Preduzece za Vazdusni Saobracaj")
Javno Preduzece PTT Srbije (also known as "Public Enterprise of Post, Telegraph, and Telephone of Serbia")
Jugoagent
Jugoalat
Jugoauto
Jugoazbest
Jugobrod
Jugodrvo
Jugoduvan
Jugoelektro
Jugoexport
Jugohemija
Jugoinspekt
Jugolaboratorija
Jugolek
Jugometal
Jugomontana (also known as "Yugomontana")
Jugopapir
Jugopetrol
Jugoprevoz
Jugoslovenska Oceanska Plovidba (also known as "Yugoslav Ocean Lines")
Jugoslovenska Pomorska Agencija (also known as "Yugoslav Shipping Agency")
Jugotehna
Karic Brothers (also known as "Brace Karic")
KAT
Kluz
Koimpex
Kombinat Aluminijuma Podgorica (also known as "Aluminum Cooperative Podgorica")
Konstruktor
Kooperativa
Krusevac Promet
Krusik
Kuglex
LETEKS—Leskovac (also known as "Wool and Textile Industry of Leskovac")
Lirija
LZTK
MAG Intertrade
Magnohorm
Markonizoni
Masinokomerc
MATROZ Sremska Mitrovica (also known as "MATROZ—Cellulose and Paper Industry")
Merima
Metalchemical Commercial Corporation*
Metalservis
Metalursko Metalski Kombinat Niksic
MG Nord Trading Company
MIN—Masinska Industrija (also known as "Machine Industry of Nis")
Minel
Minnex Trading Corporation*
MKS—Metalurski Kombinat Smederevo (also known as "Metalurgical Cooperative of Smederevo")
Montenegroexpres—Budva (also known as "Tourist Enterprise Montenegroexpres")
Montex
Morava
Nacional
Nacional Shop
Naftagas
NIS-NAFTA Industrija Srbije (also known as "Serbian Petroleum Industry")
Nolivel
Novinska Agencija Tanjug (also known as "TANJUG")
Novkabel
Novosadska Fabrika Kabela
OBOD Cetinje—Elektroindustrija
Omniauto
Omnikomerc
Optika—Beograd
Pamucni Kombinat Yumko
PIK Becej
PIK Pozarevac
PIK Sirmium
PIK Sombor
PIK Takovo
PIK Tamis
Poljoprivredni Kombinat Beograd (also known as "PKB")
Preduzece za Gazdovanje Sumama—Srbijasume (also known as "Public Forestry Enterprise—Srbijasume")
Progres
Progres—Interagrar
PROGRES—Prizren (also known as "Metal and Plastic Components Production")
Prva Petroletka
PTT Crne Gore (also known as "Montenegro Post, Telegraph and Telephone")
PTT Jugoslavije (also known as "Yugoslav Post, Telegraph and Telephone") (including all Serbian and Montenegrin affiliates)
Putnik
RAD Gradjevinsko Preduzece
Radoje Dakic (also known as "Enterprise for Construction Machinery—Radoje Dakic")
Rank Xerox YU
Rapid
Ratko Mitrovic—Beograd
Rekord
Robne Kuce Beograd
RTB (also known as "Radio Televizija Beograd")
RTB Bor
RTV Crne Gore (also known as "Radio Televizija Crne Gore") (including all affiliates)
RTV Novi Sad (also known as "Radio Televizija Novi Sad")

RTV Pristine (also known as "Radio Televizija Pristine")
RTV Srbije (also known as "Radio Televizija Srbije") (including all affiliates)
Rudnik—Gornji Milanovac
RUL—Leskovac
Sava
SBS
Seme
Servo Mihalj
Sever
Sevojno Overseas Corporation *
Simpo (also known as "Sima Pogacarevic-Simpo")
Sintelon
Srbija—Kragujevac
Srbijaturist
Srbocoop
Srpska Fabrika Stakla
Suko
Tacon Group
Tehnogas
Tehnohemija
Tehnopromet
Tehnoservis
Teking-Invest
Teknox
Tekstilni Kombinat RASKA
Teleoptik
TIG—Tekstilna Industrija Grdelica (also known as "Textile Industry of Grdelica")
Tigar
Tigar America *
TREPCA—Kosovska Mitrovica (also known as "Mining Metalurgy-Chemical Combination of Lead and Zinc")
Trgoprodukt
Trgovina Kosovo
Turisticki Savez Jugoslavije (also known as "Tourist Association of Yugoslavia")
Udruzenje YU Visa
Unionpromet
Univerzal
UTVA
Valjaonica Aluminijuma
Vetprom
VISKOZA—Loznica (also known as "Viscose and Cellulose Industry of Loznica")
Vocarcoop—Union
Vojvodina—Sremska Mitrovica
Vojvodina Tours
Yatzo Group
Yugoexport *
Yugoslav National Army (also known as "Jugoslovenska Narodna Armija" or "JNA")
Yugoslavia Commerce
Yugotours
Yusaco
Zajednica Jugoslovenskih Zeleznica (also known as "Association of Yugoslav Railways")
Zastava Impex
Zavod za E. Eksp.
Zavodi Crvena Zastava—Kragujevac (also known as "Automobile Industry—Crvena Zastava" or "Zastava")
ZCZ/Yugomedica
Zdravlje
Zelengora
Zeleznicko Transportno Preduzece Beograd (also known as "Belgrade Railroad Transportation Organization")
Zeleznicko Transportno Preduzece Crne Gore (also known as "Montenegrin Railroad Transportation Organization")
Zeleznicko Transportno Preduzece Novi Sad (also known as "Novi Sad Railroad Transportation Organization")
Zeleznicko Transportno Preduzece Srbije (also known as "Serbian Railroad Transportation Organization")
Zorka
Zupa—Krusevac

Issued: July 13, 1992.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: July 14, 1992.

Peter K. Nunez,

Assistant Secretary (Enforcement).

[FR Doc. 92-17011 Filed 7-17-92; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 139
Monday, July 20, 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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, July 21, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Cigarette Lighters.

The staff will brief the Commission on a proposed consumer product safety standard that would require disposable and novelty lighters to meet specified requirements for child-resistance.

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 15, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–17168 Filed 7–16–92; 2:18 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, July 22, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: FY 94 Budget.

The Commission will consider issues related to the Budget for fiscal year 1994.

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 15, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–17169 Filed 7–16–92; 2:18 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, July 23, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Section 15 & 37, CPSA.

The Commission will consider amendments to the Commission's rules interpreting Section 15 of the CPSA and a rule interpreting Section 37 of the CPSA.

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 15, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–17170 Filed 7–16–92; 2:18 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Meeting Notice

TIME AND DATE: Executive Committee of the Board of Regents time 11:00 a.m., July 27, 1992.

PLACE: Uniformed Services University of the Health Sciences, Room A1005, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799.

STATUS: Open—under "Government in the Sunshine Act" (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

11:00 a.m. Meeting—Board of Regents Executive Committee

(1) Planning for the August 10th Board of Regents meeting.

CONTACT PERSON FOR MORE INFORMATION: David S. Trump, M.D., Executive Secretary of the Board of Regents, 301/295–3886.

Dated: July 16, 1992.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–17180 Filed 7–16–92; 3:18 pm]

BILLING CODE 3810–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Amendment to Notice of Closed Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 57 FR 30770, July 10, 1992.

PREVIOUSLY ANNOUNCED DATE OF MEETING: August 3, 1992.

CHANGE: Delete the following item from the closed meeting agenda:

Consideration of a Proposed Filing with the Postal Rate Commission for a Mail Classification Change Regarding Delivery Point Barcoding.

CONTACT PERSON FOR MORE INFORMATION: David F. Harris, (202) 268–4800.

David F. Harris,

Secretary.

[FR Doc. 92–17172 Filed 7–16–92; 2:19 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week July 20, 1992.

A closed meeting will be held on Wednesday, July 22, 1992, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Beese, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, July 22, 1992, at 2:30 p.m., will be:

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of injunctive actions.

Settlement of administrative proceedings of an enforcement nature.

Litigation Matter.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Atkins at (202) 272–2000.

Dated: July 15, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–17136 Filed 7–16–92; 2:17 pm]

BILLING CODE 8010–01–M

federal register

Monday
July 20, 1992

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 101

Food Labeling: Format for Nutrition Label; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 91N-0162]

RIN 0905-AD08

Food Labeling: Format for Nutrition Label

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to adopt a new format for use in presenting nutrition information on the food label and in the labeling of food. In conjunction with this proposal, FDA is providing a review of the results of four consumer research studies that it conducted to evaluate the effectiveness of a number of alternative nutrition label formats. Based on the findings of the research, the comments on this document, the results of other label research that the agency expects to receive during the comment period for this document, and all other relevant information, FDA intends to revise the current nutrition label in conjunction with several final regulations implementing the Nutrition Labeling and Education Act of 1990 (the 1990 amendments). FDA is requesting comment on the proposed format, the strengths and weaknesses of the other format alternatives tested, as well as of any alternate format, in meeting the requirements of the 1990 amendments that deal with how nutrition information is to be conveyed to the public. The agency will publish a final regulation by November 8, 1992, that defines a standard format for presenting nutrition information on the food label.

DATES: Written comments by August 19, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements for nutrition labeling under the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond E. Schucker, Center for Food Safety and Applied Nutrition (HFF-240), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-5657.

SUPPLEMENTARY INFORMATION:

I. Background

A. General

In response to a request by the Secretary of Health and Human Services (the Secretary) to seek improvements in the way nutrition information is conveyed on the food label, FDA published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** of August 8, 1989 (54 FR 32610), soliciting public comment on a wide range of food labeling issues, including among other things: (1) Whether to revise requirements for nutrition labeling, and (2) whether to change the nutrition label format. FDA subsequently held four public hearings on food labeling, the last of which was held in Atlanta, GA on December 13, 1989, and focused on the nutrition label format.

The National Food Processors Association (NFPA) submitted as a comment on the ANPRM the results of a consumer research study that it sponsored in 1990 (Ref. 1). In the NFPA study, food shoppers expressed a preference for a label design that presented tabular nutrient values in the same manner as current labeling but that also added as a separate section a nutrition profile that put important food components in the context of standards of daily consumption.

In the **Federal Register** of July 19, 1990 (55 FR 29487), FDA published a proposed rule entitled "Food Labeling; Mandatory Status of Nutrition Labeling and Nutrient Content Revision" (hereinafter referred to as "the mandatory nutrition labeling proposal"). FDA proposed to require that nutrition labeling be included in the labeling of most foods that are a meaningful source of nutrition and that the levels of a minimum of 13 nutrients be included in the nutrition labeling.

The mandatory nutrition labeling proposal also provided for the declaration of proposed Daily Reference Values (DRV's) for up to eight food components as part of a separate voluntary section of the nutrition label under the heading "Nutrition Profile." (See discussion in section IV.) The agency proposed the nutrition profile in recognition of numerous public comments on the ANPRM that expressed interest in information about how individual foods fit within general recommendations for the total daily diet. FDA discussed the way in which it derived proposed DRV's in a companion technical document entitled "Food Labeling; Reference Daily Intakes and Daily Reference Values" (55 FR 29476, July 19, 1990) (hereinafter referred to as the "RDI/DRV proposal").

The President signed the 1990 amendments (Pub. L. 101-535) into law on November 8, 1990. FDA discussed the effects of the 1990 amendments on its July 19, 1990, proposals in a supplementary proposal on nutrition labeling that published in the **Federal Register** of November 27, 1991 (56 FR 60366), entitled "Food Labeling; Reference Daily Intakes and Daily Reference Values; Mandatory Status of Nutrition Labeling and Nutrient Content Revision."

To conform with the requirements of the 1990 amendments, FDA proposed to require the addition of complex carbohydrates and sugars to nutrients that must be declared in nutrition labeling. In addition, the agency proposed to make the DRV's a mandatory part of nutrition labeling. The agency explained that it was doing so in response to comments that it received on the mandatory nutrition labeling proposal and to the findings of new consumer research studies, and to fulfill the requirements of section 2(b)(1)(A) of the 1990 amendments to promote comprehension and understanding of the significance of nutrition information in the context of a total daily diet (56 FR 60366 at 60372, November 27, 1991).

As stated above, the agency has tentatively determined that the best way to place the food within the context of a total daily diet is to provide DRV's for calories and the seven nutrients that will be required on the label. The U.S. Department of Agriculture (USDA), which is considering separate nutrition labeling regulations for meat and poultry, has suggested that the need for "contextual" information can best be met by providing information based on the Federal Government's dietary guidelines. Appendix F illustrates such an approach.

FDA is requesting public comment on the question of whether this format, and all others discussed in this document, meets the statutory requirement that the information included in nutrition labeling be conveyed in a manner that enables consumers to understand its relative significance in the context of a total daily diet. (Various other format alternatives are illustrated and discussed later in this document.)

Further, FDA requests comment on the relative merits of the USDA-suggested format and those other alternatives, e.g., which format(s) are likely to be most comprehensible to consumers; which format(s) best helps consumers apply the nutrition

information to their individual needs; which format(s) can best be accommodated in the space available on a food label?

B. An Improved Nutrition Label Format—Legal Authority

The 1990 amendments direct the Secretary to issue proposed regulations to implement new section 403(q) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(q)), which makes nutrition labeling mandatory for most foods regulated by FDA (section 2(b)(1) of the 1990 amendments). Authority to ensure that the label format helps consumers to choose a healthy diet is provided by at least two provisions of the 1990 amendments. Section 403(q)(1) of the act (21 U.S.C. 343(q)(1)), which was added by the 1990 amendments (section 2(a)), states:

> The Secretary may by regulation require any information required to be placed on the label or labeling by this subparagraph or subparagraph (2)(A)) (section 403(q)(1) or (2)(A)) to be highlighted on the label or labeling by larger type, bold type, or contrasting color if the Secretary determines that such highlighting will assist consumers in maintaining healthy dietary practices.

In addition, section 2(b)(1)(A) of the 1990 amendments states that the implementing regulations shall—

> * * * require the required information to be conveyed to the public in a manner which enables the public to readily observe and comprehend such information and to understand its relative significance in the context of a total daily diet.

A standardized graphic presentation that arranges nutrient names, declarations of nutrient amounts, and other required nutrition information, and that allows a consumer to judge the significance of the level of a particular nutrient in a particular food in the context of the total daily diet, fulfills the new statutory requirements. It is also consistent with the Secretary's mandate for an improved food label.

The 1990 amendments also require, in section 2(c), that the Secretary carry out activities that educate consumers about the availability of nutrition information on the food label and "the importance of that information in maintaining healthy dietary practices." FDA interprets this provision, together with section 2(b)(1)(A) of the 1990 amendments, and section 403(q)(1) of the act, as a mandate for the agency to investigate new labeling approaches, such as highlighting, grouping, and techniques for graphic presentation. The agency also interprets it as a mandate to conduct consumer research to determine the format for nutrition labeling that will most effectively call consumers' attention to the nutrition information and facilitate consumer understanding of the significance of that information pertaining to a particular food in relation to total dietary information.

Traditionally, the function of the nutrition label has been to provide information about the nutrient components in food. Education about the role of nutrients in maintaining diet and health status has been considered to be the province of educators and governments, to be carried out in various formal and informal off-label settings and assisted by explanatory pamphlets, magazines and news media articles, and public service advertising.

However, the 1990 amendments (sections 2(b)(1)(A) and 2(c) of the 1990 amendments and section 403(q)(1) of the act) direct that nutrition labeling be revised so that it can play a more educational role, specifically to assist consumers in maintaining healthy dietary practices. FDA requests comment about how the nutrition label can best assume the educational role mandated by the 1990 amendments.

Finally, the legislative history accompanying the 1990 amendments suggests that the Secretary consider a variety of format options including: "information about the recommended daily intake, the use of descriptive terms such as 'high,' 'medium,' and 'low' or use of universal symbols to indicate desirable or undesirable levels of particular nutrients." (H. Rept. 101–538, 101st Cong., 2d sess. 18 (1990).)

C. Need for Consumer Research

In the mandatory nutrition labeling proposal, FDA announced the agency's intention to examine various alternatives (such as bar graphs and pie charts) to the current tabular format for presenting nutrition information on food labels. The agency had received public comment in response to the ANPRM, cautioning against making changes in the format without first conducting consumer research to determine the effectiveness of alternatives. Relatively few data were available concerning the usefulness of the various format alternatives, and there was concern that unfounded changes to the current format familiar to consumers could be counterproductive.

The need for consumer testing was underscored by a report entitled "Nutrition Labeling—Issues and Directions for the 1990's" (Ref. 2), which was prepared by the Committee on the Nutrition Components of Food Labeling, Food and Nutrition Board, Institute of Medicine (IOM) of the National Academy of Sciences (NAS) (the Committee) and jointly sponsored by the Department of Health and Human Services (DHHS) and USDA. The report stated that consumer ability to use information to facilitate choosing foods consistent with USDA's and DHHS' "Nutrition and Your Health, Dietary Guidelines for Americans" report (Ref. 3) should be an important consideration in selection of a format, and that the popularity of a format alone is not sufficient to recommend its use. This report, which was issued after the publication of the July 1990 proposals, recommended that alternative label formats be subjected to both qualitative and quantitative consumer testing before the issuance of any final nutrition labeling requirement. The Committee found that it is "essential that actual formats be tested in an environment closely approximating marketplace conditions."

Formal position statements advocating consumer testing also were issued by the American Dietetic Association and jointly by the American Institute of Nutrition and the American Society of Clinical Nutrition (Refs. 4 and 5). Consequently, FDA developed a research proposal for a consumer study, the results of which could help support a regulatory proposal establishing a revised nutrition format.

D. Format Alternatives and Their Selection

FDA has reviewed its experience with the existing nutrition label, format suggestions received in response to the ANPRM, and format ideas generated as part of a label design project in 1983 (Ref. 6). On the basis of this review, FDA listed the possibilities for the nutrition label format, including: (1) Bar graphs; (2) pie charts; (3) adjectival descriptors; (4) tabular numeric formats with either minor or major modifications; (5) tabular formats enhanced by highlighting devices such as color, boldface type, type size, or other graphic devices; (6) other types of graphic presentations; and (7) grouping of nutrients according to amounts present in the food or according to dietary recommendations to moderate or increase nutrients in the diet. The agency did not include graphic devices such as stars and smiling faces on this list because based on research, which was conducted in 1972 at FDA's request by the Consumer Research Institute (CRI) (Ref. 7), the agency has concluded that such graphic devices in conjunction with or in lieu of numerical declarations, are inappropriate for conveying nutrition information. In the CRI study, low education/income participants rejected such devices as vague,

condescending, and childish and not in keeping with nutrition as a serious subject.

FDA has undertaken study of the effectiveness of the various label format possibilities in fulfilling the requirements of the 1990 amendments.

II. Format Research Studies

A. FDA Focus Group Study 1

In a research activity designed to provide qualitative information on the utility of certain alternative nutrition label formats, FDA contracted with Market Facts, Inc., to conduct a series of five consumer focus group discussions in which participants were presented with 12 prototypical nutrition labels. The various labels incorporated such terms as "Daily Value" (DV) and "Percent Daily Value" and utilized such mechanisms as bar graphs, pie charts, and adjectival descriptors. The groups met in August 1990 (Ref. 8).

A focus group discussion is a technique for gathering qualitative information on interrelated topics of interest from 8 to 10 persons under the guidance of a trained moderator. In designing the focus group sessions, FDA included specific comparison tasks and discussion issues that targeted the participants' ability to use and interpret the format. In this way, the discussions were structured to explore issues beyond stated preferences and initial visual appeal.

In the FDA focus group discussions, there was a general consensus that, compared to numeric label presentations, some graphic presentations such as bar graphs and pie charts made the information more difficult to extract and tended to clutter the label. Although participants often described the bar graphs as "eye catching," most criticized them as confusing.

The comments were even more negative about pie charts. Pie charts were perceived as being much too difficult to use. Some participants suggested that they would not even read a label with a pie chart on it.

An executional problem with the pie chart format is that cholesterol and sodium declarations cannot be accommodated (when the pie is divided according to caloric contribution) because they make no contributions to calories, nor (when the pie is divided by weight) because they make little or no contributions to total dry weight relative to other constituents. As a result, cholesterol and sodium do not appear as wedges in the pie and must be listed separately. Listing cholesterol and sodium separate from other nutrients defeats the purpose of a uniform display to facilitate ready comprehension of the information. Furthermore, neither a dry weight nor a calorie basis for allocating nutrient values per serving of individual foods relates to current dietary recommendations or guidelines. The potentially large differences between nutrients in their relative contribution to total weight or total calories permit no fixed sequence for arranging nutrients. Based on the results of the focus groups and the executional problems, FDA excluded the pie chart format from further consideration.

Focus group participants described the "ideal label" as one that would be simple, providing only the grams (g) per serving and either the DV or Percent Daily Value.

B. FDA Experimental Study 1

In 1990, FDA designed and conducted an experimental study of five nutrition label formats with guidance from a project advisory group consisting of representatives of academia, the consumer community, and the food industry. Field work was completed between October and December of 1990 and involved interviews with a geographically dispersed sample of 1,000 respondents representative of the U.S. population of adult primary food shoppers and a separate sample of 500 shoppers with less than a 12th grade education. Respondents viewed nutrition formats in accordance with an experimental protocol in eight shopping malls in various locations across the United States.

1. Formats Tested

The nutrition label formats selected for use in FDA Experimental Study 1 were composites derived from the seven possible formats listed above, the FDA focus group discussion sessions (Ref. 8), an agency-sponsored label development contract with a professional package design firm (Ref. 6), and label research by other organizations (Refs. 1 and 9). A sample of each format included in the FDA Experimental Study may be found in Appendix A to this proposed rule. Table 1 describes each format used in the study.

TABLE 1.—FORMATS EVALUATED IN FDA EXPERIMENTAL STUDY 1

Format	Description
CONTROL	Tabular declarations of the proposed nine mandatory nutrients and food components in g and mg and four vitamins and minerals as a percent of daily value.
CONTROL/DRV	In addition to the tabular content of the CONTROL label, the proposed DRV for fat, saturated fat, cholesterol, sodium, carbohydrate, and fiber were included.
ADJECTIVE	In addition to the CONTROL/DRV format information, a descriptive adjective (high, medium, or low) in boldface print was added for each nutrient.
NUMERIC	In addition to the CONTROL format information, a separate table headed "Nutrition Profile" was added which included proposed DRV's for six nutrients, and for all nutrients, a declaration of the percent of proposed DRV or RDI under a common heading "Percent of Daily Value."
BAR GRAPH	Presented the same numeric information as for the NUMERIC format and additionally provided a bar graph.

2. Evaluation Criteria

FDA Experimental Study 1 evaluated formats in situations that required food shoppers to examine pairs of competitive foods and to identify differences in nutrient content between the two foods. Shoppers were also asked to make judgments about the relative nutritional quality of the foods in each pair. Shoppers were then shown all five formats simultaneously and asked to identify the format that they considered most helpful and least helpful for use in selecting foods and in meal planning. They were also asked to give reasons for their choices.

FDA used a total of six evaluative measures in analyzing the data to differentiate between formats. Four of the measures were based on objective scoring of format performance in the paired product task, and two of the measures were based on shopper preference in the forced choice selection. Table 2 provides a description of the six criteria.

TABLE 2.—EVALUATION CRITERIA FOR FDA EXPERIMENTAL STUDY 1

Performance Measures:	
a. Discrimination accuracy.	Number of correct identifications of nutrient differences between pairs of foods.
b. False positives	Number of perceptions of nutrient differences where in fact none exist.

TABLE 2.—EVALUATION CRITERIA FOR FDA EXPERIMENTAL STUDY 1—Continued

c. Task time	Amount of time as a measure of effort required to complete the product comparison task.
d. Nutritional quality judgment.	Correct identification of the more nutritious product in a pair.
Preference Measures:	
a. Most helpful	The format considered most helpful of the five for food selection and meal planning.
b. Least helpful	The format considered least helpful of the five for food selection and meal planning.

3. Study Results

Study results on both the performance measures and the preference measures were dependent on the complexity of the information displays in the five formats. The CONTROL and CONTROL/DRV formats were the simplest displays in the sense of containing the least amount of information. The NUMERIC and BAR GRAPH formats represented the most complex displays. For these latter two formats, macronutrient names were repeated in two different sections of the label. In one section macronutrient values were declared on an absolute basis, while in the nutrition profile section the same macronutrient values were declared both on a per serving percentage basis and as an absolute daily amount.

The ADJECTIVE format, containing less redundant information, was of intermediate complexity. The ADJECTIVE format had the largest favorable balance between most helpful and least helpful preference choices and came closest to striking a balance between understandability and providing sufficient information. Performance of the ADJECTIVE format, although better than that of the NUMERIC and the BAR GRAPH, was worse than that of the CONTROL and the CONTROL/DRV. A principal weakness of the ADJECTIVE format was that shoppers were less accurate in discriminating nutrient differences between foods, apparently because they tended to compare foods on the basis of the adjectival descriptors rather than of the numerical declarations.

The CONTROL and CONTROL/DRV formats performed better overall than the NUMERIC and BAR GRAPH formats on the performance measures. Differences between the two simpler formats and the three more complex formats were particularly large on the measure of task time. Shoppers on average required 20 percent more time to find nutrient differences using the ADJECTIVE, NUMERIC, and BAR GRAPH formats than for the CONTROL and CONTROL/DRV. The largest differences in time between formats (CONTROL versus BAR GRAPH) was more than 30 percent.

Although CONTROL and CONTROL/DRV formats performed significantly better on the performance measures during the search task, fewer shoppers rated them as most helpful for food selection and meal planning, criticizing the formats for providing less needed information than the more complex formats. The CONTROL format had a large unfavorable balance between most helpful and least helpful preference choices, while in contrast the CONTROL/DRV format received very few selections as least helpful.

4. Proposed Additional Formats

In the **Federal Register** of May 20, 1991 (56 FR 23072), FDA published an announcement of the availability of a report of the findings of FDA Experimental Study 1, entitled "A Study of Nutrition Label Formats: Performance and Preference" (Ref. 10). The announcement discussed the implications of the study findings with respect to developing additional format alternatives that might overcome format performance weaknesses observed in the study, while improving consumer perceptions of the adequacy of the amount of information presented. The agency discussed three new formats in this notice. They appear in Appendix B to this document.

The first of the three new formats was a PERCENT DV format. It is a simplified alternative to the NUMERIC and BAR GRAPH formats of FDA Experimental Study 1. It eliminates the redundant double listing of nutrient names and the legend "Nutrition Profile." Declarations of nutrient values as a percent of the proposed DV appear in columnar order. Declarations of absolute nutrient values are retained in parentheses following nutrient names but are not placed in columnar order. In developing this format, the agency balanced the need for absolute nutrient values by consumers who are receiving dietary counseling on the basis of absolute values against the need to conserve label space.

The second format was in part a response to the grant of authority in the 1990 amendments to require the use of highlighting through the use of larger type, bold type, or a contrasting color, in the presentation of label information. A HIGHLIGHTING format based on use of boldface lettering for specific nutrients and their values appeared to offer two significant advantages over the use of adjectives. First, consumer understanding of the significance of a particular nutrient and its amount per serving of food could be enhanced without introducing the imprecision that had been associated with the use of adjectives. Second, removal of the adjectives reduced information redundancy and, as a result, the time required to compare foods. Associated with the highlighting format is a footnote indicating that each highlighted nutrient meets two criteria: The nutrient meets an FDA definition for being high or low; additionally, the level of the nutrient per serving of food is directionally consistent with dietary recommendations to seek foods with higher or lower levels of the nutrient.

The third new format alternative, GROUPING, was developed by FDA in response to comments that the formats tested in FDA Experimental Study 1 provided only a relatively limited amount of diet-related guidance to assist consumers in maintaining healthy dietary practices. The comments pointed out that while the formats introduced proposed DRV's for nutrients of public health concern, the nutrition label information was not placed in the context of the broad dietary guidance offered to the public in such government publications as "Nutrition and Your Health; Dietary Guidelines for Americans," 1990 (Ref. 3). The GROUPING format subdivides nutrients into two groups, those for which dietary intake should be moderated and those that should be consumed in adequate amounts.

The agency requested comments on FDA Experimental Study 1 and on the additional format research suggested by the findings (56 FR 23072, May 20, 1991). FDA solicited suggestions for formats and alternative objective performance measures, along with suggestions for new tasks that would test whether consumers could use the nutrition information in realistic situations. FDA also sought comment on the relative weight that it should give to consumer preferences versus performance characteristics. The agency requested the submission of any available consumer research in support of format suggestions.

5. Public Comments

In response to the May 20, 1991, announcement, 34 comments were received, 22 from individual firms or trade associations, 5 from consumer

groups, 6 from individual consumers, and one from a consumer agency of a foreign government. Some of the comments addressed the content of the nutrition label rather than its format. These comments will not be addressed in this document.

1. The majority of comments on specific formats recommended retaining the CONTROL format. The second most frequently recommended format was CONTROL/DRV. The majority of companies commenting on proposed DRV's were against their inclusion; a minority of firms endorsed proposed DRV's or said that they did not object to their inclusion on the label. Some accepted a mandatory basis for DRV's, others preferred that they be optional. A trade association suggested that DRV's need not be included on all labels because the values are constant. A trade association noted that the ADJECTIVE, HIGHLIGHTING, and GROUPING formats are not likely to remain static because nutritional recommendations will change over time. Therefore, it argued that only numerical declarations should be required, and that the evolving nutritional recommendations should be handled by education as needed.

FDA's November 27, 1991, proposal pointed out that the 1990 amendments require that more than numerical declarations be presented in the nutrition label. As stated above, section 2(b)(1)(A) of the 1990 amendments requires that nutrition information be conveyed to the public in a manner that will assist consumers to understand the information in the context of the total daily diet. Thus, FDA proposed at that time that the use of the DRV was the best alternative considered to meet this statutory requirement.

2. Several comments criticized the term "DV." One suggested replacing it with "Daily Typical Recommendation." Another comment felt that "Value" inappropriately implied quality or worth, and suggested instead the term "Daily Recommendation."

FDA is addressing these comments and others on the use of the term "DV" as a part of the agency's mandatory nutrition labeling rulemaking (56 FR 60371, November 27, 1991).

3. A trade association suggested that instead of requiring a single set of DRV's on all food labels, FDA should work with manufacturers to explore formats showing DRV's for a number of different caloric levels. A number of comments were received objecting to the 2,350 calorie reference as a basis for establishing DRV's.

The calorie reference is not a format issue, and these comments will be addressed in FDA's final regulation establishing label reference values (e.g., the proposed reference daily intakes (RDI's) and DRV's).

4. Comments recommending that various formats should be deleted were numerous. The format most frequently rejected was the ADJECTIVE, with the majority of comments coming from industry, as was the case for less frequent recommendations to delete the BAR GRAPH, HIGHLIGHTING, PERCENT DV, and GROUPING formats. Objections were raised to certain features of the proposed formats. Criticisms were directed to formats that imply "good food" versus "bad food" distinctions, all graphic formats, and all formats that include dietary guidance.

A consumer group stated that the science is inadequate to define cutoff values for adjectival descriptors. A few comments stated that consumers were likely to misinterpret the percentages in the PERCENT DV format. GROUPING was considered by some comments to place an inappropriate emphasis on the relative value of nutrients in a specific food. Others argued that grouping may encourage consumers to select a nutritionally unbalanced diet. One comment said that the HIGHLIGHTING format was confusing because it highlights only selected nutrients present in desirable amounts and does not make clear that the highlighting is selective.

FDA considered these comments and used them in designing the second FDA format study.

5. The majority of those who commented said that FDA should give considerable weight to performance measures, but that it should do so on the basis of a new set of performance tasks, not the simple discrimination task of FDA Experimental Study 1. For example, a number of comments suggested obtaining judgments of a food's contribution to a daily diet by having shoppers calculate the remaining daily allowance of each food element after eating one serving of a food. Another suggestion was to test shopper ability to adjust the daily allowance of a nutrient based on a daily calorie intake different from the 2,350 calorie reference proposed by FDA. One comment said that weight should be given to preferences because consumers will be more likely to use a format that they like. A few comments said, without further elaboration, that FDA should give no consideration to consumer preference.

FDA agreed that additional label use tasks were necessary to more fully study format performance. It developed several new tasks in the second FDA format study. Moreover, as suggested by the comments, FDA encouraged industry, in the studies that it is conducting, to examine consumer ability to deal with variations in the 2,350 calorie reference.

As for the weight to be given to the performance and preference measures, FDA interprets the report of the IOM (Ref. 2) as giving first consideration to performance and second to preference. FDA does not agree, however, with the comment that no consideration should be given to consumer preference. The agency believes that formats that are perceived as hard to understand and use are likely to be avoided by consumers. On the other hand, FDA is not persuaded that a format will necessarily be used simply because it is liked. In test situations involving information processing, consumers often expressed positive preferences for information displays that they perceived as containing more information, independent of the content of the information, its comprehensibility, or whether they intended to use the information.

6. Comments from both industry and consumer groups criticized FDA Experimental Study 1 for not controlling for consumer familiarity with the CONTROL format. They argued that consumer familiarity with CONTROL was the reason that it performed best on the product discrimination task. The comments suggested that in future testing, shoppers should be given instruction or practice in the use of the newer formats.

The agency has concluded that the data from FDA Experimental Study 1 do not support the interpretation that format familiarity was a principal factor in CONTROL performance. As reported, FDA analyzed format performance separately for frequent nutrition label readers versus infrequent/nonlabel readers. If the success with use of CONTROL was the result of familiarity, CONTROL should have scored significantly higher among frequent label readers than infrequent readers. However, there were no differences between these groups in ability to use CONTROL or any of the other formats. Furthermore, if familiarity was a factor, success with CONTROL should have been higher among women than men on the performance measures, since women are more frequent users of food label information as a result of greater involvement in food selection, meal planning, and the care of children and other household members with diet-related health problems (Refs. 1 and 11).

However, there were no gender differences in format performance.

FDA believes that a more appropriate interpretation of the data is that CONTROL and CONTROL/DRV formats are easier to use in discriminating product nutritional differences because the formats are perceptually simple. Simplicity is a function of low information redundancy. Nutrient names are listed only once, and the displays contain only one numerical declaration per nutrient. FDA was guided by the principle of simplicity in developing the PERCENT DV, GROUPING, and HIGHLIGHTING formats.

Also, FDA does not fully agree that giving instruction or practice with newer labels is an acceptable procedure for evaluating formats. There is no way to translate a one-on-one instruction of shopper by an interviewer in a test situation to the educational equivalent of familiarizing potential label users in the population with the features of a format. The test situation bypasses the normal real world requirements of delivering a message to the intended audience and of ensuring that it is received, is underreal world are not estimatable but are undoubtedly very large.

The elapsed time to achieve public understanding comparable to the interviewer-shopper interaction in a test situation may be decades. Extensive effort to make formats comparable in a test setting could possibly result in the selection of a format with significant weaknesses that might require a generation of educational effort to remedy. Nonetheless, FDA attempted to take this concern into account in designing FDA Experimental Study 2.

7. One consumer group commented that formats such as the BAR GRAPH were not the best designed of that type, but no evidence was provided that alternative arrangements were superior.

FDA used essentially the same BAR GRAPH design as the one professionally designed for the earlier NFPA study (Ref. 1). The NUMERIC design was similar to a format suggested by Robert P. Gersin Associates, a professional package design firm (Ref. 6). FDA recognizes that alternative arrangements of format elements are possible. However, the agency does not have the resources or time to test numerous arrangements.

8. One consumer group commented that, of the performance measures, task time is least important because this measure would probably change as consumers become more familiar with the label.

FDA does not agree that task time is least important. Current research in consumer information processing is based on the premise that consumers take a cost-benefit approach in deciding whether to use product information, and that they use the information only when they perceive that the benefits exceed the costs. Conversely, consumers do not seek or attempt to use information if the effort outweighs the expected benefits (Ref. 12). In this framework, task time is a measure of consumer effort. Consumer skills in nutrition label use will not improve over time if consumers avoid trying to use a label that perceptually requires excessive effort. Thus, FDA believes that task time is an important measure of label effectiveness.

9. A consumer group recommended that the research be expanded to cover issues of readability and low literacy among older Americans and minority groups. Recommendations were to test type sizes, styles, and color contrasts for legibility and to prescribe standards for these elements. Since almost 10 percent of respondents in the first study did not pass a literacy screen, it was recommended that FDA test pictorial symbols.

Because of funding constraints and a compressed time schedule for completion of the label format research, FDA had to decide which of the various elements of labeling for study were most important. The agency decided that a test of different type sizes and styles would require a separate study. The existing labeling regulations establish minimum type sizes (21 CFR 101.2(c)) and provide that required information be printed on a background with sufficient color contrast to ensure legibility (21 CFR 101.15). Thus, FDA already has the means to enforce these regulatory requirements through current regulations. Moreover, as discussed above, consumer research (Ref. 7) has shown that pictorial symbols for nutrition information are not particularly helpful to the undereducated. For these reasons FDA elected to give priority to testing other aspects of the format involving principally the arrangement of information.

C. Industry Cooperative Test Program

In the **Federal Register** of July 1, 1991 (56 FR 29963), FDA announced its intent to initiate a cooperative pilot program with industry to test alternative nutrition label formats. A number of firms had expressed interest in testing the format alternatives that the agency planned to test in its second study. Industry efforts were coordinated in a joint working committee of the Grocery Manufacturers of America (GMA) and NFPA. After considering the advantages and disadvantages of testing the formats on actual products in the market place, the committee concluded that a more controllable and cost efficient approach was to show shoppers labels and conduct interviews using the mall intercept technique employed by FDA in Experimental Study 1 and Study 2.

The GMA/NFPA committee developed and reviewed an experimental design and questionnaire with FDA. The experimental design provided for executing 7 alternative formats on actual packages for 23 different food products, although brand names were to be removed from the packages.

A national sample of 5,600 food shoppers was interviewed in 36 shopping malls dispersed across the United States. The study was conducted during the first calendar quarter of 1992. FDA expects to receive the results of the industry study during the comment period on this proposal.

In addition to GMA and NFPA, several individual companies responded to FDA's July 1, 1991 announcement. The Kellogg Co. submitted a petition under 21 CFR 101.108 to conduct a nationwide, in-market test of a format similar to the CONTROL/DRV with highlighting on one of the firm's well known cereal brands. The firm placed the alternative label in production during the first quarter of the calendar year 1992. Interviews about the format were conducted with approximately 1,000 product purchasers who called a toll-free telephone number printed on the package. The data from the interviews will determine awareness of the format changes, consumer understanding of the proposed DRV, ability to use the DRV to calculate the number of servings of cereal required to obtain the daily allowance of a nutrient, and the perceived ease or difficulty of adjusting the DRV to take into account a daily calorie consumption different from the 2,350 calorie reference on the label. FDA expects to receive the results of the Kellogg Co.'s efforts during the comment period for the present proposal.

Frito-Lay, Inc., informed FDA of its interest in testing nutrition label formats for a snack product. A consumer interview study using a central location approach was designed to test CONTROL, CONTROL/DRV, NUMERIC, BAR GRAPH, and ADJECTIVE formats from FDA Experimental Study 1 on actual packages of one of the firm's corn chip

brands, with the brand name in place. The agency reviewed and commented on the test design and questionnaire. A total of 750 snack eaters participated at central locations in the Dallas metropolitan area during November and December 1991.

Among other questions, respondents were asked by Frito-Lay, Inc., to determine the number of servings that could be eaten to meet the proposed DV for saturated fat and fiber. They also rated formats for ease of use and preference. The major findings were that CONTROL/DRV had consistently strong performance and highest consumer acceptance. The BAR GRAPH did not have strong comprehension scores and was thought not to be easy to use. The ADJECTIVE format scored lowest of all formats on the preference measures. This result was attributed to consumer skepticism about the credibility of the adjectives as applied to a snack product. A report of the study was submitted to FDA and has been filed with the Dockets Management Branch (address above) (Ref. 13).

D. FDA Focus Group Study 2

After analyzing the results of its first round of studies and the comments on the May 1991 announcement, the agency conducted a second series of six focus group discussions to determine consumer perceptions of a variety of nutrition labeling issues. Participants were asked what they thought terms like "recommended" or "reference" would mean on a label. Participants associated these terms with a government standard or average.

FDA included a GROUPING format in this study to explore how consumers might use the format and to determine reaction to the label directives to consume more of certain nutrients and to control intake of others. Some participants thought the grouping referred to the nutrients that were present at high levels and low levels, respectively, for the particular product. A number of group members criticized the format for telling people what they should and should not eat. A summary report of discussion findings has been filed as part of the record in this proceeding (Ref. 14).

E. FDA Experimental Study 2

1. Procedures

Concurrent with the second focus group study, the agency designed FDA Experimental Study 2 to test the three new formats developed to answer questions raised by the results of FDA Experimental Study 1 and to link label nutrient information more closely with dietary guidance being given to the public. A second purpose was to extend the label use tasks beyond simple discrimination to include more of the kinds of label use activities suggested in the public comments. A third objective was to more closely examine the ability of the proposed DRV to help consumers use nutrient information in dietary planning and management.

FDA developed the design for this experiment to accommodate a total of seven formats. The mall intercept technique was used to interview a sample of 1,200 geographically dispersed primary food shoppers in eight shopping centers. The sample was augmented to include, for analysis purposes, a sufficient number of shoppers with less than a high school education.

In a manner similar to FDA Experimental Study 1, each shopper viewed a total of four labels, each on different foods. Because too much interview time was required for any one respondent to be given all label use tasks, different tasks were assigned to three random subgroups of shoppers. A random one-third of shoppers saw labels on product pairs and were asked to identify nutrient differences and to choose the most and least helpful formats for food selection and meal planning as in FDA Experimental Study 1.

A second randomly selected subgroup of shoppers saw four formats, one at a time, on four different products and completed tasks that involved: (1) Checking nutrient content and health claims against a nutrition information panel, and (2) using the proposed DRV's to calculate the number of servings of a product that a person could consume and yet stay within daily limits for certain nutrients. Shoppers were also asked to identify nutrients to be sought and nutrients to be avoided in the diet for the remainder of the day after several servings of the reference product had been consumed. Shoppers also selected the most helpful and least helpful format for selecting foods and planning meals.

The third random subgroup of shoppers was assigned the same tasks involving the same food products as the second subgroup but for different formats. In order to achieve design symmetry for number of products and formats, and as a check on subgroup comparability, FDA repeated the GROUPING format in both respondent groups two and three.

In order to address the concern expressed in some comments on FDA Experimental Study 1 that label formats containing new elements would perform at a disadvantage relative to more familiar formats, some respondents were informed by the interviewer that DV's were present on some of the food labels, and they were given a brief explanation of the purpose of the DV. They were told that DV's are based on a diet of 2,350 calories a day, which may be more or less than the respondent's usual diet. However, to assess the effect of giving participants information about the presence and purpose of the DV and the calorie reference, this additional information was only given to a randomly selected one-half of the respondents. The DRV's and caloric reference were not mentioned to remaining respondents in order to compare the groups and to determine whether education differentially affected performance on the various formats.

2. Format Alternatives

As stated above, a total of seven formats were included in FDA Experimental Study 2. In addition to the three new formats, PERCENT DV, HIGHLIGHTING, and GROUPING (which are shown in Appendix B), FDA included the CONTROL/DRV format in the study to permit the results of FDA Experimental Studies 1 and 2 to be linked on the product discrimination task. FDA also used the ADJECTIVE format and CONTROL and PERCENT DV format without proposed DRV values. All formats were used for the new label use tasks added to FDA Experimental Study 2. FDA's purpose in testing the CONTROL and PERCENT DV formats both with and without proposed DRV's was to permit close examination of shoppers' abilities to use the DRV's in conjunction with per serving nutrient declarations. (FDA selected the terminology "PERCENT DV" rather than "PERCENT DRV" for the particular format that centers on percentages since the percentage values cover both proposed RDI's and DRV's.)

3. Evaluation Criteria

In FDA Experimental Study 2, FDA asked consumers to perform three label use tasks. First, as in FDA Experimental Study 1, shoppers were asked to identify nutrient differences between product pairs ("product nutrient differences" task). In addition, shoppers were asked to use the nutrition label to verify front panel nutrient content and health claims ("claims verification" task). Third, they were asked to use the DRV's to: (1) Calculate servings allowances, and (2) to balance nutrients in the daily diet by determining which nutrients should be increased and which decreased ("dietary calculations" tasks). Table 3

provides further descriptions of the criteria for each of the three label use tasks.

TABLE 3.—EVALUATION CRITERIA FOR THREE FORMAT USE TASKS: FDA EXPERIMENTAL STUDY 2

Task	Type measure	Definition
Product Nutrient Differences:		
1. Accuracy	Performance	As defined in Table 1 for FDA Experimental Study 1.
2. False positives	...do	Do.
3. Task time	...do	Do.
4. Most helpful	Preferential	Do.
5. Least helpful	...do	
Claims Verification:		
1. High-low nutrient claims	Performance	Number right minus number wrong verifications based on nutrition information panel.
2. Health claims	...do	Percent shoppers unable to verify correctness based on nutrition information panel.
3. Percent fat free claims	...do	Percent shoppers correct based on nutrition information panel.
4. Task time	...do	Time as a measure of effort required to complete the claims verification task.
5. Healthfulness rating	...do	10-point rating of product healthfulness before and after viewing nutrition information panel.
Dietary Calculations:		
1. Compute servings	Objective performance	Percent shoppers giving correct number of servings to meet daily allowance for carbohydrates.
2. Balance nutrients	Performance	Number right minus number wrong identifications of nutrients for which to increase or decrease intake for remainder of day.
3. Most helpful	Preferential	The format considered most helpful of the four for food selection and meal planning.[1]
4. Least helpful	...do	The format considered least helpful of the four for food selection and meal planning.[1]

[1] Forced choice made after completion of claims verification and dietary calculations tasks.

As part of the dietary calculations task, shoppers were asked to determine the number of servings of a given food that would be required to meet the daily reference amount for carbohydrates. FDA recognizes that a single food source is not a sound basis for obtaining 100 percent of the daily requirement of a nutrient. However, shoppers were asked to make such a determination for convenience in testing. In addition, to determine whether shoppers understood that nutrient amounts per serving need to be considered in relation to the DRV and in the context of the total diet, they were asked to state which nutrients they would seek more of and which less of in the foods that they ate during the day after consuming three servings of the food in question, a more than likely intake from a single food source.

4. Findings and Implications

a. *General.* The results of FDA Experimental Study 2 are available in a report entitled "Evaluation of Nutrition Label Formats: FDA Study 2" (Ref. 15). In summary, the objectives of improving accuracy and ease of use in identifying nutrient differences between foods were substantially met by the three new formats, PERCENT DV, HIGHLIGHTING, and GROUPING. They equaled or exceeded CONTROL/DRV on accuracy, false positives, and task time. The new formats also exceeded the performance of the ADJECTIVE format on the three performance measures.

As many as 25 percent of shoppers, depending on format, were able accurately to determine the number of servings of product required to meet the daily allowance for carbohydrates. Shoppers were most accurate when presented with formats that contained the proposed DRV and the absolute nutrient amounts per serving. They were less accurate with proposed DRV and percent of DRV per serving (17 percent) and least accurate (8 percent) when using the absolute amount per serving and no DRV.

Providing shoppers with information about the presence and purpose of proposed DRV's resulted in better performance in calculating servings needed to meet daily requirements and more time spent on the claims verification task compared with shoppers who did not receive the prior information. However, the additional information did not assist participants in using formats with DRV's and percent DRV declarations more effectively than formats without these new information elements.

When asked to choose the most helpful and least helpful format following completion of the claims verification and dietary calculations tasks, shoppers were consistently critical of formats that did not include proposed DRV's. Over 60 percent of respondents selected CONTROL and the PERCENT DV formats without DRV, neither of which include proposed DRV listings, as least helpful for food selection and meal planning.

b. *Format performance on label use tasks.* The full study report (Ref. 15) discusses the findings in terms of the original units of measurement by which each evaluation criterion was defined (see Table 3) and also a summary index measure which permitted the comparison of format performances across evaluation measures after each measure was converted to a common scale. The following discussion is based on the summary index measures, which ranged in value from 0 to 3 and are shown in Table 4 for the performance measures grouped under the three major use tasks, product nutrient differences, claims verification, and dietary calculations. Format differences of .9 or more for a particular evaluation measure are considered statistically significant, as they would be likely to occur by chance no more than 5 out of 100 occasions on which similar data were collected.

TABLE 4.—SUMMARY INDEX OF OBJECTIVE PERFORMANCE MEASURES BY FORMAT

	Control	Control/DRV	Percent DV	Percent DV w/o DRV	Adjective	Highlighting	Grouping
Product Nutrient Differences:							
Accuracy	2	2	2	2	1	2	2
Task Time	2	1	1.5	1.5	0.1	2	1.5
Claims Verification:							
High-Low Nutrient Claims	0.5	0.5	1	2	1	0.1	0.5
Health Claims	1	1	1	1	1	1	1
Percent Fat Free Claims	1	1.5	1.5	1.5	2	1.5	1.5
Dietary Calculations:							
Compute Servings	0.1	2	1	1.5	1.5	1.5	1.5
Balance Nutrients	0.1	0.5	2	2	1.5	0.1	0.5
Healthfulness Rating	1.5	1.5	1	1.5	1	2	1.5
Average of all measures	1.2	1.3	1.4	1.6	1.1	1.3	1.3

The index can take the value of 0 to 3 for any performance measure, with 3 representing the highest performance.

(i) *Product nutrient differences.* The performance of shoppers when using the ADJECTIVE format in identifying product nutrient differences was significantly poorer on both accuracy and task time than when shoppers used all other formats. Shopper performance on PERCENT DV, HIGHLIGHTING, and GROUPING formats was as good as on CONTROL and CONTROL DRV formats for accuracy. Shoppers took significantly more time when using the ADJECTIVE format than when using all other formats.

(ii) *Claims verification.* In using the nutrition information panel to verify the accuracy of nutrient content claims about high or low nutrient levels on the principal display (or front) panel, participants were more accurate when they used the PERCENT DV without DRV's format than when they used any other format including PERCENT DV with DRV's. Shoppers less effectively used the ADJECTIVE and PERCENT DV with DRV formats, and least effectively used CONTROL, CONTROL/DRV, GROUPING, and HIGHLIGHTING formats.

FDA interprets these results to indicate that nutrient declarations on a percentage base are used more accurately than metric declarations when consumers must assess whether the nutrient levels are high or low. The addition of proposed DRV's reduced accuracy for this particular label task.

There were no differences among formats in shoppers' ability to use the nutrition information panel to evaluate the accuracy of health claims. Nearly 50 percent of shoppers correctly said they were unable to determine whether claims were correct or not.

The ADJECTIVE format was significantly better than CONTROL and equal to the other formats in facilitating verification of the correctness of percent fat free claims.

Perceptions of the healthfulness of products were affected when shoppers were shown nutrition information following exposure to a set of positively worded nutrient content and health claims, some of which were false. Independent of format, ratings on a 10-point scale of healthfulness declined after nutrition information was presented. FDA interprets the decline as a tempering effect from the nutrient information. Under the assumption that nutrition information should temper or balance positive and promotional front panel nutrient content claims, more effective formats would be expected to bring about the greatest change in consumers initial perceptions. Within this framework of interpretation, the HIGHLIGHTING format was superior and the PERCENT DV with DRV's and ADJECTIVE formats were least effective (Table 4).

(iii) *Dietary calculations.* In using the formats to make dietary calculations, shoppers were most accurate with the CONTROL/DRV format and nearly as accurate with the ADJECTIVE, PERCENT DV with DRV's, HIGHLIGHTING, and GROUPING formats when determining number of servings of different foods required to meet the proposed DRV for carbohydrates. CONTROL was significantly inferior to all other formats in this application. Shoppers were somewhat less accurate in using the PERCENT DV with DRV's than without DRV's. FDA interprets these data to mean that proposed DRV's together with percent declarations confuse some people who do not realize that the percent declaration is all that is needed to do the calculation.

The remaining dietary management task required shoppers to balance nutrients, i.e., to identify which nutrients they would seek more or less of in the foods they ate during the remainder of the day after consuming three servings of a reference food. Shoppers were most accurate in using the PERCENT DV formats, with and without DRV's, and only slightly less accurate in using the ADJECTIVE format. They were significantly less accurate in using CONTROL, CONTROL/DRV, HIGHLIGHTING, and GROUPING.

(iv) *Overall performance.* Considering the performance measures on the whole and giving each equal weight, the most effective format was PERCENT DV without DRV, followed by PERCENT DV with DRV. CONTROL/DRV, HIGHLIGHTING, and GROUPING were somewhat less effective. The least effective formats were CONTROL and ADJECTIVE.

c. *Format preferences.* FDA analyzed shopper preferences for most helpful and least helpful formats for food selection and meal planning. To obtain a net percentage of the two types of choice, the agency subtracted least helpful from most helpful choices. The percentage of most helpful selections ranged across formats from 6 percent to 49 percent of shoppers. The range of least helpful selections was 6 percent to 62 percent. The net percentage of selections was highly positive for ADJECTIVE and HIGHLIGHTING. Next, with slightly positive to zero net percentages of selection, were GROUPING and CONTROL/DRV. PERCENT DV with DRV's had slightly negative net percentages of selection, while CONTROL and PERCENT DV without DRV's had highly negative net percentages of selection. As stated above the latter two formats were highly criticized because they did not provide proposed DRV's. Criticisms directed at the GROUPING format were that it was confusing and overly prescriptive of what people should eat.

The preference results are shown in Table 5 in the form of the previously discussed summary index. As was the case in FDA Experimental Study 1, the formats consumers found most helpful did not necessarily score highest in the performance measures that were tested.

The most effective format, PERCENT DV without DRV, was one of the ones found least helpful, the major criticism being that daily reference information was missing. The two most preferred formats, ADJECTIVE and HIGHLIGHTING, had low and average performance results, respectively. However, CONTROL was least effective in performance and among the least preferred of the formats. The common element linking performance and preference for CONTROL was the lack of availability of proposed DRV's.

TABLE 5.—SUMMARY INDEX OF PREFERENCE MEASURES BY FORMAT

	Control	Control/ DRV	Percent DV	Percent DV w/o DRV	Adjective	Highlighting	Grouping
Net of most minus least helpful selections	.1	1.0	.5	.1	2.0	2.0	1.0

The index can take the value of 0 to 3, with 3 representing the highest preference.

III. Format Strengths and Weaknesses

A. CONTROL and CONTROL/DRV Formats

The major strength of the CONTROL label without the proposed DRV listings is its accuracy and ease of use in distinguishing nutritional differences between foods. The addition of proposed DRV's has no effect on accuracy and only slightly increases shopper effort in using it. A weakness of the CONTROL format in the absence of proposed DRV's is that it does not facilitate the determination of the number of servings appropriate to meet daily recommendations.

With the addition of proposed DRV's, the CONTROL label is as accurate as any format when used for calculating servings requirements, but there is relatively little improvement in shoppers' abilities to determine which nutrients they should seek more of and which less of in meeting daily requirements.

Shoppers overall are pretty evenly split concerning the CONTROL/DRV format, with about equal numbers considering it most helpful and least helpful for food selection and meal planning. However, they are highly critical of CONTROL when proposed DRV's are not present.

B. PERCENT DV Format (With and Without DRV Listing)

1. Review of Results

A major strength of the PERCENT DV format is that it facilitates making high-low type judgments about nutrient content levels. The format tested was slightly more effective in these usage situations when the proposed DRV's were not present. A relative weakness of the format is that shoppers are somewhat less accurate in computing number of servings needed to meet the DV when they use percents as compared with using absolute nutrient amounts in conjunction with DRV's. However with actual DRV's removed, the PERCENT DV format performs as well as any of the other formats that use absolute amounts and DRV's.

Some shoppers preferred the PERCENT DV format when proposed DRV's were present. Many more were highly critical of the format when DRV's were not present.

2. Elements Affecting Presentation

In the format tested, absolute declarations were arranged in noncolumnar order next to nutrient names. Based on the pattern of the data obtained on the performance tasks, the separation of the absolute nutrient declarations from the percent listings appears to have improved consumer ability to use the percent data. There was further improvement when the proposed DRV's were removed entirely. These results raise a question as to the need for DRV's to be listed in the nutrition label. This issue is discussed later in section IV of this document.

A second factor not tested in FDA Experimental Studies 1 and 2, but particularly important issue for the PERCENT DV format, is how it would be applied to foods that declare two sets of nutrient values, for example, on both as-purchased and as consumed bases. FDA requests comment and suggested alternatives to the format arrangement shown in Table 6.

Table 6

MACARONI & CHEESE

NUTRITION INFORMATION PER SERVING

	In Pkg.	As Prepared	
Serving Size:	¼ box (45g)	¾ cup	
Servings per Container:	4	4	
Calories	190	290	
Calories from fat	20	120	
	PERCENT OF DAILY VALUE		DAILY VALUE (DV) †
Total Fat (2, 13g) #	3	17	75 g or less
Saturated fat (1, 5g)	4	20	25 g or less
Polyunsaturated fat (0, 4g)			
Monounsaturated fat (1, 4g)			
Cholesterol (10, 30mg)	3	10	300 mg or less
Total carbohydrate (31, 31g)	10	10	325 g or more
Complex carbohydrate (31, 31g)			
Sugars (0, 0g)			
Dietary fiber (0, 0g)	‡	‡	25 g
Protein (4, 5g)			50 g
Sodium (420, 660mg)	18	27	2400 mg or less
Potassium (55, 95mg)	2	3	3500 mg
Vitamin A	‡	4	
Vitamin C	‡	‡	
Calcium	8	12	
Iron	10	10	

† As part of a 2,350 calorie diet
‡ Contains less than 2 percent of the DV of this nutrient
# Amount in package and as prepared

INGREDIENTS: XXXX

§ 101.9 (c)(8)(i) and (c)(8)(ii) (56 FR 60366 at 60389, November 27, 1991) specify that the term "Percent of Daily Value" for protein shall express protein quality, and that for foods represented or purported to be for use by adults and children 1 or more years of age, this value shall be determined by a protein digestibility-corrected amino acid score (PDCAAS) method. A different method is proposed for foods represented or purported to be for use by infants. While proposed § 101.9(c)(8)(i) permits declaration of:

> * * * "Percent of Daily Value" on all foods, it requires this declaration only if a protein claim is made for the product, or if the product is represented or purported to be for use by infants or children under 4 years of age, and the protein is not of low quality. If the protein is of low quality, the protein content statement must be modified by an adjacent statement "not a significant source of protein."

The continuation of this policy in conjunction with the PERCENT DV format would allow declaration of percent of the proposed DV on a voluntary basis for most foods. Because of the added cost associated with calculation of the PDCAAS, it is likely that manufacturers would generally choose to not declare "Percent of Daily Value" for protein, and, accordingly, the label would show no entry for protein under the "Percent of Daily Value" column (as seen in Table 6). Additionally, no entry would be allowed (as proposed in § 101.9(c)(8)(i)) when the protein in the food is low quality (i.e., when the protein quality value is a PDCAAS of less than 20 expressed as a percent in foods intended for use by adults and children 4 or more years of age, or when the protein quality value is less than 40 percent of the reference standard in foods represented or purported to be for use by infants or children under 4 years of age).

C. ADJECTIVE Format

1. Review of Results

Relative to the other formats, the ADJECTIVE format has no particularly outstanding performance characteristics and has two major weaknesses. Consumers are least accurate in identifying product nutrient differences with this format and take more time to complete the task. However, this format has high consumer acceptance because it is perceived as providing adequate information, as being well arranged, and as being an aid to food selection and meal planning.

2. Elements Affecting Presentation

To assess nutrition quality, to calculate the number of servings required to meet nutrient daily requirements, or to apply nutrition information to other kinds of dietary management, the user must be able to comprehend the information presented, that is, to identify the information that is relevant and to accurately assess that information. Moreover, the user must be able to do so with an expenditure of effort (time) that does not exceed the expected benefits from use of the information.

Despite the positive consumer evaluation of the ADJECTIVE format, FDA questions how well consumers were able to comprehend the information that it presented. With this format, shoppers apparently, as stated above, made comparisons using the adjectival descriptor rather than the actual nutrient amounts. This fact raises questions about whether consumers were able to determine what the key information is in this format with an acceptable amount of effort, and whether they were able to understand the significance of that information.

A comment to FDA Experimental Study 1 suggested that task time is the least important performance measure, premised on the notion that all formats would become easier to use with practice. FDA disagrees with this comment based on its belief that many consumers would avoid formats altogether that required a great deal of effort to use in simple search tasks. FDA concludes that adequate information search and retrieval characteristics are minimum requirements for a nutrition label, and that format weaknesses in meeting such fundamental requirements are not compensated for by strengths in other areas of label use. The basis for this conclusion is that consumers who are unable readily to find key information or to perceive it accurately will, as a result, not attempt to use the information or will not be able to use it accurately in selecting foods or for other aspects of dietary management. FDA believes that these weaknesses may outweigh the positive consumer acceptance of the ADJECTIVE format.

FDA consequently requests further comments and evidence on the utility of adjectival descriptors for nutrition labeling. FDA is especially interested in what weight to give to the finding that consumers were less likely to notice nutrient differences using this format. This problem was particularly pronounced when consumers were asked to make determinations regarding nutrients in the "medium" and "high" range, where the difference masked by the adjective could be of some magnitude. For example, as tested, "medium" covered the range 141 to 456 milligrams (mg) sodium, 21 to 57 mg of cholesterol, and 10 to 62 g of carbohydrate.

Moreover, for the ADJECTIVE format to be tested, it was necessary to set the number of definitions for the adjectives that were used. An important consideration is that under the 1990 amendments, adjectives that appear on the nutrition label have to be defined consistently with adjectives that appear as nutrient content claims elsewhere on the food label. Because FDA is in the process of proposing definitions for nutrient content claims, the agency followed the proposed definitions as closely as possible in using the adjectives in the ADJECTIVE format.

FDA considered the possibility of creating an adjectival scheme with more than three levels of distinction (e.g., low, medium low, medium high, high). Because there is no evidence that such a scheme would be an improvement over a three-level scheme, and because such a scheme would not be consistent with the proposed nutrient content claims, FDA did not test it. Additionally, FDA felt that the larger number of adjectives could confuse consumers and cause them to require more time to identify nutrient differences.

Another possibility would be to use a fourth adjective that connotes a more absolute amount, such as "none." While such a term would not be as likely to increase consumer confusion, FDA did not use it to keep the number of adjectives to a minimum. The agency requests that comments that urge the adoption of the ADJECTIVE format to address specifically what and how many adjectives should be used if FDA were to adopt this format. Data to support any recommendations are also requested.

As discussed above, for purposes of its consumer studies, FDA used the proposed definitions for nutrient content claims (except for "medium," which became everything that was not "low" or "high"). In the case of the term "low," definitions were available for total fat, saturated fat, cholesterol, and sodium. For other nutrients, "low" was defined as two percent or less of the RDI or DRV. This procedure was sufficient for the format studies because proposed RDI's or DRV's had been proposed for all of the nutrients and food components declared on the test formats. In actual use, however, nutrients for which no proposed RDI's or DRV's exist (e.g., sugars, complex carbohydrate, polyunsaturated fat) might need to be declared in nutrition labeling. FDA requests comments on how to provide for an adjective for use in conjunction with these nutrients.

In addition, FDA notes that "high" is defined as 20 percent or more of the proposed RDI or DRV for a nutrient. While this definition makes sense for those nutrients whose consumption is encouraged, it may not be as suitable for nutrients whose consumption should be minimized, like total fat and saturated fat. It is also inconsistent with the proposed "disqualifying nutrient levels" of 15 percent of the DRV for such nutrients in the agency's health claims proposal (56 FR 60537 at 60543, November 27, 1991) and carried forward as disclosure levels for nutrient content claims (56 FR 60421 at 60425, November 27, 1991). FDA requests comments on how to define "high" for such nutrients.

D. HIGHLIGHTING Format

1. Review of Results

The HIGHLIGHTING format performs as well as the best scoring CONTROL format on the basic search task requiring identification of nutrient differences between foods. It has two weaknesses relative to one or more of the other formats. It is less helpful to consumers in assessing the accuracy of high-low nutrient claims and determining which nutrients should be increased and which decreased in meeting dietary requirements. HIGHLIGHTING has high consumer acceptance, however, and receives few criticisms as an aid to food selection and meal planning.

2. Elements Affecting Presentation

The HIGHLIGHTING format tested used bold face type to highlight both the nutrient name and declared amount. As tested, the format flagged only selected nutrients present at levels directionally consistent with: (1) Current dietary recommendations to the public to consume foods that are higher or lower in specific nutrients (Refs. 2, 3, 16, and 17); and (2) meeting existing or proposed FDA definitions for "high," "low," or "reduced." The nutrients flagged included total fat, saturated fat, cholesterol, sodium, fiber, and calcium. Thus, highlighting profiled only desirable nutrient characteristics and did not call attention to less desirable nutrient characteristics of foods, e.g., high levels and low levels of nutrients that should be moderated or increased, respectively, in the daily diet. The format has received some criticism for providing incomplete information by not fully characterizing both the undesirable as well as desirable characteristics of foods.

FDA believes that one benefit from highlighting desirable characteristics is that it provides incentives to the food industry to modify existing products and to develop new foods with desirable characteristics. However, under FDA's nutrient content claims proposals, desirable characteristics can be highlighted by the manufacturer on the front of the package, where more consumers will see the information. It is not clear how much more useful it would be to consumers or as an incentive to manufacturers to require the highlighting of desirable characteristics on the nutrition label as well. Given the nutrient content claims proposal, it may be more useful to consumers and an incentive to manufacturers to improve the nutritional characteristics of foods to require highlighting of undesirable characteristics. However, this too could be a repetition of that part of the nutrient content claims proposal (proposed § 101.13(h)) that requires the referral statement given with nutrient content claims to identify nutrients that are present at a level which increases the risk of a disease or health-related condition. FDA requests further comment on whether highlighting should be extended to all nutrients. Comments that urge the use of highlighting of undesirable nutrient characteristics are requested to address the types of definitional issues discussed above under the ADJECTIVE format, such as how to deal with nutrients for which no proposed RDI's or DRV's are proposed, and how to define "low" levels of desirable nutrients, e.g., calcium and dietary fiber.

An additional issue that is encountered with foods that are not consumed directly but that must be processed or combined with other ingredients before consumption is whether to base the highlighting on the product as-packaged or as-consumed. For food products declaring nutrition information both as purchased and as consumed, it must be clear to the consumer which form is being highlighted. Allowing highlighting on both bases could cause confusion. The issue of whether label nutrient information should be based on an as-packaged versus an as-consumed basis was discussed in the agency's proposed regulation dealing with serving sizes (56 FR 60394 at 60413, November 27, 1991).

E. GROUPING Format

1. Review of Results

On performance tasks the GROUPING format has no outstanding strengths, although it performs as well as the best formats on product nutrient differences and on computing servings needed to meet daily nutrient requirements. Two weaknesses relative to other formats is that consumers have greater difficulty in making high-low nutrient judgments and cannot as accurately use the format to determine which nutrients to increase, and which to decrease, in the daily diet. The format has moderately favorable consumer acceptance but is considered by some consumers hard to use, confusing, and too prescriptive.

2. Elements Affecting Presentation

A two-category grouping for nutrients leads to the separation of several subcomponents and uncertainty as to where other subcomponents belong. For example, if total carbohydrate in the final nutrition labeling regulation is required to be separated into complex carbohydrate and sugars, complex carbohydrate would be listed along with the nutrients that should be increased in the diet, while sugars would be grouped with nutrients that should be reduced. It is unclear in which group to place total carbohydrate. Comments are requested on whether it should always be placed under one group (and if so, which group), or whether its location should vary depending on which subcomponent was present in the highest amount. Wherever it is grouped, the declaration of the amount and the proposed DRV for total carbohydrates may be confusing to consumers. For example, if total carbohydrate is listed under "Choose a diet high in:" as tested, and yet a third of the total carbohydrates are sugars and are listed under "Choose a diet low in:", will consumers understand that the specified number of g of sugars is included in the g of total carbohydrate in the other grouping? The same problem arises with the subcomponents of total fat.

In addition, there is a problem with the placement of nutrients for which scientific consensus about consumption levels is uncertain. There is no consensus as to whether unsaturated fats (or its subcomponents, polyunsaturated and monounsaturated fats) should be changed or remain the same in the diet. Dietary guidance with respect to the fatty acids only suggests maintaining an approximately equal balance among the subcomponents of total fat (including saturated, polyunsaturated, and monounsaturated fats). Another example is potassium, a nutrient whose recommended intake level is often variable, depending upon the health status of the individual. FDA requests comment on whether the format is feasible in light of the grouping problems that arise with the various nutrient components. The agency also requests comment on whether the nutrition label should go as far as

GROUPING does to prescribe a diet for all consumers.

IV. Issues on Use of Reference Values

FDA proposed DRV's in response to section 2(b)(1)(A) of the 1990 amendments that, among other things, requires that information about nutrients be presented in a manner that enables the public to understand such information in the context of a total daily diet. Accordingly, most of the label formats in this proposal include a daily value element. However, FDA is still considering whether daily values are the most appropriate mechanism for accomplishing the requirement of the 1990 amendments that information be conveyed within the context of the total daily diet. Thus, the agency requests ideas on other ways of providing that contextual information.

One concern regarding a single daily value for use by all consumers is the potential to mislead individuals whose dietary intakes should vary substantially from the daily value. The agency requests ideas and comments on ways to address this concern, while recognizing that a label cannot contain complete dietary guidance tailored to all individuals. A number of possible alternatives that address this concern are discussed below and in section V.F. of this document. Of course, if DRV's are ultimately determined not to be the best way to accomplish this, an alternative label format would be adopted.

Further, the agency requests suggestions about how the label format can be improved to better convey the contextual information. For example, one option could be to include on the panel general dietary guidelines (e.g., "No more than 30 percent of calories of total daily diet should come from fat"). Another option could be to include on the panel information on desirable nutrient intakes based on a range of calorie values (e.g., "* * * based on 1,800 to 3,000 calories per day" or "* * * based on 1,600 to 2,800 calories per day").

A. Lack of Reference Values

Implementation of any of the above formats will raise issues dealing with the use of reference values. FDA has previously proposed to define DRV's for eight food components: total fat, saturated fat, unsaturated fat, cholesterol, total carbohydrate, dietary fiber, sodium, and potassium (55 FR 29476, July 19, 1990; 56 FR 60366, November 27, 1991). For reasons enumerated in the RDI/DRV proposal, the agency has not proposed DRV's for complex carbohydrates, sugars, sugar alcohol, polyunsaturated and monounsaturated fats, and soluble fiber and insoluble fiber (55 FR 29476, July 19, 1990)

Given the fact that FDA has not been able to determine reference values for certain nutrients, formats that include these reference values will show missing values under the proposed DV column for nutrient subcomponents for which no reference values have been adopted (see Table 6). FDA requests comments as to whether the missing values will cause consumer confusion, to such an extent that it outweighs the utility of the information presented for those nutrients for which reference values have been defined. Would potential confusion be minimized by placing an entry in the proposed DV column stating that a reference value is not available for the particular component?

This problem would be particularly significant for the PERCENT DV format because there would be blanks in the principal numeric column. For the nutrients for which there are no reference values, consumers would have only the absolute declaration of the amount per serving.

FDA requests comment about the significance of this problem and about how the agency should handle it.

B. Retention of Proposed DRV with PERCENT DV Format

The results of the study of the PERCENT DV format suggested that consumers were best able to use the percent DV information when the proposed DRV's were not specified, provided that consumers understood that the percent DV contained all the information needed to determine number of daily servings required. Therefore, FDA requests comment on whether proposed DRV's should be retained if the PERCENT DV format is adopted.

C. Placement of Proposed DRV's

In regard to the placement of proposed DRV's in the nutrition label, FDA's studies generally listed the proposed DRV's in the right-hand column. Other placements for this information, such as in a string at the bottom of the nutrition label, however, are possible. Removal of the proposed DRV's from the immediate proximity of the column of percents in the PERCENT DV format may facilitate use of the percent listings by removing nonessential information that distracts the consumer from the primary task of determining the nutrient contribution of the food, yet retaining them in the format would still make the proposed DRV's available to consumers. On the other hand, relocating the proposed DRV's in this way makes them less accessible and may lower consumer preference for this format.

The agency requests comment on whether the listing of proposed DRV's in a string will conserve label space, and whether this result is a desirable tradeoff relative to more difficult access to the DRV's.

D. Terms "Or More" and "Or Less"

For all test formats that included proposed DRV's in FDA Experimental Studies 1 and 2, there were also appended to the DRV declarations the qualifying terms "or more" and "or less," where appropriate, depending on the nutrient. Such qualifying terms would not be appropriate for some nutrients, such as dietary fiber and potassium, for which dietary guidance is not specific. FDA has little evidence as to whether these terms moderate consumers' interpretation of the proposed DRV's. However, the consumer comment that FDA did receive stated that the proposed DRV qualifying terms were important and helped provide additional guidance about how much of the nutrients to consume.

FDA tentatively concludes that at least some consumers will pay attention to the qualifiers and are less likely to give too literal an interpretation to whatever legend is used to describe the proposed DRV's. FDA therefore intends to require the use of the qualifying terms in conjunction with the proposed DRV's if it requires the use of DRV's as part of the nutrition label format. The agency requests comment on the desirability of requiring the qualifying terms that were tested or alternate terms.

V. Certain Format Elements and Other Issues Not Addressed by Research

A. Format Elements

To facilitate comparison of label results between FDA Experimental Studies 1 and 2, total carbohydrate was not subdivided into complex carbohydrate and sugars in FDA Experimental Study 2, even though such a division is required by the 1990 amendments, which were enacted after FDA Experimental Study 1 was completed. For the same reason, changes in terminology that were proposed in the supplementary proposal on nutrition labeling, such as "total fat" in place of "fat" and "dietary fiber" in place of "fiber" (56 FR 60366, November 27, 1992), were not made in FDA Experimental Study 2. The absence of complex carbohydrate and sugars and

use of previous terminology should not be interpreted as a change from the mandatory nutrition labeling proposal (56 FR 60366, November 27, 1991).

The FDA studies did not test possible alternative orderings of nutrients. In its research studies, the agency ordered the nutrients based on their importance to consumers, as shown in consumer research (Ref. 1), and on public health concerns and the amount of dietary information being disseminated about the nutrient by authoritative sources (Refs. 3 and 16). In the ordering that results, those nutrients whose over-consumption is related to increased risk of a disease or health condition are placed at the top of the list of required nutrients. The normal left-to-right, top-to-bottom reading pattern for the printed word brings the more important nutrients to the reader's attention before less important information. This fact is reflected in the findings of FDA Experimental Study 1, in which the accuracy scores for vitamins and minerals decreased as they were placed lower on the label and beneath more and more information.

The ordering that FDA used in its studies differs from that proposed in the supplementary mandatory nutrition labeling proposal (56 FR 60366 at 60380, November 27, 1991) in that sodium is moved up to a position following cholesterol. Comments are requested on this alternative ordering of nutrients.

The research did not test alternative arrangements for subcomponent listings, such as saturated fat as a subcomponent of total fat. FDA Experimental Study 1 showed consumers to be less accurate in identifying saturated fat as a subcomponent of total fat. Some respondents in the FDA focus group discussions misinterpreted such listings and added component and subcomponent declarations together. FDA hopes that the changes in terminology that was proposed in the supplementary mandatory nutrition labeling proposal, such as characterizing fat for labeling purposes as "total fat" and carbohydrates as "total carbohydrate" (56 FR 60366 at 60370, November 27, 1992), will reduce consumer confusion. The agency requests comments on the usefulness of extending this characterization to calories to clarify the difference between "calories" and "calories from fat."

The agency has also seen a label format that further distinguishes subcomponents by using the term "of which." An example that distinguishes total calories from calories from fat would be:

Total Calories	60
of which calories from fat	20

FDA is considering requiring that the words "of which" or similar terms, such as "including," preface "calories from fat" as a subcomponent of calories; "saturated fat" and "unsaturated fat" (or its subcomponents "polyunsaturated" and "monounsaturated" fats) as subcomponents of total fat; "complex carbohydrate," "sugars," and "sugar alcohol" as subcomponents of total carbohydrate; and "soluble fiber" and "insoluble fiber" as subcomponents of dietary fiber in whatever final format that the agency adopts. The agency requests comment on what terminology will most effectively distinguish these subcomponents from totals and improve their observability in the label display.

B. Overall Graphic Presentation

An aspect of format design that has the potential to improve effective communication, but which so far has not been part of FDA's research, is changes in the overall graphic presentation of the label. While interested in maintaining maximum flexibility consistent with the statute, FDA has explored changes in graphic presentations that can be made. These changes could include, for example, using graphic elements such as typeface, type size, and spacing and the arrangement of various label elements to produce a more effective food label format that is easier to use and understand than any tested or used so far. These graphic techniques go directly to the requirements in the 1990 amendments (section 2(b)(1)(A)) that the information be presented in a way that enables consumers to readily observe the information. They could be applied to any of the formats now under consideration.

FDA believes overall graphic presentation is an essential part of designing a better label format. To more clearly illustrate what the agency is considering, graphic adaptations of the CONTROL/DRV and PERCENT DV with DRV formats are shown in appendix C.

In both examples given in appendix C, the title of the nutrition label has been changed from "Nutrition Information" to a shorter name to limit space constraints. Titles used are "Nutrition Guide" and "Nutrition Values." Comments are requested on these and other possible titles. The agency notes that this change and several of those discussed below, will require regulatory changes to allow for their use.

Graphic adaptations that are present in the CONTROL/DRV example include bold typeface to call attention to the nutrient names and serving size data, bars with reverse printing as column headers, double columns at the top and bottom of the label, and use of the word "including" preceding subcomponents. Other graphic adaptations in the PERCENT DV with DRV example include reduced type size for subcomponents and g/mg amounts for macronutrients, variations of the type face used for serving size household measures and g weights, reverse printing of the quantitative proposed DV's, and a horizontal listing of vitamins and minerals under the heading "Vitamins & Minerals."

The PERCENT DV with DRV graphic format also contains an expanded footnote in an effort to clarify that proposed DV's are based on a single caloric intake level and that values will vary according to a person's caloric intake. The footnote states: "For a 2,350 calorie diet. Your Daily Value may be higher or lower, depending on your calorie intake." FDA requests comments on the effectiveness of this statement in conveying to consumers the need to modify these values to meet their nutritional needs and suggestions for alternative footnote statements. For example, some alternative footnote statements might be:

(1) "Based on a 2,300 calorie diet. Fewer calories are recommended for women and young children."

(2) "As part of a 2,400 calorie diet. Many young children and women over 50 need 2,000 calories or less. For a 2,000 calorie diet the Daily Value would be less than 65 g Fat, less than 20 g Saturated Fat, less than 275 g Carbohydrate, and 25 g Fiber (Sodium and Cholesterol do not change)."

(3) "A 2,000 calorie diet is for women over 50 and young children. Most teenagers, sedentary men, active and very active persons, and lactating and breastfeeding women need more calories."

In both examples, graphic modifications were used to differentiate subcomponents from the principal components in the belief that this change would eliminate the need to put the word "total" before "fat" and carbohydrate. In the CONTROL/DRV example, FDA placed the word "includes" before subcomponent names. In the PERCENT DV with DRV example, FDA has used smaller type size, indentation, and lines to separate components and their subcomponents from other components.

FDA recognizes that it will likely have to look outside the agency to find the expertise needed to properly explore the

use of graphic adaptations. The agency requests suggestions on how best to solicit and evaluate suggested changes in overall label graphic presentation. FDA also seeks comment on the graphic techniques used in the examples in Appendix C and other techniques that can be used to enhance the basic nutrition labeling format and that are within FDA's ability to regulate. Comments should address which graphic elements, if any, should be required in final regulations and which should be allowed to be used voluntarily.

C. Simplified Format

Section 403(q)(5)(C) of the act requires the use of a simplified format if a food contains insignificant amounts of more than one-half the nutrients required in the full nutrition labeling format. FDA issued proposed regulations to implement this section of the 1990 amendments as a part of its supplemental nutrition labeling proposal (56 FR 60366 at 60373, November 27, 1991).

Inasmuch as a uniform label presentation will facilitate consumer use of nutrition labeling and is supported by the IOM report (Ref. 2, p. 299), FDA believes that it is essential that the simplified format resemble, to the maximum degree possible, the full nutrition label. Therefore, the agency anticipates modifying proposed § 101.9(f) as needed to ensure that such resemblance exists.

Examples of the CONTROL/DRV and PERCENT DV formats modified to present the simplified label are shown in Appendix D. Comments are requested on these methods for adapting the nutrition label format to the simplified label as well as alternative suggestions for accomplishing this goal.

D. Format for Nutrition Labeling of Dietary Supplements of Vitamins and Minerals

In accordance with section 403(q)(5)(E) of the act (21 U.S.C. 343(q)(5)(E)), FDA proposed *Section 101.36 Nutrition Labeling of Dietary Supplements of Vitamins and Minerals* (56 FR 60366 at 60393, November 27, 1991). To reduce consumer confusion, FDA proposed that nutrition labeling of vitamin and mineral supplements appear as similar as possible to the nutrition labeling of other food. Accordingly, as with the simplified label, FDA anticipates modifying proposed § 101.36 as needed to maintain this similarity. FDA requests comments on this approach.

E. Voluntary Format Elements

FDA also seeks comment on the possibility of allowing the use of voluntary format elements. The principal format would be mandatory and would include those elements, such as the proposed DV, that FDA has determined to be necessary to satisfy the requirements of the 1990 amendments. Voluntary format elements that are in keeping with the mandatory format may enhance the educational capability of the label. For example, such elements might involve the use of a particular graphic presentation that FDA has found to be promising but that, given the very tight implementation schedule required by the 1990 amendments, has not been tested.

One possibility that would increase flexibility is that highlighting, rather than being viewed as a separate format, would be allowed as a voluntary graphic enhancement of the principal format. This approach is similar to what is currently happening in the marketplace in an unregulated fashion. Another possibility is the voluntary use of adjectives in the nutrition label consistent with FDA's definitions for nutrient content claims, e.g., "low" fat or "high" fiber.

FDA seeks comment on the feasibility of an approach that would allow voluntary enhancements of a basic format. Would the use of voluntary elements create sufficient confusion to outweigh any benefit that would result from the added enhancement, or would it assist consumers to observe and comprehend label information?

F. Alternate Formats

FDA is proposing to select a standard format in section VI.B. At the same time, FDA recognizes that the formats tested by the agency obviously do not exhaust all possibilities. FDA's rationale for selecting the formats that it has tested is explained earlier in this document and in a notice of the availability of a report on format research (56 FR 23072, May 20, 1991). Many types of formats or methods of graphic enhancement that have been suggested, such as larger type size or multicolor graphics, go beyond what the agency can mandate. Among the alternative formats discussed in this section and the formats discussed earlier in this document, the agency requests comments on which format is most comprehensible for a majority of the population, while providing nutrition information in the context of a total daily diet.

1. Formats With Dietary Guidance Based on Ranges

An alternative to the use of specific reference values based on a single caloric level is the use of a range of values for each reference value for those nutrients whose recommended intake levels are tied to caloric intake levels. FDA seeks comment on the use of a range for reference values. Is a range a more effective or comprehensible means of presenting information about these nutrients than a single value? Will a range better help people understand how the information applies to them, as opposed to one average value that does not apply precisely to all people? Can the use of a range be accommodated in the space available for nutrition labeling on food labels? If a range is used, comments are requested on the specific range for each nutrient that should be used.

In the example given in appendix E based on the CONTROL format, a range is given in a column entitled "Recommended Daily Intake" adjacent to the quantitative declarations of calories, calories from fat, total fat, saturated fat, total carbohydrate, dietary fiber, and protein. Cholesterol and sodium, which do not have reference values based on caloric intake levels, are specified by a single value. The calorie intake range depicted in appendix E is based on the most recent USDA dietary guidance. That guidance combines NAS' recommended daily allowances (RDA's) and national food consumption survey data to arrive at a range of 1,600 to 2,800 calories per day. If the range was to be based solely on the RDA's, it would be 1,800 to 3,000 calories per day. FDA seeks comments on the use of such ranges, and on what values should be used if a range format is adopted. Such a format might depict calorie intakes as ranges with upper levels of 2,800 to 3,000 calories per day. These upper levels are based on the median heights and weights for men ages 15 to 50. The upper level based on the median heights and weights for women ages 15 to 50 is 2,200 calories per day. What, if any, additional information needs to be contained in such labels so that they are not misleading?

A variation of this type of format would be the listing of DV's for two or three different caloric intake levels on each label, perhaps based on an intake of 1,600, 2,200, and 2,800 calories per day.

Another variation might be the use of a footnote to explain that advisable daily intake levels for calories, fat,

carbohydrate, fiber, and protein will vary based on height, weight, metabolism, and activity levels. For example, a footnote statement might read, "The Daily Value is an example of range for a normal diet. Nutritional needs vary, 1,600 calories for sedentary women and older adults, 2,800 calories for teenage boys, active men, and very active women."

Comments are requested on the use of these types of dietary guidance, their utility to consumers to understand the food's relative significance in the context of total daily diet, and whether a footnote is useful and how to best convey such information in a footnote.

2. Formats With Daily Values for Men and Women

Recommended calorie and nutrient intakes vary widely across the general population, and a single daily value, therefore, may not be appropriate. One possible way to address this concern would be to include on the label an average daily value for men and an average daily value for women. Appendix E includes an illustration of such a format. Would this format help individuals better identify their daily nutritional needs? Would such a format be helpful to individuals even though it presents "average" daily values that are not applicable to all men and all women? Can such a "dual" declaration be accommodated in the space available for nutrition labeling on food labels? If such a format is suggested, the agency requests comments on what the specific calorie and nutrient intakes should be.

3. Modified Grouping Format

Another format option that has been suggested but not tested would modify the GROUPING format so that nutrients are grouped by whether the food is "high," "medium," or "low" in a particular nutrient, instead of whether consumers should choose a diet high or low in that nutrient as was the case in the GROUPING format that FDA tested. The suggested format responds to some criticisms of the GROUPING format that have already been discussed. For example, it responds to the complaints that the GROUPING format used in FDA Experimental Study 2 was too prescriptive. It also eliminates inaccuracies caused by adjectives because individual nutrient adjectives are removed.

However, because this suggested format is based on adjectives, it raises some of the same definitional issues that the ADJECTIVE format does. In addition, it raises new issues, such as the potential negative impact on consumers of a constantly changing order of nutrients on the label depending on the quantitative amount of the nutrient present. Studies have shown that elderly people, in particular, have a hard time extracting information when the location of the nutrient is not constant (Ref. 18). Additionally, the effort required to use the format would likely be considerably greater than for other formats in which nutrients have fixed positions.

Nonetheless, FDA believes all modifications warrant consideration and seeks additional comment on this and other format and graphic alternatives.

VI. FDA's Proposal

A. Findings of Research

The research findings from the FDA studies reveal a complex pattern of communication effectiveness across the various formats tested. The research does not, however, identify a clearly superior format for all usage situations. Rather, some formats perform well for certain applications but are weak in others. Selection of a format is further complicated by the issues that arise as additional nutrients and nutrient components are added to the label beyond the minimum required under the mandatory nutrition labeling proposal.

B. FDA's Tentative View

FDA recognizes that the format ultimately selected must meet the requirements of the 1990 amendments as well as the rising consumer expectations that nutrition information on food labels will enable them to select healthier diets. Based on the available research evidence and comments, FDA tentatively concludes that several elements will be included in the final nutrition format.

First, the information will be displayed in a manner that is simple and minimizes clutter. FDA's major finding from the research studies is that simple formats are easier to comprehend and require less consumer effort than complex information displays. Therefore, a simple display best meets the requirements of the 1990 amendments that nutrition information should be more observable and understandable as it relates to the total diet.

Second, the information will be presented in a tabular fashion, although perhaps enhanced by other graphic devices to provide rapid access to, and greater observability of, key nutrition information.

Third, the nutrition information display will include either a listing of the quantitative amount of each nutrient, in absolute terms (e.g., g), or a listing of the amount as a percent of the proposed RDI or DRV, or a combination of both. (As discussed earlier, the agency is still considering whether DRV's are the best mechanism to satisfy the requirement of section 2(b)(1)(A) of the 1990 amendments.) FDA research shows that consumers are more accurate in observing nutrient differences between foods when formats provide ready access to the quantitative amounts of the nutrients present. Consumer ability to readily observe characterizing differences between foods is a prerequisite to understanding how food selection can contribute to healthier dietary practices.

Fourth, nutrient information must be linked to the dietary guidance that is considered important to public health. This linkage of individual foods with the total diet fulfills the mandate of the 1990 amendments to ensure that the label format helps consumers to choose healthier diets. Therefore, the format that FDA adopts will include information that achieves the purpose of linking individual foods to a daily diet. FDA's research studies show that a sizable minority (25 percent) of shoppers already understand and are able to use proposed DRV's for that purpose.

FDA requests comments on these tentative conclusions and the other conclusions that FDA should reach to arrive at a format that satisfies the requirements of the 1990 amendments.

Because the research to date has not been definitive, and because FDA anticipates receiving results of other studies during the comment period on this proposal, the agency believes that all the formats of FDA Experimental Study 2 deserve further consideration.

In the November 27, 1991, proposal, FDA tentatively decided that the CONTROL format, lacking DRV information, or other information serving the same purpose, did not meet the requirements of the 1990 amendments that the nutrition information be conveyed in a manner that enables the public to understand the relative significance of the nutrient information in the context of the total daily diet. In addition, FDA Experimental Study 2 provided evidence that a sizable minority (25 percent) of consumers understand and are able to use proposed DRV's in the context of the daily diet. FDA Experimental Studies 1 and 2 and public comments indicate that the public wants daily reference information.

FDA proposes to establish the PERCENT DV with DRV format as the standard format for presenting nutrition

information on the food label. The agency tentatively concludes that, among formats researched to date, the use of nutrient information for dietary management will more readily be achieved with this format, which allows consumers flexibility to use nutrient absolute amounts together with proposed DRV listings or, alternatively, to use the percent DV listing or the absolute amounts individually in deciding how particular foods fit into a daily diet and in other aspects of dietary planning and management. Inclusion of the DRV as a required element of the label will be contingent on a final determination based on review of comments on the original and supplementary proposals for nutrition labeling, as well as the research results. FDA requests comment on the proposed format, as well as rationale and evidence in support of the other formats tested or alternative formats.

FDA expects that comments to this proposal will provide some particularly important information. The GMA/NFPA study includes 23 different foods commonly consumed on various meal and snack occasions and incorporates two of the same three label use tasks used in FDA Experimental Study 2. Thus, the industry study is a broader scale replication of the FDA research. The study may confirm FDA's findings and possibly provide more definitive guidance toward selection of a final format. Moreover, on the basis of queries, FDA is aware that other format research in addition to the GMA/NFPA, the Kellogg Co. and Frito-Lay, Inc., studies may be underway. FDA, therefore, considers it inappropriate to foreclose other format alternatives until it has an opportunity to study these other research findings.

FDA recognizes the limitations in the various studies that it has conducted to date and in the studies that it expects to receive in the near future. While these studies are extremely valuable in helping the agency evaluate various format elements, they are only one of many factors that FDA must consider in making its final decision. The decision on the format that best meets the requirements of the 1990 amendments is a complex policy determination that FDA will make after evaluating the results of studies, public comment, and all other relevant information.

FDA therefore requests comments and all relevant evidence on what format it should adopt for the presentation of nutrition information. The comments should discuss the proposed format, the six other formats that FDA tested, as well as any other format that well-designed studies have shown to be superior to these alternatives. In addition, FDA solicits comments on the evaluation measures that it should use in considering such evidence.

C. Relative Importance of Label Uses

FDA believes that the most important criterion in judging a format is that it facilitate the accurate search for significant nutrient information with the minimum effort. Thus, this format performance characteristic is critical. A format that does so clearly meets the requirements of the 1990 amendments, particularly section 2(b)(1)(A). That it permits the search for accurate information with a minimum of effort means that the information is readily observable. That it results in an accurate search means that the shopper comprehends the information. That it allows the shopper to determine significant nutrient information means that it allows the consumer to understand the importance of the information presented.

In addition, in making a final selection of a format, FDA intends to give greater consideration to format performance in facilitating dietary calculations, such as computing servings in relation to a DRV or other dietary guidance, or in determining which nutrients to increase or to decrease in the remainder of the day's diet, than to use of the format in assessing nutrient content and health claims. The agency intends to do so for two reasons: First, the ability of a format to facilitate dietary calculations is a direct reflection of its ability to enable consumers to understand the significance of the information in the context of the total daily diet, which again is one of the requirements for the format in the 1990 amendments.

Second, since designing FDA Experimental Study 2, FDA has published, in response to the mandate of the 1990 amendments, proposals that will establish regulations governing the use of implied and expressed nutrient content claims, including, among others, descriptors applicable to cholesterol, total fat, saturated fat, sodium, and calories, and will require that labels bearing nutrient content claims refer the consumer to the nutrition information panel (56 FR 60421 and 60478, November 27, 1991). The provisions of the act on nutrient content claims (section 403(r)(2)(B)(ii)) of the act (21 U.S.C. 343(r)(2)(B)(ii)) require labels that bear such a claim to identify any nutrient that is present in the food at a level that increases the risk of a diet-related disease or health condition (56 FR 60421). To implement this requirement, FDA proposed specific levels of fat, saturated fat, cholesterol, and sodium that present such a risk. Additionally, FDA has proposed general requirements pertaining to health claims that characterize the relationship of a food component to a disease or health-related condition (56 FR 60537, November 27, 1991). These regulatory proposals thus will control nutrient content and health claims on food labels and will lessen the need for consumers to rely on the nutrition panel to assess the validity of such claims.

The agency requests comment on the criteria that the agency intends to use in judging nutrition labeling formats.

VII. Economic Impact

The food labeling reform initiative, taken as a whole, will have associated costs in excess of the $100 million threshold that defines a major rule. Therefore, in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354), FDA has developed one comprehensive regulatory impact analysis (RIA) that presents the costs and benefits of all of the food labeling provisions taken together. The RIA was published in the **Federal Register** of November 27, 1991 (56 FR 60856).

VIII. Environmental Impact

The agency has determined under 21 CFR 25.24 that this proposed rule is of a type that does not individually or cumulatively have a significant effect on the human environment. The proposed actions pertaining to food labeling meet the criteria in 21 CFR 25.24(a)(11) for exclusion from preparation of any environmental assessment and an environmental impact statement. The proposed regulations pertaining to the nutrition label format meet the criteria for exclusion, described in 21 CFR 25.24(a)(8). Therefore, neither an environmental assessment nor an environmental impact statement is required.

IX. Effective Date

FDA is proposing to make these regulations effective 6 months after the publication of a final rule based on this proposal. FDA notes, however, that in section 10(a)(3)(B) of the 1990 amendments, Congress provides that if the Secretary, and by delegation FDA, finds that requiring compliance with section 403(q) of the act, on mandatory nutrition labeling, or with section 403(r)(2) of the act, on nutrient content claims, 6 months after publication of the final rules in the **Federal Register** would cause undue economic hardship, the

Secretary may delay the application of these sections for no more than 1 year.

In light of the agency's tentative findings in its RIA (56 FR 60856, November 27, 1991), FDA requested comment in the supplementary mandatory nutrition labeling proposal (56 FR 60366 at 60384) of whether it can and should delay the application of sections 403(q) and 403(r)(2) of the act. The agency is currently considering the comments that it has received on this issue and intends to publish a **Federal Register** document announcing its conclusion concerning the effective date in advance of any final rule announcing how it will implement sections 403(q) and 403(r)(2), to assist firms in planning how they will comply with the act. FDA hopes that the early publication of such a notice will assist firms in avoiding any unnecessary expenses that could be incurred by trying to comply with a compliance date that may cause "undue economic hardship."

X. Comments

Interested persons may, on or before August 19, 1992, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

XI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. NFPA, "Food Labeling and Nutrition: What Americans Want," Washington, DC, 1990.

2. Committee on the Nutrition Components of Food Labeling, Food and Nutrition Board, IOM, NAS, "Nutrition Labeling: Issues and Directions for the 1990's," Washington, DC, National Academy Press, 1990.

3. USDA and DHHS, "Nutrition and Your Health, Dietary Guidelines for Americans," Washington, DC, Home and Garden Bulletin No. 232, 3d ed., U.S. Government Printing Office, 1990.

4. The American Dietetic Association, "Nutrition and Health Information on Food Labels," Journal of the American Dietetic Association, 90:583, 1990.

5. American Institute of Nutrition and the American Society of Clinical Nutrition, "Position Statement on Food Labeling," Washington, DC, April 1990.

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David A. Kessler,

Commissioner of Food and Drugs.

Dated: July 14, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

BILLING CODE 4160-01-M

Appendix A—Formats Tested in FDA Experimental Study 1

Control

FROZEN VEGETABLES
IN SAUCE

NUTRITION INFORMATION PER SERVING

Serving Size: 4½ oz (126 g) ½ cup
Servings per Container: about 2

Calories	140
Calories from fat	80
Fat	9 g
Saturated fat	2 g
Cholesterol	0 mg
Sodium	380 mg
Carbohydrate	14 g
Fiber	3 g
Protein	4 g

PERCENT OF DAILY VALUE

Vitamin A	10
Vitamin C	10
Calcium	2
Iron	4

INGREDIENTS: XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXX

Control/DRV

FROZEN VEGETABLES
IN SAUCE

NUTRITION INFORMATION PER SERVING

Serving Size: 4½ oz (126g) ½ cup
Servings per container: 2

Calories	140
Calories from fat	80

	AMOUNT	DAILY VALUE †
Fat	9 g	75 g or less
Saturated fat	2 g	25 g or less
Cholesterol	0 mg	300 mg or less
Sodium	380 mg	2,400 mg or less
Carbohydrates	14 g	325 g or more
Fiber	3 g	25 g
Protein	4 g	

PERCENT OF DAILY VALUE

Vitamin A	10
Vitamin C	10
Calcium	2
Iron	4

† As part of a 2,350 calorie diet

INGREDIENTS: XXXX

Adjective

FROZEN VEGETABLES
IN SAUCE

NUTRITION INFORMATION PER SERVING

Serving Size: 4½ oz (126 g) ½ cup
Servings per container: about 2

Calories	140
Calories from fat	80

	AMOUNT	DAILY VALUE
Fat	HIGH (9 g)	75 g or less*
Saturated fat	MEDIUM (2 g)	25 g or less*
Cholesterol	LOW (0 mg)	300 mg or less
Sodium	HIGH (380 mg)	2,400 mg or less
Carbohydrate	LOW (14 g)	325 g or more*
Fiber	MEDIUM (3 g)	25 g
Protein	LOW (4 g)	

PERCENT OF DAILY VALUE

Vitamin A	MEDIUM	10
Vitamin C	MEDIUM	10
Calcium	LOW	2
Iron	LOW	4

*As part of a 2,350 calorie diet

INGREDIENTS: XXXX

Numeric

FROZEN VEGETABLES
IN SAUCE

NUTRITION INFORMATION PER SERVING

Serving Size: 4½ oz (126 g) ½ cup
Servings per Container: about 2

Calories	140
Calories from fat	80
AMOUNT	
Fat	9 g
Saturated fat	2 g
Cholesterol	0 mg
Sodium	380 mg
Carbohydrate	14 g
Fiber	3 g
Protein	4 g

NUTRITION PROFILE

PERCENT OF DAILY VALUE		DAILY VALUE
Fat	12	75 g or less*
Saturated fat	8	25 g or less*
Cholesterol	0	300 mg or less
Sodium	16	2,400 mg or less
Carbohydrate	4	325 g or more*
Fiber	12	25 g
Vitamin A	10	
Vitamin C	10	
Calcium	2	
Iron	4	

*As part of a 2,350 calorie diet

INGREDIENTS: XXXX

Bar Graph

FROZEN VEGETABLES
IN SAUCE

NUTRITION INFORMATION PER SERVING

Serving Size: 4½ oz (126 g) ½ cup
Servings per container about 2

Calories	140
Calories from Fat	80
	AMOUNT
Fat	9 g
Saturated fat	2 g
Cholesterol	0 mg
Sodium	380 mg
Carbohydrate	14 g
Fiber	3 g
Protein	4 g

NUTRITION PROFILE

	DAILY VALUE	PERCENT OF DAILY VALUE
		0 10 20 30
Fat	75 g or less*	12%
Saturated Fat	25 g or less*	8%
Cholesterol	300 mg or less	0%
Sodium	2,400 mg or less	16%
Carbohydrate	325 g or more*	4%
Fiber	25 g	12%
Vitamin A		10%
Vitamin C		10%
Calcium		2%
Iron		4%

*As part of a 2,350 calorie diet

INGREDIENTS: XXXX

Appendix B—New Formats Tested in FDA Experimental Study 2

Percent DV With DRV

FROZEN VEGETABLES
IN SAUCE

NUTRITION INFORMATION PER SERVING

Serving Size: 4½ oz (126g) ½ cup
Servings per container: 2

Calories	80	
Calories from fat	20	
	PERCENT OF DV	**DAILY VALUE (DV) †**
Fat (2g)	3	75 g or less
Saturated fat (0g)	0	25 g or less
Cholesterol (0mg)	0	300 mg or less
Sodium (440mg)	18	2,400 mg or less
Carbohydrates (14g)	4	325 g or more
Fiber (3g)	12	25 g
Protein (4g)	9	
Vitamin A	10	
Vitamin C	10	
Calcium	2	
Iron	4	

† As part of a 2,350 calorie diet

INGREDIENTS: XXXX

Highlighting

FROZEN VEGETABLES
IN SAUCE

NUTRITION INFORMATION PER SERVING

Serving Size: 4½ oz (126g) ½ cup
Servings per container: 2

Calories	80
Calories from fat	20

	AMOUNT	DAILY VALUE †
Fat	**2 g***	75 g or less
Saturated fat	**0 g***	25 g or less
Cholesterol	**0 mg***	300 mg or less
Sodium	440 mg	2,400 mg or less
Carbohydrates	14 g	325 g or more
Fiber	3 g	25 g
Protein	4 g	

PERCENT OF DAILY VALUE	
Vitamin A	10
Vitamin C	10
Calcium	2
Iron	4

† As part of a 2,350 calorie diet
Meets FDA definitions and is consistent with dietary recommendations as:
* Low or reduced in amount per serving

INGREDIENTS: XXXX

Grouping

FROZEN VEGETABLES

NUTRITION INFORMATION PER SERVING

Serving Size: 4½ oz (126g) ½ cup
Servings per container: 2

Calories	80
Calories from fat	20

CHOOSE A DIET LOW IN:	**AMOUNT**	**DAILY VALUE †**
Fat	2 g	75 g or less
Saturated fat	0 g	25 g or less
Cholesterol	0 mg	300 mg or less
Sodium	440 mg	2,400 mg or less
CHOOSE A DIET HIGH IN:		
Carbohydrates	14 g	325 g or more
Fiber	3 g	25 g
PERCENT OF DAILY VALUE	*	
Protein	9	
Vitamin A	10	
Vitamin C	10	
Calcium	2	
Iron	4	

† As part of a 2,350 calorie diet

INGREDIENTS: XXXX

Appendix C—Graphic Adaptations

Graphic adaptation of CONTROL with DRV format

Nutrition Values

Size		Calories/Serving	
Serving Size	1/2 cup (114g)	Calories	260
Servings per container	4	Includes Calories from fat	120

	per Serving	Daily Value*
Fat	**13g**	**Less than 75g**
includes Saturated Fat	5g	Less than 25g
Cholesterol	**30mg**	**Less than 300mg**
Sodium	**660mg**	**Less than 2,400mg**
Carbohydrate	**31g**	**325g**
includes Complex Carbohydrate	26g	
and Sugars	5g	
Dietary Fiber	**0g**	**25g**
Protein	**5g**	**50g**

% Daily Value		% Daily Value	
Vitamin A	4%	**Calcium**	12%
Vitamin C	2%	**Iron**	4%

***Daily Value is based on 2,350 calorie diet**

Graphic adaptation of PERCENT DV with DRV format

Nutrition Guide

Serving Size 1/2 cup (114g)
Servings per Container **4**

Calories 260
(Calories from fat **120**)

Per serving	% Daily Value	Daily Value
Fat (13g)	**17%**	Less than **75g***
Saturated Fat (5g)	**20%**	Less than **25g***
Cholesterol (30mg)	**10%**	Less than **300mg**
Sodium (660mg)	**28%**	Less than **2,400mg**
Per serving	**% Daily Value**	**Daily Value**
Carbohydrate (31g)	**10%**	**325g***
Complex Carbohydrate (26g)		
Sugars (5g)		
Dietary Fiber (0g)	**0%**	**25g**
Protein (5g)		**50g***

Vitamins & Minerals % Daily Value

Vitamin A 4%, **Vitamin C** 2%, **Calcium** 12%, **Iron** 4%

***For a 2,350 calorie diet. Your Daily Value may be higher or lower, depending on your calorie intake .**

Appendix D—Examples of Simplified Formats

Simplified Labels

Control/DRV Format (Soft Drink)

NUTRITION INFORMATION PER SERVING

Serving Size: 1 can (360 ml)
Servings per container: 1

	Amount	Daily Value(DV) †
Calories	145	
Total Fat	0g	75 g or less
Total carbohydrate	36g	325 g or more
Sugars	36g	
Protein	0g	50 g
Sodium	20mg	2400 mg or less

† As part of a 2,350 calorie diet

Control/DRV Format (Soft Drink) In-Line Presentation

NUTRITION INFORMATION

Serving Size: 1 can (360 ml)
Servings per container: 1
PER SERVING: 145 calories, 0 g total fat (Daily Value (DV) = 75 g† or less); 36 g total carbohydrate (DV = 325 g† or more) [includes 36 g sugars], 0 g protein (DV = 50 g); 20 mg sodium (DV = 2400 mg or less).

† As part of a 2,350 calorie diet

Percent DV Format with DRV (Soft Drink)

NUTRITION INFORMATION PER SERVING

Serving Size: 1 can (360 ml)
Servings per container: 1
Calories: 145

	Percent of DV	Daily Value(DV) †
Total Fat (0g)	0	75 g or less
Total carbohydrate (36g)	11	325 g or more
Sugars (36g)		
Protein (0g)	0	50 g
Sodium (20mg)	1	2400 mg or less

† As part of a 2,350 calorie diet

Percent DV Format with DRV (Soft Drink) In-Line Presentation with DRV in String Beneath Nutrition Information

NUTRITION INFORMATION

Serving Size: 1 can (360 ml)
Servings per container: 1
PER SERVING: 145 calories, 0 g Total fat = 0% DV; 36 g Total carbohydrate = 11% DV [includes 36 g sugars]; 0 g Protein = 0% DV; 20 mg Sodium = 1% DV.

DAILY VALUES (DV)†: 75 g or less total fat, 325 g or more total carbohydrate, 50 g protein, and 2400 mg or less sodium.

† As part of a 2,350 calorie diet

APPENDIX E

Control with Dietary Guidance

FROZEN VEGETABLES
IN SAUCE

NUTRITION INFORMATION PER SERVING

Serving Size: 1/2 cup (126 g)
Servings per Container: 2

		RECOMMENDED DAILY INTAKE*
Calories	140	1600-2800
Calories from fat	80	480-840
NUTRIENT	**AMOUNT**	**RECOMMENDED DAILY INTAKE***
Total Fat	9 g	53-93 g
Saturated fat	2 g	18-31 g
Cholesterol	0 mg	300 mg
Sodium	380 mg	2400 mg
Total Carbohydrate	14 g	240-420 g
Complex Carbohydrate	10 g	
Sugars	4 g	
Dietary Fiber	3 g	18-32 g
Protein	4 g	40-70 g
PERCENT OF DAILY VALUE		
Vitamin A	10	
Vitamin C	10	
Calcium	2	
Iron	4	

* Ranges are based on recommended intakes and food consumption surveys. Advisable calorie, fat, carbohydrate, fiber, and protein intake should vary based on age, sex, height, weight, metabolism, and activity level.

INGREDIENTS: XXXX

Control with Dietary Guidance

FROZEN VEGETABLES
IN SAUCE

NUTRITION INFORMATION PER SERVING

Serving Size: 1/2 cup (126 g)
Servings per Container: 2

			DAILY GUIDE	
NUTRIENT	**AMOUNT**		**WOMEN**	**MEN**
Calories	140			
Calories from fat	80			
Total Fat	9 g	Less than	65 g*	80 g*
Saturated fat	2 g	Less than	20 g*	25 g*
Cholesterol	0 mg	Less than	300 mg	300 mg
Sodium	380 mg	Less than	2400 mg	2400 mg
Total Carbohydrate	14 g	More than	300 g*	375 g*
Complex Carbohydrate	10 g			
Sugars	4 g			
Dietary Fiber	3 g		25 g*	30 g*
Protein	4 g		50 g*	65 g*

PERCENT OF DAILY VALUE

Vitamin A	10
Vitamin C	10
Calcium	2
Iron	4

* Based on an assumed calorie intake of 2,000 calories for women and 2,500 calories for men. Advisable calorie, fat, carbohydrate, fiber, and protein intake will vary based on age, height, weight, metabolism, and activity level.

INGREDIENTS: XXXX

APPENDIX F

Control with Dietary Guidance

FROZEN VEGETABLES
IN SAUCE

NUTRITION INFORMATION PER SERVING

Serving Size: 1/2 cup (126 g)
Servings per Container: 2
Calories 140
Calories from fat 80

NUTRIENT	AMOUNT	PERCENT OF REFERENCE DAILY INTAKE	
Total Fat (1g=9 calories)	9 g	Vitamin A	10
Saturated fat	2 g	Vitamin C	10
Cholesterol	0 mg	Calcium	2
Sodium	380 mg	Iron	4
Total Carbohydrate (1g=4 calories)	14 g		
Complex Carbohydrate	10 g		
Sugars	4 g		
Dietary Fiber	3 g		
Protein (1g=4 calories)	4 g		

Use this nutrition information to help you plan your total daily diet. The Dietary Guidelines recommend that Americans:
- Eat a wide variety of foods
- Choose a diet with plenty of vegetables, fruits, and grain products
- Choose a diet low in fat (30% of calories or less), saturated fat (less than 10% of calories), and cholesterol
- Use sugar, salt and sodium in moderation

INGREDIENTS: XXXX

federal register

Monday
July 20, 1992

Part III

Department of the Interior

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgement of Existence as an Indian Tribe; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

July 8, 1992.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the

Gun Lake Village Band and Ottawa Colony, Band of Grand River Ottawa Indians, c/o William L. Church, 5721 Grand River Drive, Grand Ledge, Michigan 48837

has filed a petition for acknowledgment by the Secretary of the Interior that the group exits as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on June 24, 1992, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly § 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, room 1362–MIB, 1849 C Street, NW., Washington, DC 20240, Phone: (202) 208–3592.

Eddie F. Brown,

Assistant Secretary-Indian Affairs.

[FR Doc. 92–16953 Filed 7–17–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Monday
July 20, 1992

PART IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

July 1, 1992.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) requires a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to Congress.

This report gives the status, as of July 1, 1992, of 128 rescission proposals and 11 deferrals contained in the special message for FY 1992. These messages were transmitted to Congress on September 30, and December 19, 1991, and on February 19, March 10, March 20, April 8, April 9, and June 25, 1992.

Rescissions (Table A and Attachment A)

The President proposed 128 rescissions totaling $7,879.5 million. Public Law 102–298 (approved June 4, 1992) rescinded $2,066.9 million of the $7,879.5 million proposed by the President. Attachment A shows the history and status of each rescission proposed during FY 1992.

Deferrals (Table B and Attachment B)

As of July 1, 1992, $3,869.7 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1992.

Information From Special Messages

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the **Federal Registers** cited below:

56 FR 50620, Monday, October 7, 1991
56 FR 67402, Monday, December 30, 1991
57 FR 6644, Wednesday, February 26, 1992
57 FR 11140, Wednesday, April 1, 1992
57 FR 11528, Friday, April 3, 1992
57 FR 13151, Wednesday, April 15, 1992
57 FR 13779, Friday, April 17, 1992
57 FR 29610, Thursday, July 2, 1992

Richard Darman,

Director.

BILLING CODE 3110–01–M

TABLE A

STATUS OF FY 1992 RESCISSIONS

	Amounts (In millions of dollars)
Rescissions proposed by the President	7,879.5
Accepted by Congress as of July 1, 1992	2,066.9
Rescission proposals for which funding was previously withheld and has been released	7,330.1
Rescission proposals for which funding was not withheld	25.0
Rescission proposals for which funding is currently being withheld	---

TABLE B

STATUS OF FY 1992 DEFERRALS

	Amounts (In millions of dollars)
Deferrals proposed by the President	5,774.2
Routine Executive releases through July 1, 1992 (OMB/Agency releases of $3,767.5 million, partially offset by cumulative positive adjustments of $1,863.0 million)	-1,904.5
Overturned by the Congress	---
Currently before the Congress	3,869.7

Attachments

ATTACHMENT A
Status of FY 1992 Rescission Proposals
(Amounts in thousands of dollars)

As of July 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Amount Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF AGRICULTURE								
Cooperative State Research Service								
Building and facilities	R92-36		250	3-20-92	250	5-29-92		
	R92-37		500	3-20-92	500	5-29-92		
	R92-38			3-20-92	500	5-29-92	500	P.L. 102-298
	R92-39		2,710	3-20-92	2,710	5-29-92		
	R92-40		375	3-20-92	375	5-29-92		
	R92-41		3,050	3-20-92	3,050	5-29-92		
	R92-42		225	3-20-92	225	5-29-92		
Cooperative State Research Service	R92-43		225	3-20-92	225	5-29-92		
	R92-44			3-20-92	750	5-29-92	750	P.L. 102-298
	R92-45		94	3-20-92	94	5-29-92		
	R92-46		39	3-20-92	39	5-29-92		
	R92-47		387	3-20-92	387	5-29-92		
	R92-48		85	3-20-92	85	5-29-92		
	R92-49			3-20-92	49	5-29-92	49	P.L. 102-298
	R92-50		125	3-20-92	125	5-29-92		
	R92-51		185	3-20-92	185	5-29-92		
	R92-52		120	3-20-92	120	5-29-92		
	R92-53		134	3-20-92	134	5-29-92		
	R92-54		100	3-20-92	100	5-29-92		
	R92-55		46	3-20-92	46	5-29-92		
	R92-56		200	3-20-92	200	5-29-92		
	R92-57		250	3-20-92	250	5-29-92		
	R92-58			3-20-92	50	5-29-92	50	P.L. 102-298
	R92-59		187	3-20-92	187	5-29-92		
	R92-60		140	3-20-92	140	5-29-92		
	R92-61		76	3-20-92	76	5-29-92		
Extension Service								
Extension Service	R92-62		647	3-20-92	647	5-29-92		
	R92-63		150	3-20-92	150	5-29-92		

ATTACHMENT A
Status of FY 1992 Rescission Proposals
(Amounts in thousands of dollars)

As of July 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Amount Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
National Agricultural Library								
National Agricultural Library	R92-64		500	3-20-92	462 1/	5-29-92		
Animal and Plant Inspection Service								
Salaries and expenses	R92-35		100	3-20-92	100	5-29-92		
DEPARTMENT OF COMMERCE								
National Telecommunications and Information Administration								
Public telecommunications facilities, planning and construction	R92-2		18,425	3-10-92	21,425	5-11-92	3,000	P.L. 102-298
DEPARTMENT OF DEFENSE								
Operation and Maintenance								
Operation and maintenance, Army	R92-3		80,798	3-10-92	92,850	5-11-92	12,052	P.L. 102-298
Operation and maintenance, Navy	R92-4		104,520	3-10-92	104,650	5-11-92	130	P.L. 102-298
Operation and maintenance, Marine Corps	R92-5		14,834	3-10-92	22,000	5-11-92	7,166	P.L. 102-298
Operation and maintenance, Air Force	R92-6		3,848	3-10-92	4,500	5-11-92	652	P.L. 102-298
Operation and maintenance, Defense Agencies	R92-7		20,200	3-10-92	20,200	5-11-92		
Procurement								
Aircraft procurement, Army	R92-103		133,000	4-9-92	133,000	6-19-92		
Procurement of weapons and tracked combat vehicles, Army	R92-9		60,000	3-10-92	110,000	5-11-92	50,000	P.L. 102-298
	R92-104		225,000	4-9-92	225,000	6-19-92		
	R92-105			4-9-92			196,300	P.L. 102-298
	R92-106		17,600	4-9-92	17,600	6-19-92		
Procurement of ammunition, Army	R92-10		1,000	3-10-92	1,000	5-11-92		
Aircraft procurement, Navy	R92-11		223,000	3-10-92	262,000	5-11-92	39,000	P.L. 102-298

1/ Only $462,000 was withheld from obligation.

ATTACHMENT A
Status of FY 1992 Rescission Proposals
(Amounts in thousands of dollars)

As of July 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Amount Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
	R92-107			4-9-92			15,000	P.L. 102-298
	R92-108		8,000	4-9-92	8,000	6-19-92		
Weapons procurement, Navy	R92-12		13,200	3-10-92	13,200	5-11-92		
	R92-109		130,000	4-9-92	130,000	6-19-92		
	R92-110			4-9-92			4,000	P.L. 102-298
	R92-111			4-9-92			60,000	P.L. 102-298
Shipbuilding and conversion, Navy	R92-13		238,100	3-10-92	238,100	5-11-92		
	R92-101		1,615,900	3-20-92	2,765,900	5-21-92	1,150,000	P.L. 102-298
Other procurement, Navy	R92-14		41,300	3-10-92	41,300	5-11-92		
	R92-102			3-20-92	189,400	5-21-92	189,400	P.L. 102-298
	R92-112		10,000	4-9-92	10,000	6-19-92		
	R92-113		4,000	4-9-92	4,000	6-19-92		
	R92-114		2,000	4-9-92	2,000	6-19-92		
Procurement, Marine Corps	R92-15		40,200	3-10-92	40,200	5-11-92		
	R92-115		6,500	4-9-92	6,500	6-19-92		
Procurement, Defense Agencies	R92-16		154,800	3-10-92	154,800	5-11-92		
National guard and reserve equipment	R92-116		21,000	4-9-92	21,000	6-19-92		
	R92-117		799,300	4-9-92	799,300	6-19-92		
	R92-118		67,000	4-9-92	67,000	6-19-92		
	R92-119		9,300	4-9-92	9,300	6-19-92		
	R92-120		45,000	4-9-92	45,000	6-19-92		
	R92-121		15,000	4-9-92	15,000	6-19-92		
	R92-122		20,000	4-9-92	20,000	6-19-92		
	R92-123		60,000	4-9-92	60,000	6-19-92		
	R92-124		15,000	4-9-92	15,000	6-19-92		
Research, Development, Test and Evaluation								
Research, development, test, and evaluation, Army	R92-18		102,200	3-10-92	102,200	5-11-92		
	R92-125		4,000	4-9-92	4,000	6-19-92		
Research, development, test, and evaluation, Navy	R92-19		140,600	3-10-92	140,600	5-11-92		

ATTACHMENT A
Status of FY 1992 Rescission Proposals
(Amounts in thousands of dollars)

As of July 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Amount Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
Research, development, test, and evaluation, Air Force	R92-20		127,100	3-10-92	127,100	5-11-92		
	R92-21		320,900	3-10-92	375,900	5-11-92	55,000	P.L. 102-298
	R92-126		3,000	4-9-92	3,000	6-19-92		
	R92-127			4-9-92			248,800	P.L. 102-298
Research, development, test, and evaluation, Defense Agencies	R92-128		5,000	4-9-92	5,000	6-19-92		
	R92-129		6,000	4-9-92	6,000	6-19-92		
	R92-130		70,000	4-9-92	70,000	6-19-92		
Military Construction								
Military construction, Army	R92-22		200	3-10-92	9,050	5-11-92	8,850	P.L. 102-298
Military construction, Navy	R92-23		17,400	3-10-92	17,400	5-11-92		
Military construction, Air Force	R92-24		6,000	3-10-92	6,000	5-11-92		
Military construction, Defense Agencies	R92-25		39,000	3-10-92	48,000	5-11-92	9,000	P.L. 102-298
Military construction, Army National Guard	R92-26		16,565	3-10-92	16,565	5-11-92		
Military construction, Air National Guard	R92-27			3-10-92	306	5-11-92	306	P.L. 102-298
Military construction, Army Reserve	R92-28		2,749	3-10-92	2,749	5-11-92		
Military construction, Naval Reserve	R92-29		25,100	3-10-92	36,000	5-11-92	10,900	P.L. 102-298
DEPARTMENT OF DEFENSE-CIVIL								
Corps of Engineers								
Construction, general	R92-91		3,000	3-20-92	3,000	5-21-92		
Operation and maintenance, general	R92-92		1,350	3-20-92	1,350	5-21-92		
DEPARTMENT OF ENERGY								
Energy Programs								
Fossil energy research and development	R92-34		1	4-8-92	1	6-18-92	144	P.L. 102-298

ATTACHMENT A
Status of FY 1992 Rescission Proposals
(Amounts in thousands of dollars)

As of July 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Amount Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Health Resources and Services Administration								
Health resources and services	R92-30		25,000 2/	3-10-92				
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Annual contributions for assisted housing	R92-65		547,659	3-20-92	547,659	5-21-92		
	R92-66		1,500	3-20-92	1,500	5-21-92		
	R92-67		1,000	3-20-92	1,000	5-21-92		
	R92-68		2,000	3-20-92	2,000	5-21-92		
	R92-69		150	3-20-92	150	5-21-92		
	R92-70		100	3-20-92	100	5-21-92		
	R92-71		1,200	3-20-92	1,200	5-21-92		
	R92-72		1,000	3-20-92	1,000	5-21-92		
	R92-73		1,300	3-20-92	1,300	5-21-92		
	R92-74		3,900	3-20-92	3,900	5-21-92		
	R92-75		2,500	3-20-92	2,500	5-21-92		
	R92-76		1,500	3-20-92	1,500	5-21-92		
	R92-77		500	3-20-92	500	5-21-92		
	R92-78		1,000	3-20-92	1,000	5-21-92		
	R92-79		1,000	3-20-92	1,000	5-21-92		
	R92-80		505	3-20-92	505	5-21-92		
	R92-81		65	3-20-92	65	5-21-92		
	R92-82		101	3-20-92	101	5-21-92		

2/ Funding was never withheld.

ATTACHMENT A
Status of FY 1992 Rescission Proposals
(Amounts in thousands of dollars)

As of July 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Amount Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
	R92-83		1,500	3-20-92	1,500	5-21-92		
	R92-84		700	3-20-92	700	5-21-92		
	R92-85		1,000	3-20-92	1,000	5-21-92		
Annual contributions for assisted housing	R92-86		800	3-20-92	800	5-21-92		
Congregate services program	R92-1		16,700	2-19-92	16,700	4-6-92		
Flexible subsidy fund	R92-31		25,000	3-10-92	25,000	5-11-92		
Policy Development and Research								
Research and technology	R92-87		400	3-20-92	400	5-21-92		
DEPARTMENT OF THE INTERIOR								
National Park Service								
Construction	R92-89		7,700	3-20-92	7,700	5-21-92		
Operation of the national park system	R92-90		1,975	3-20-92	1,975	5-21-92		
Bureau of Indian Affairs								
Operation of Indian programs	R92-32		5,880	3-10-92	5,880	5-11-92		
Construction	R92-88		2,696	3-20-92	8,593	5-21-92	5,897	P.L. 102-298
DEPARTMENT OF TRANSPORTATION								
Federal Railroad Administration								
Local rail freight assistance	R92-33		9,880	3-10-92	9,880	5-11-92		

ATTACHMENT A
Status of FY 1992 Rescission Proposals
(Amounts in thousands of dollars)

As of July 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Amount Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
ENVIRONMENTAL PROTECTION AGENCY								
Research and development	R92–98		116	3–20–92	116	5–21–92		
Abatement, control and compliance	R92–93		1,250	3–20–92	1,250	5–21–92		
	R92–94		390	3–20–92	390	5–21–92		
	R92–95		70	3–20–92	70	5–21–92		
	R92–96		1,450	3–20–92	1,450	5–21–92		
Buildings and facilities	R92–97		20,000	3–20–92	20,000	5–21–92		
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Construction of facilities	R92–99		3,400	3–20–92	3,400	5–21–92		
Research and development	R92–100		750	3–20–92	750	5–21–92		
TOTAL RESCISSIONS		0	5,812,527		7,330,191		2,066,946	

ATTACHMENT B
Status of FY 1992 Deferrals – As of July 1, 1992
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(–): Cumulative OMB/ Agency	Releases(–): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 7–1–92
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D92–1	244,777		09–30–91					
	D92–1A		1,623,312	12–19–91	1,527,599			1,108,866	1,449,356
Foreign military financing	D92–8	1,908,000		12–19–91					
	D92–8A		93,098	06–25–92	996,300			695,578	1,700,376
Agency for International Development									
International disaster assistance, Executive	D92–2	40,704		09–30–91					
	D92–2A		12,483	02–19–92	42,731			34,068	44,524
Demobilization and transition fund	D92–9	13,000		12–19–91					13,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Cooperative work	D92–3	482,378		09–30–91	135,434				346,944
Expenses, brush disposal	D92–10	101,006		12–19–91					101,006
Timber salvage sales	D92–11	131,549		02–19–92					
	D92–11A		50,000	06–25–92	30,000				151,549
DEPARTMENT OF DEFENSE – CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D92–4	1,416		09–30–91	93				1,324

ATTACHMENT B
Status of FY 1992 Deferrals – As of July 1, 1992
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(–): Cumulative OMB/ Agency	Releases(–): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 7–1–92
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses	D92–5	7,317		09–30–91					7,317
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D92–6	30,053		09–30–91					
	D92–6A		24,750	12–19–91	25,000			24,520	54,323
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund)	D92–7	1,010,375		09–30–91	1,010,375				0
TOTAL, DEFERRALS		3,970,575	1,803,643		3,767,532	0		1,863,033	3,869,719

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Monday
July 20, 1992

Part V

Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 50 and 574

Housing Opportunities for Persons With AIDS; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 50 and 574

[Docket No. R-92-1606; FR-3178-I-01]

Housing Opportunities for Persons With AIDS

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

SUMMARY: The interim rule will govern the operation of the Housing Opportunities for Persons with AIDS (HOPWA) program. The program was authorized by the National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990) to provide States and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome (AIDS) and related diseases. The program authorizes two types of grants for housing assistance and services: entitlement grants and competitively awarded grants.

DATES: *Effective date:* August 19, 1992.

Comment due date: September 18, 1992.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. An original and four copies of comments should be submitted. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: James N. Forsberg, Director, Office of Special Needs Assistance Programs, (202) 708–4300; TDD: (202) 708–2565); Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–7000. (Telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Information Collections

The information collection requirements contained in §§ 574.160, 574.240, 574.510 and 574.520 of this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register.

Public reporting burden for the collection of information requirements contained in this rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided in part III of this preamble. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, should be sent by August 19, 1992, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Washington, DC 20410–0500; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3001, Washington, DC 20503, Attention: Jennifer Main, Desk Officer for HUD. At the end of the public comment period, the Department may amend the information collection requirements to reflect the public comments or OMB comments received concerning the information collections.

II. Background

In writing these regulations to implement the AIDS Housing Opportunity Act, the Department found the statute to be complex and, in some places, ambiguous. Because several key parts of the statute are subject to differing interpretations, and because the Department's rulemaking procedures generally require the publication of a proposed rule before regulations are made final and effective, the Department originally planned to publish a proposed rule. However, given the pressing need for housing and services for persons with AIDS and related diseases before the 1992–1993 winter, the decision was made to publish this interim rule. The interim rule allows the program to be implemented now, while soliciting public comments to be considered in developing a final rule. The formal justification for this interim rulemaking is located in part III of this preamble.

Without the benefit of public comments, and within the limits described in the statute, the Department has attempted to develop regulations which are simple in concept, easy to follow in practice, and internally consistent in their requirements. However, public comments may show that the rule can be improved.

To assist potential commenters, this preamble describes the reasoning underlying key provisions. It also identifies specific limitations required by the statute, which cannot be changed by the Department.

The preamble is organized to reflect the major subparts of the rule.

Subpart A—General

Project Sponsor

In § 574.3, the term "project sponsor" is defined. While the statute does not define this term, it does state that the grantee must carry out authorized activities through project sponsors. Considering that a narrow definition of this term could significantly restrict the flexibility of grantees in implementing activities, the Department has defined "project sponsor" broadly to mean any private nonprofit organization or government agency that receives funds from the grantee to carry out eligible activities.

Unit of General Local Government

Also defined in § 574.3 is the term "unit of general local government." The statute states that this term has the same meaning as in section 104 of the National Affordable Housing Act. The regulation incorporates the definition from section 104, except that it omits the phrase "a consortium of such political subdivisions recognized by the Secretary in conformance with section 216(2) of the National Afforable Housing Act." (Section 216(2) is one of the provisions of title II of the Act that established the HOME program.) This phrase has been omitted because it serves a special purpose under the HOME program that the Department believes is inapplicable to the Housing Opportunities for Persons with AIDS (HOPWA) program.

Subpart B—Formula Entitlements

Applicant Designation

Under the statute, 90 percent of the appropriated funds are to be awarded by formula to certain metropolitan areas, referred to in this rule as Eligible Metropolitan Areas or EMAs, and to States qualifying for an entitlement grant based on the number of cases of AIDS. The other 10 percent of appropriated funds are to be awarded competitively.

While the statute states that grantees are States and units of general local

government, it does not make clear which units of general local government located within each EMA should be considered as the eligible grantee or grantees. Under one interpretation, every unit of general local government within the EMA would be eligible to receive its proportionate share of the amount allocated by formula to the EMA. But, considering the total amount appropriated for all EMAs, and the minimum grant allocation of $200,000 per grantee described in paragraph 854(c)(2) of the statute, this approach is infeasible.

Another suggested approach was to allocate funds according to the method used in the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (Pub. L. 100–381, approved August 18, 1990); that is, to distribute each EMA's allocation to the city or urban county within that EMA providing health services to the largest number of persons with AIDS and establish administrative mechanisms to allocate funds and services through intergovernmental agreements to other jurisdictions. The provision of the Ryan White Act that authorized this approach were not included in the AIDS Housing Opportunity Act. The Department, therefore, does not believe it can unilaterally select one locality within each EMA to be the grantee.

Instead, the Department is interpreting section 854(e) of the statute to mean that those units of general local government within each EMA that are entitled jurisdictions under the Community Development Block Grant (CDBG) program (42 U.S.C. 5301–5317; 24 CFR 570) must determine among themselves which single unit of general local government will serve as the applicant and grantee for the EMA's entitlement amount under the HOPWA program. The rule at § 574.110 describes the mechanism for designating the applicant/grantee for each EMA. The rule requires that agreement be reached on which unit of general local government will apply for HOPWA funds and serve as grantee by at least one-half of an EMA's CDBG program entitlement communities and that those communities represent a majority of the total population of all CDBG entitlement communities within the EMA.

The Department believes that by not requiring unanimity, this "majority rule" approach represents a workable solution to a complex problem. To ensure that the entire metropolitan area is served, the rule also requires that the designated applicant agree to serve eligible persons living anywhere within the EMA.

All of the 18 EMAs that will receive funds in FY 1992 under the Ryan White Act have been determined to be eligible to receive allocations under HOPWA's 1992 appropriation. The remaining nine eligible EMA applicants under HOPWA are in States that receive Ryan White funding and are likely to be participating cooperatively in HIV Care Consortia that provide health services in those areas. In cases where EMAs are receiving funding under the Ryan White Act, HUD recommends that the units of general local government in these EMAs carefully consider designating the same governmental entity to serve as the HOPWA applicant in order to ensure close coordination between housing recources and supportive services for persons with AIDS.

An announcement of allocations of HOPWA funds will be published annually in the **Federal Register**, listing the Department's determination of which States and metropolitan areas qualify for grant allocations, estimated allocations, and population numbers for the CDBG program entitlement units of general local government within the metropolitan areas, as described in §§ 574.100, 574.110 and 574.130 of the Interim Rule.

The designated applicant for an EMA must include in its application a certification pursuant to § 574.160(d)(7) that it was so designated in compliance with § 574.110.

Eligible Beneficiaries

Section 574.140 describes who are eligible beneficiaries under the program. While the statute is clear that only persons with AIDS or related diseases are eligible to be served, it is somewhat ambiguous on whether eligible persons must also be low-income individuals. Section 855 of the statute clearly states that grant funds may be used only for activities designed to prevent homelessness among persons with AIDS. It can be argued that persons who are not low-income individuals (i.e., persons who have incomes above 80% of the applicable median income for the area) are not currently in danger of becoming homeless.

Section 857 of the statute, in describing grants for AIDS housing information and resource identification, makes no reference to any income standard. Section 858, which authorizes grants for short-term supported housing and services, specifically limits this assistance to persons with AIDS who are homeless or in need of housing assistance to prevent homelessness. Section 859 authorizes rental assistance only for low-income individuals with AIDS. Section 860, in authorizing grants for single room occupancy dwellings, states that, to the extent practicable, such grants shall be carried out in the manner provided under section 8(n) of the United States Housing Act of 1937. The section 8 program is limited to low-income persons. Section 861 of the statute, which authorizes grants for community residences, describes rent requirements for low-income residents and for residents who do not have low incomes. Section 861(b)(1)(C) states also that fees may be charged for services provided based on the resident's income and resources.

Taking all of these provisions into consideration, and also considering the limited funds available for HOPWA, the Department has decided that except for outreach, educational, and housing information services, eligible beneficiaries under the program should be limited generally to persons with AIDS or related diseases who are low-income individuals. This approach will help ensure that limited resources are targeted to persons with the greatest need.

Location of State Activities

States may carry out their authorized activities anywhere in the State, including within metropolitan areas that also qualify for an entitlement grant. The statute did not provide for limiting a State to areas outside of an EMA. This flexibility in the location of State programs may also provide for improved program effectiveness through better coordination with other services for persons with AIDS.

Subpart C—Competitive Grants

The statute established two competitive categories of assistance: (1) Grants to States and localities for projects of national significance; and (2) grants for other projects submitted by States and localities which did not qualify for a formula allocation. A competition will be announced for both categories of assistance and applications will be rated based on selection criteria that are stated in § 574.250, Grant Selection Process. Applicants for projects of national significance will be rated on the additional criteria of the innovative nature of the project and its potential for replication in similar localities or nationally, in accordance with § 574.250(b)(3).

Subpart D—Uses of Grant Funds

The Department interprets section 855 of the statute as authorizing any activity that carries out strategies designed to prevent homelessness among persons

with AIDS. The first sentence of that section describes this broad authority, and is followed by a description of five specific categories of eligible activities plus a sixth category authorizing "other activities that the Secretary develops in cooperation with eligible States and localities." Sections 857 through 861 of the statute describe eligible activities under each of the five specific categories along with applicable limitations. Rather than follow this format in developing the rule, the Department has adopted a more typical regulatory format by consolidating into one section all eligible activities. Separate sections then discuss standards that apply to all forms of housing assistance, as well as those that apply only to a specific type of housing assistance.

The Department believes the list of eligible activities covers every type of activity that an applicant may wish to carry out. However, in case other activities are identified by applicants, the rule includes a provision allowing the Secretary to approve any other activity proposed by the applicant.

Section 574.300 of the rule lists all of the eligible activities and indicates that they are subject to applicable requirements described in §§ 574.310, 574.320, 574.330 and 574.340. As stated in this section, HOPWA funds may be used to assist all forms of housing to carry out strategies designed to prevent homelessness among persons with AIDS. HOPWA funds may also be used to provide appropriate supportive services.

Section 574.310 describes six general standards applicable to all eligible housing activities. These general standards are established under the authority of section 855 of the statute which states that, "The Secretary shall establish standards and guidelines for approved activities." These standards cover mandatory supportive services, housing quality, minimum use period for structures assisted with HOPWA funds, resident rent payments, and termination of assistance to residents following due process procedures. The statute describes the minimum use period for structures only with respect to short-term supported housing. For consistency, the Department has applied this standard to all structures assisted with HOPWA funds.

Section 574.320 describes additional standards that apply to all rental assistance provided with HOPWA funds. Standards are established for rental subsidies. These standards are consistent with similar standards found in other HUD programs providing rental assistance, such as the section 8 rental payments assistance program and the HOME program.

Section 574.330 describes additional standards that apply to short-term supported housing and § 574.340 describes additional standards that apply to community residences. These additional standards are all required by the statute.

Subpart E—Special Responsibilities of Grantees and Project Sponsors

All of the responsibilities of grantees and project sponsors described in this subpart are required by the statute.

Subpart F—Grant Administration

The grant administration requirements described in this subpart are standard requirements applied by HUD to similar grant-in-aid programs.

Subpart G—Other Federal Requirements

The Federal requirements described in this subpart are other Federal requirements that the Department has responsibility for enforcing in this program as well as in its other programs.

Public Comment

Public comments on any provision in this interim rule will be welcomed. However, public comments supporting or opposing the key provisions described under subparts A–D above will be particularly helpful in preparing the final rule.

Part 50 Amendment

The Department has determined that the decision point for compliance with the environmental review required by the National Environmental Policy Act of 1969 (NEPA) and the other applicable Federal environmental laws and authorities listed in 24 CFR 50.4 is *not* the approval by HUD of the award of grants to successful applicants, but rather the approval of specific properties for use in a grantee's program. The reason for this decision point is that applications for funding are *not* likely to identify specific properties to be used in the HOPWA programs, whereas certain Federal environmental laws and authorities require review of specific properties. Since 24 CFR 50.17 discusses decision points for environmental review and it does not provide for this type of situation, it is being amended in this rule to add a requirement that does recognize it.

The section dealing with environmental policy, generally (§ 50.3) is being amended to add a paragraph to provide that an applicant for assistance involving the later selection of specific properties must assure HUD that it will assist HUD in fulfilling HUD's responsibility for environmental review by taking three actions. It must: (1) Cooperate in providing information needed for the environmental review, (2) take any mitigating measures required or select alternate property, and (3) refrain from carrying out program activities until HUD's review is completed and the property is approved. The provisions of part 574 that describe the application requirements for formula entitlements (§ 574.160(c)(8)) and competitive grants (§ 574.240(d)(9)) also require these three actions. The environmental policy and procedures required of the successful applicant and the HUD field office to comply with NEPA and applicable environmental laws and authorities described in § 50.4 are specified in § 574.510, Environmental Procedures and Standards. Additional guidance will be provided to grantees and HUD field offices.

The Department has determined that NEPA and the other Federal environmental laws and authorities listed at § 50.4 apply to physical development activities listed in § 574.300(b) (3) and (4); they do not apply to the other activities cited in § 574.300, which by their nature do not propose a physical change to a property. To preclude the need for doing repetitive findings of no significant impact for non-physical development activities and to provide for an efficient and effective use of resources and staff responsible for compliance with part 50, HUD is revising § 50.19 to eliminate the need for these findings.

The heading of § 50.19 is revised to reflect its true nature: "Activities not subject to § 50.4." To this section is added a new and expanded list of activities funded under HUD programs such as HOPWA that would not alter any property conditions that would require review or compliance under the other Federal laws and authorities cited in § 50.4. The Department has determined that the laws and authorities listed in § 50.4 are not applicable to the activities listed in this section.

The section (§ 50.20) that provides for a categorical exclusion from the environmental review required by NEPA is revised in a similar manner. There is an existing exclusion for supportive services, maintenance, and administrative activities under homeless programs. That exclusion is broadened in this revision (paragraph (o)) to cover HUD approval of financial assistance for any proposed activity to be carried out that would not alter any property conditions, similar to the exemption from other environmental authorities discussed above. With respect to

acquisition, rehabilitation or construction, certain of the existing exclusions in § 50.20 would apply, excluding some actions that do not exceed certain thresholds.

III. Findings and Certifications

Justification for Interim Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 does provide for exceptions from this general practice where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impractical, unnecessary, or contrary to the public interest." (24 CFR 10.1).

The Department finds that good cause exists to publish this rule for effect without first soliciting public comment, because the urgent need to provide HOPWA funds for housing and supportive services for persons with AIDS and related diseases makes the prior solicitation of public comments contrary to the public interest. To delay program implementation until the publication of a final rule, developed after consideration of comments received on this rule, would mean that funds would not reach grantees until early in 1993, too late to provide housing assistance for the 1992–93 winter. Program implementation through this interim rule, on the other hand, would allow funds to be available in the summer of 1992.

The Department invites public comment on this interim rule. The comments received within the 60-day comment period will be considered during the development of the final rule that will supersede this interim rule.

Waiver

Section 574.4 of this rule constitutes a general waiver, which is subject to section 7(q) of the Department of Housing and Urban Development Act. As such, it is subject to the Department's statement of policy concerning waivers that was published on April 22, 1991 (56 16337), which requires that any general waiver authority be exercised by the Assistant Secretary responsible for issuing the regulation; must be in writing; must state the grounds for granting the waiver; and must be reported to the public by publication of a notice of the waiver in the **Federal Register.**

Environmental Impact

A finding of no significant impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The finding of no significant impact is available for public inspection between 7:30 a.m. to 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Impact on the Economy

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. An 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.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities, because jurisdictions that are statutorily eligible to receive formula allocations are limited to States and metropolitan areas with a relatively large cumulative number of cases of persons with AIDS.

Semiannual Agenda of Rules

This rule was not listed in the Department's Semiannual Agenda of Regulations, published on April 27, 1992 (57 FR 16804) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

Federalism Impact

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 will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the Rule is not subject to review under the Order. The rule authorizes entitlement grants to a limited number of States and metropolitan areas and authorizes competitively awarded grants under a limited statutory allocation for housing assistance and services for the Housing Opportunities for Persons with AIDS program, but the grants are administered locally.

Impact on the Family

The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that this Rule, to the extent the funds provided under it are directed to families, has the potential for a beneficial impact on family formation, maintenance and general well-being. Although the statutory authority for the program is directed at providing housing assistance and services for individuals with acquired immunodeficiency syndrome and related diseases, programs supported by HOPWA will benefit the families of these individuals. In cases where the individual is dependent on his or her family and in cases where individuals are responsible for dependents, HOPWA funds will be incidentally serving families. Such assistance will help enable those families with a participating member who has AIDS to live in decent, safe, and sanitary housing and receive the supportive services necessary to assist a person with AIDS to live independently. Since the impact on the family is beneficial, no further review is considered necessary.

"Takings" Assessment

The General Counsel, as the Designated Official under Executive Order 12630, Government Actions and Interference with Constitutionally Protected Property Rights, has determined that this rule does not have "takings implications" as defined in HUD's "Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings." The Department does not regard the effects of this rule on private property rights as "effectively denying economically viable use of any distinct legally protected property interest of a property owner, or resulting in a permanent or temporary physical occupation, invasion, or deprivation." The rule would authorize acquisition of property by grantees or their project sponsors under the normal State and local governmental procedures for the limited purpose of providing housing assistance for eligible beneficiaries.

Public Reporting Burden

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The Department has determined that the following provisions contain information collection requirements.

TABLE 1.—TABULATION OF ANNUAL REPORTING BURDEN

Description of information collection	Provision of interim rule	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
Applications to HUD:						
State entitlements	§ 574.160	11	1	11	8.0	88
Local unit for EMA	§ 574.160	27	1	27	12.0	324
Competitive awards	§ 574.240	100	1	100	20.0	2,000
Annual report to HUD	§ 574.520	48	1	48	12.0	576
Waiver requests to HUD	§ 574.4	5	1	5	4.0	20
	§ 574.310(c)					
	§ 574.330(b)					
Amendments submitted	§ 574.180	5	1	5	4.0	20
	§ 574.260					
Uniform Relocation Act Appeals Process	§ 574.630	5	1	5	2.0	10
Environmental review recordkeeping	§ 574.510	48	1	48	4.0	192
Total burden						3,230

Note: Based on experience, the number of competitive applications to be selected is estimated to be 10 and no more than 10 percent of grants will involve waivers, amendments or relocations.

Catalog

The Catalog of Federal Domestic Assistance program number for the Housing Opportunities for Persons with AIDS program is 14.241.

List of Subjects

24 CFR Part 50

Environmental assessments, Environmental impact statements, Environmental policies and review procedures.

24 CFR Part 574

AIDS, Community facilities, Disabled, Emergency shelter, Grant programs—health programs, Grant programs—housing and community development, Grant programs—social programs, Homeless, Housing, Low and moderate income housing, Nonprofit organizations, Rent subsidies, Reporting and recordkeeping requirements, Technical assistance.

Accordingly, title 24 of the Code of Federal Regulations is amended, as follows:

PART 50—PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

1. The authority citation for 24 CFR part 50 is revised to read as follows:

Authority: 42 U.S.C. 3535(d).

2. In § 50.3, a new paragraph (i) is added to read as follows:

§ 50.3 Environmental policy.

* * * * *

(i) For HUD grant programs in which the funding approval for an applicant's program must occur before the applicant's selection of properties, the application shall contain an assurance that the applicant agrees to assist HUD to comply with this part and that the applicant shall:

(1) Supply HUD with all available, relevant information necessary for HUD to perform for each property any environmental review required by this part;

(2) Carry out mitigating measures required by HUD or select alternate eligible property; and

(3) Not acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds to such program activities with respect to any eligible property, until HUD approval is received.

3. In § 50.17, paragraph (i) is redesignated as paragraph (j), and a new paragraph (i) is added, to read as follows:

§ 50.17 Projects.

* * * * *

(i) *Grant programs in which HUD approval of funding for an applicant's program must occur before the applicant's selection of properties for use in its program.* HUD approval of specific properties (see § 50.3(i)).

* * * * *

4. Section 50.19 is added, to read as follows:

§ 50.19 Activities not subject to § 50.4.

Because certain activities funded under HUD programs would not alter any conditions that would require review or compliance under the other Federal laws and authorities cited in § 50.4, the laws and authorities listed in § 50.4 do not apply to them. These activities are the following:

(a) The approval of planning grants under the Homeownership and Opportunity for People Everywhere [HOPE] programs;

(b) Information services;

(c) Resource identification and planning to establish and coordinate strategies, including feasibility studies, environmental studies and testing;

(d) Tenant-based rental assistance;

(e) Supportive services including, but not limited to, health care, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;

(f) Operating costs including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs;

(g) Technical assistance; and

(h) Administrative expenses.

5. In § 50.20, paragraph (o) is revised to read as follows:

§ 50.20 Categorical exclusions.

* * * * *

(o) The following activities that do not affect a physical structure or property:

(1) Information services;

(2) Resource identification and planning to establish and coordinate strategies, including feasibility studies, environmental studies and testing;

(3) Tenant-based rental assistance;

(4) Supportive services including, but not limited to, health care, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;

(5) Operating costs including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs; and

(6) Administrative expenses.

* * * * *

6. Part 574 is added, to read as follows:

PART 574—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

Subpart A—General

Sec.
574.1 Purpose.
574.2 Overview.
574.3 Definitions.
574.4 Waivers.

Subpart B—Formula Entitlements

574.100 Eligible applicants.
574.110 Designation of applicant within EMA.
574.120 Responsibility of applicant to serve EMA.
574.130 Formula allocations.
574.140 Eligible beneficiaries.
574.150 Eligible activities.
574.160 Application requirements.
574.170 Application review and approval.
574.180 Amendments.
574.190 Reallocation of grant amounts.

Subpart C—Competitive Grants

574.200 Amounts available for competitive grants.
574.210 Eligible applicants.
574.220 Eligible beneficiaries.
574.230 Eligible activities.
574.240 Application requirements.
574.250 Grant selection process.
574.260 Amendments.

Subpart D—Uses of Grant Funds

574.300 Eligible activities.
574.310 General standards for eligible housing activities.
574.320 Additional standards for rental assistance.
574.330 Additional standards for short-term supported housing.
574.340 Additional standards for community residences.

Subpart E—Special Responsibilities of Grantees and Project Sponsors

574.400 Prohibition of substitution of funds.
574.410 Capacity.
574.420 Cooperation.
574.430 Fee prohibitions.
574.440 Confidentiality.
574.450 Financial records.

Subpart F—Grant Administration

Sec.
574.500 Responsibility for grant administration.
574.510 Environmental procedures and standards.
574.520 Performance reports.
574.530 Recordkeeping.
574.540 Obligation and deobligation of funds.

Subpart G—Other Federal Requirements

574.600 Nondiscrimination and equal opportunity.
574.605 Applicability of OMB circulars.
574.610 Drug-free workplace.
574.615 Anti-lobbying certification.
574.620 Debarred or suspended contractors.
574.625 Conflict of interest.
574.630 Displacement, relocation and real property acquisition.
574.635 Lead-based paint.
574.640 Flood insurance protection.
574.645 Coastal barriers.
574.650 Audit.

Authority: 42 U.S.C. 12901–12912.

Subpart A—General

§ 574.1 Purpose.

The Housing Opportunities for Persons with AIDS (HOPWA) program is authorized by title VIII, subtitle D, of the Cranston-Gonzalez National Affordable Housing Act (NAHA). The program is designed to provide States and localities with resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome and related diseases. The program authorizes entitlement grants and competitively awarded grants for housing assistance and services.

§ 574.2 Overview.

(a) *Available funds.* The Department awards funds appropriated for any fiscal year for the program through a formula allocation and a competitive grant process. The amount of funds available will be specified in an Announcement of Allocations for entitlement grants and a Notice of Funds Availability (NOFA) for competitive grants, both published in the **Federal Register**. Certain States and metropolitan areas, that are eligible for formula allocations due to their population and number of cases of persons with AIDS, will receive funds under this part for eligible activities that address the housing needs of persons with AIDS. All States and units of general local government are eligible to apply for competitive grants.

(b) *Formula entitlements.* Under the Act, 90 percent of appropriated amounts are to be distributed by formula entitlement. Seventy-five percent of this 90 percent are distributed to eligible States and Eligible Metropolitan Areas (EMAs), which have an approved Comprehensive Housing Affordability Strategy (CHAS), more than 1,500 cumulative cases of persons with AIDS, and in the case of EMAs, a population of more than 500,000. The additional 25 percent share of the 90 percent is distributed to those eligible metropolitan areas which have a greater than average incidence of cases of persons with AIDS.

(c) *Competitive grants.* The 10 percent remainder of appropriated funds are awarded through a competitive process. Eligible applicants are States and units of general local government.

§ 574.3 Definitions.

Acquired immunodeficiency syndrome and related diseases means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

Applicant means a State or unit of general local government applying for a formula allocation as described under § 574.100 or a competitive grant as described under § 574.210.

Community Development Block Grant (CDBG) program means a program authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301–5317; 24 CFR 570).

Eligible Metropolitan Area (EMA) means a metropolitan area that qualifies for a formula entitlement allocation under § 574.100 of this part.

Grantee means a State or unit of general local government receiving a grant directly from HUD under this part.

Low-income individual means any individual or family whose income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median income for the area if HUD finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

Metropolitan area means a metropolitan area as established by the Office of Management and Budget.

Moderate rehabilitation means rehabilitation that involves costs that are less than or equal to 75 percent of the value of the building after rehabilitation.

Population means total resident population based on data compiled by the U.S. Census and referable to the same point in time.

Private nonprofit organization means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1986 that: (1) Is exempt from taxation under subtitle A of the Code; (2) Has an accounting system and a voluntary board; and (3) Practices nondiscrimination in the provision of assistance.

Project sponsor means any private nonprofit organization or governmental agency that receives funds from the grantee to carry out eligible activities under this part.

Rehabilitation means the improvement or repair of an existing structure, or an addition to an existing structure that does not increase the floor area by more than 100 percent.

Secretary means the Secretary of the Department of Housing and Urban Development.

State means a State of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this part.

Substantial rehabilitation means rehabilitation that involves costs in excess of 75 percent of the value of the building after rehabilitation.

Unit of general local government means any city, town, township, parish, county, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of the National Affordable Housing Act.

§ 574.4 Waivers.

Upon a determination and finding of good cause, the Secretary may waive any requirement of this part in any particular case subject only to statutory limitations. Each waiver must be in writing and must be supported by documentation of the pertinent facts and grounds.

Subpart B—Formula Entitlements

§ 574.100 Eligible applicants.

(a) *Qualifying States.* To qualify for a formula allocation under HOPWA, an eligible State must have: (1) more than 1,500 cumulative cases of AIDS in those areas of the State outside of eligible metropolitan areas qualifying under paragraph (b); and (2) an approved Comprehensive Housing Affordability Strategy (CHAS) as provided by § 574.160. A State may carry out activities anywhere in the State, including within metropolitan areas qualifying under paragraph (b) of this section.

(b) *Qualifying metropolitan areas.* To qualify for a formula allocation under HOPWA, an Eligible Metropolitan Area (EMA) must have: (1) A population of more than 500,000; (2) more than 1,500 cumulative cases of AIDS; and (3) an approved Comprehensive Housing Affordability Strategy (CHAS) as provided by § 574.160. The process for designating a single unit of general local government to apply for the allocation to the EMA and serve as the grantee is described in § 574.110.

(c) *List.* A listing of Eligible Metropolitan Areas (EMA) and States eligible for formula allocations will be contained in the Announcement of Allocations published annually in the **Federal Register.** [For Fiscal Year 1992, the Announcement was published July 20, 1992.]

§ 574.110 Designation of applicant within EMA.

(a) Community Development Block Grant (CDBG) program entitlement communities within an EMA shall collaborate for the purpose of designating a single unit of general local government to administer the program on behalf of the EMA. The designated unit of general local government will be recognized by HUD as the eligible applicant for the EMA for the purpose of submitting an application to HUD, receiving a grant from HUD and selecting project sponsors, if any, to carry out authorized activities. The designation will be in the form of a certification as provided for in § 574.160 and will only be in effect for the fiscal year's allocation for which it is made. The designation may be extended or changed by the CDBG participants within the EMA for future years' allocations.

(b) In identifying the unit of general local government to administer the overall program, at least one-half of the CDBG entitlement communities must agree on the designated agency, and these communities must represent a majority of the total population of all CDBG entitlement communities within the EMA. Unanimous consent of the CDBG entities is not required. Failure to agree by the application deadline established in the Announcement of Allocations published in the **Federal Register** will mean forfeiture of the fiscal year's allocation and the reallocation of the amount to other grantees.

§ 574.120 Responsibility of applicant to serve EMA.

The EMA's applicant shall serve eligible persons who live anywhere within the EMA, except that housing assistance shall be provided only in localities within the EMA that have a HUD-approved CHAS and have provided a certification of consistency in accordance with § 574.160(a).

§ 574.130 Formula allocations.

(a) *Data sources.* HUD will allocate funds based on data collected by the U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Center for Infectious Diseases, Division of HIV/AIDS, and use population data provided by the U.S. Census. To ensure uniformity and consistency, the data utilized will be for the same reference period.

(b) *Distribution of appropriated funds for entitlement awards.* Seventy-five percent of the funds allocated under the formula is distributed to eligible metropolitan areas and eligible States based on each metropolitan area's or State's proportionate share of the cumulative number of AIDS cases in all eligible metropolitan areas and eligible States. The remaining twenty-five percent is allocated among eligible metropolitan areas, but not States, where the per capita incidence of AIDS for the year preceding the fiscal year of the appropriation is higher than the average for all metropolitan areas with more than 500,000 population. The EMA's allocation is based on its proportionate share of the incidence of AIDS cases. The high incidence factor is computed by multiplying: (1) The population of the metropolitan area; and (2) the difference between its twelve-month-per-capita-incidence rate and the rate for all metropolitan areas with more than 500,000 population.

(c) *Minimum grant.* No grant awarded under paragraph (b) of this section shall be less than $200,000. Therefore, if the calculations under paragraph (b) of this section would result in any eligible metropolitan area or eligible State receiving less than $200,000, the amount allocated to that entity is increased to $200,000 and allocations to entities in excess of $200,000 are proportionately reduced by the amount of the increase.

§ 574.140 Eligible beneficiaries.

Persons eligible to receive assistance or services under this part are persons

with acquired immunodeficiency syndrome or related diseases who are low-income individuals. A person with AIDS or related diseases regardless of income is eligible to receive housing information services, as described in § 574.300(b)(1). Any person living in proximity to a community residence is eligible to participate in that residence's community outreach and educational activities regarding AIDS and related diseases, as provided in § 574.300(b)(10).

§ 574.150 Eligible activities.

Grantees under this subpart are authorized to provide, or contract with project sponsors to provide, housing assistance or service activities as described in Subpart D—Uses of Grant Funds. The selection of project sponsors is not subject to the procurement requirements of 24 CFR 85.36.

§ 574.160 Application requirements.

(a) *CHAS.* Assistance may not be made available under this part unless the applicant has submitted a certification that proposed housing assistance is consistent with a Comprehensive Housing Affordability Strategy (CHAS) submitted to and approved by HUD in accordance with 24 CFR part 91. The applicant's certification of consistency must be submitted by the public official responsible for submitting the CHAS. Where the applicant is a designated unit of general local government for an EMA, it must also obtain and keep on file certifications of consistency from such public officials for each other locality in the EMA in which housing assistance is provided.

(b) *Application requirements.* To receive a grant, a State or designated applicant for an EMA applying for a formula grant award on the basis of an allocation under § 574.130 must submit an application that meets the requirements of paragraph (c) of this section, and the application must be submitted within the time period established by HUD in the Announcement of Allocations for Housing Opportunities for Persons with AIDS, published annually in the **Federal Register**. This Announcement:

(1) Gives the location for obtaining application packages, which provides specific application requirements and guidance;

(2) Specifies the time and the place for submitting completed applications;

(3) Identifies States and metropolitan areas eligible to receive funding available under the announcement; and

(4) Identifies the Community Development Black Grant (CDBG) participants within each EMA and their populations in order to assist the process of identifying one unit of general local government to apply on behalf of the EMA.

(c) *Application contents.* A formula entitlement grant application, at a minimum, must contain:

(1) A description of the proposed activities, including general locations, and costs;

(2) A description of the number and characteristics of the eligible persons who would be served by the proposed activities;

(3) A description of the public and private resources that are expected to be made available in connection with the proposed activities;

(4) A description of the method of selecting project sponsors;

(5) A description of efforts that have been or will be taken to coordinate proposed activities with State and local government agencies responsible for providing services to persons with AIDS and related diseases, including, where applicable, coordination with agencies administering assistance provided pursuant to the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 U.S.C. 300);

(6) A certification that any building or structure assisted under this part will be maintained as a facility to provide assistance for eligible beneficiaries:

(i) For a period of not less than 10 years in the case of assistance involving new construction, substantial rehabilitation or acquisition of a facility; and

(ii) For a period of not less than 3 years in cases involving non-substantial rehabilitation or repair of a building or structure;

(7) Evidence that the proposed activities will meet urgent needs that are not being met by available public and private sources;

(8) A certification that proposed housing activities are consistent with the CHAS submitted to HUD, as described in paragraph (a) of this section;

(9) For a designated applicant for an EMA, a certification of its designation in compliance with the requirements of § 574.110;

(10) An assurance that the applicant will:

(i) Supply HUD with information necessary for HUD to perform any applicable environmental review for each property in accordance with the environmental laws and authorities cited in 24 CFR part 50;

(ii) Carry out mitigating measures required by HUD or select alternate eligible property; and

(iii) Not acquire, rehabilitate, convert, lease, repair or construct property to provide housing, or commit HUD or local funds to such program activities with respect to any eligible property until HUD approval is received. See § 574.510 of this part for the environmental procedures and standards for applicants for assistance; and

(11) Such other information or certifications as HUD determines to be necessary.

§ 574.170 Application review and approval.

The application review and approval process for assistance under this section consists of the following stages:

(a) *Review.* Applications will be reviewed to determine:

(1) Whether the application is adequate in time of submission, form, and completeness;

(2) Whether the applicant, the population to be served and project sponsor, if any, are eligible; and

(3) Whether the proposed activities are eligible for assistance under the program.

(b) *Approval.* The Department will award a grant in the amount determined under § 574.130 of this part to eligible applicants with approved applications.

§ 574.180 Amendments.

(a) A grantee must notify HUD in writing of any substantial change in the approved program of activities. A substantial change is any addition or deletion of an eligible activity, or any change that will significantly alter the scope, location, service area, objectives, or timing of an activity or the number or type of eligible beneficiaries served, that has been approved in an application.

(b) Each amendment request must contain a description of the revised proposed use of funds and a certification that the proposed use of funds is consistent with the applicable Comprehensive Housing Affordability Strategy. Funds may not be expended for the revised proposed use of funds until:

(1) HUD accepts the revised proposed use; and

(2) Environmental review of the revised proposed use of funds has been completed in accordance with § 574.510.

§ 574.190 Reallocation of grant amounts.

Funds allocated to EMAs that do not designate a unit of general local government to receive the formula grant, as described in § 574.110, by the application deadline specified in the Announcement of Allocations, and

funds allocated to other EMAs and eligible States that do not submit an application by the deadline, will be added to the funds available for formula allocations in the current fiscal year. Any funds that become available as a result of deobligations or the imposition of sanctions as provided for in § 574.540 will be added to the funds available for formula allocations in the next fiscal year.

Subpart C—Competitive Grants

§ 574.200 Amounts available for competitive grants.

(a) The Department will set aside 10 percent of the amounts appropriated under this program on a competitive basis to fund:

(1) Special projects of national significance; and

(2) Projects submitted by States and localities that do not qualify for formula grants.

(b) Any funds that become available as a result of deobligations or the imposition of sanctions, as provided in § 574.540, will be added to the funds available for competitive grants in the next fiscal year.

§ 574.210 Eligible applicants.

(a) All States and units of general local government, regardless of the number of AIDS cases and total population, may apply for grants for projects of national significance.

(b) The only applicants eligible for the other category of competitive grants as described in § 574.200(a)(2) are the following:

(1) States that do not qualify for formula grants, as described in § 574.100;

(2) Localities outside of EMAs, and

(3) Localities inside of EMAs that do not have a HUD-approved CHAS.

(c) Nonprofit organizations are not eligible to apply directly to HUD for a grant but may receive funding as a project sponsor under contract with a grantee.

§ 574.220 Eligible beneficiaries.

Persons eligible to receive assistance or services under this part are persons with acquired immunodeficiency syndrome or related diseases who are low-income individuals. A person with AIDS or related diseases regardless of income is eligible to receive housing information services, as described in § 574.300(b)(1). Any person living in proximity to a community residence is eligible to participate in that residence's community outreach and educational activities regarding AIDS and related diseases, as provided in § 574.300(b)(10).

§ 574.230 Eligible activities.

Grantees under this subpart are authorized to provide, or contract with project sponsors to provide, housing assistance or service activities as described in Subpart D—Uses of Grant Funds. The selection of project sponsors is not subject to the procurement requirements of 24 CFR 85.36.

§ 574.240 Application requirements.

(a) *Notice of Fund Availability for competitive grants.* Applications must comply with the provisions of the Department's Notice of Fund Availability (NOFA) to be published in the **Federal Register** in accordance with 24 CFR part 12. The notice:

(1) Gives the location for obtaining application packages, which will provide specific application requirements and guidance;

(2) Specifies the time and the place for submitting completed applications;

(3) States the amount and status of funding available under the notice, including the amounts allocated to each of the two categories of assistance;

(4) Specifies the timing and conditions for curing technical deficiencies in reviewed application;

(5) Provides other appropriate program information and guidance, including purpose, authority, and eligibility; and

(6) Describes the factors relative to each ranking criterion contained in § 574.250 of this part, and indicates the weight or relative importance of the criteria as they will be applied to the funding round announced in the Notice.

(b) *Application requirements.* To receive grant amounts, a State or unit of general local government that elects to apply for a competitive grant award must submit an application that meets the requirements of paragraph (c) of this section and must be submitted within the time period established by HUD in the Notice of Funds Availability.

(c) *Application contents.* A competitive grant application, at a minimum, must contain:

(1) Applicant and project sponsor data, including a description of the applicant and sponsor's past experience in administering programs providing assistance to persons with AIDS, including minority persons;

(2) A description of the proposed activities, including general locations and costs;

(3) A description of the number and characteristics of the persons who would be served by the proposed activities;

(4) A description of the public and private resources that are expected to be made available in connection with the proposed activities;

(5) A description of the method of selecting project sponsors;

(6) A description of efforts that have been or will be taken to coordinate proposed activities with State and local government agencies responsible for providing services to persons with AIDS and related diseases, including, where applicable, coordination with agencies administering assistance provided pursuant to the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 U.S.C. 300);

(7) A certification that any building or structure assisted with amounts under this part will be maintained as a facility to provide assistance for eligible beneficiaries:

(i) For not less than 10 years in the case of assistance involving new construction, substantial rehabilitation or acquisition of the building; and

(ii) For not less than 3 years in cases involving non-substantial rehabilitation or repair of a building or structure;

(8) Evidence that the proposed activities will meet urgent needs that are not being met by available public and private sources;

(9) For grants for projects of national significance, a description of the innovative nature of the project and its potential for replication in similar localities or nationally;

(10) A certification that proposed housing activities are consistent with the CHAS submitted to HUD, as described in § 574.160(a), except for applicants eligible under § 574.210(b)(3);

(11) An assurance that the applicant will:

(i) Supply HUD with information necessary for HUD to perform any applicable environmental review for each property in accordance with the environmental laws and authorities cited in 24 CFR part 50;

(ii) Carry out mitigating measures required by HUD or select alternate eligible property; and

(iii) Not acquire, rehabilitate, convert, lease, repair or construct property to provide housing, or commit HUD or local funds to such program activities with respect to any eligible property until HUD approval is received. See § 574.510 of this part for the environmental procedures and standards for applicants for assistance; and

(12) Such other information or certifications as the Secretary determines to be necessary.

§ 574.250 Grant selection process.

(a) *Selection process.* The grant selection process for assistance under this subpart consists of the following stages:

(1) *Threshold review.* Applications will be reviewed to determine:

(i) Whether the application is adequate in time of submission, form, and completeness;

(ii) Whether the applicant, the population to be served and project sponsor(s), if any, are eligible;

(iii) Whether the proposed activities are eligible for assistance under the program; and

(iv) Whether the applicant is currently in compliance with the Federal requirements contained in Subpart G—Other Federal Requirements, §§ 574.600–574.650.

(2) *Rating.* Applications that fulfill each of the threshold review requirements described in paragraph (a)(1) of this section will be rated based on the selection criteria provided in paragraph (b) of this section;

(3) *Selection for funding.* In the final stage of the selection process, the highest rated applications within each of the two categories of assistance will be selected for funding in accordance with their ranked order to the extent funds are available.

(b) *Rating criteria for applications for funds for competitive grants.*

(1) *General.* Applications for funds for competitive grants will be assigned a rating score and placed in ranked order, based upon the criteria listed in paragraphs (b)(2) and (b)(3) of this section. The criteria, including the point value for each, will be described in more detail in the Notice of Funds Availability which will be published in the **Federal Register.**

(2) *Criteria.* HUD will award points for the following criteria:

(i) Applicant capacity;

(ii) Need for the project in the area to be served, including the relative numbers of AIDS cases and per capita AIDS incidence, and the housing needs of persons with AIDS in the community;

(iii) Extent of leveraged public and private resources for the project, including the extent of local planning and coordination of housing programs for persons with AIDS, and the likelihood of the continuation of State and local efforts; and

(vi) Other criteria as determined by the Secretary and announced in the NOFA.

(3) *Additional criteria for projects of national significance.* For projects of national significance, HUD also will award points for the following criteria:

(i) Innovative nature of the proposal, including the effectiveness of the proposed model(s) for providing supportive housing for persons with AIDS; and

(ii) Potential for replication of the proposed activity in other similar localities or nationally.

§ 574.260 Amendments.

After an application has been selected for funding, any change that will significantly alter the scope, location, service area, objectives, or timing of an activity or the number or type of eligible beneficiaries served must be justified to HUD and approved by HUD. Whenever any other amendment to the application is made, the grantee must provide a copy to HUD.

Subpart D—Uses of Grant Funds

§ 574.300 Eligible activities.

(a) *General.* Subject to applicable requirements described in §§ 574.310, 574.320, 574.330, and 574.340, HOPWA funds may be used to assist all forms of housing designed to prevent homelessness including emergency housing, shared housing arrangements, apartments, single room occupancy (SRO) dwellings, and community residences. Appropriate supportive services, as required by § 574.310 (a), must be provided as part of any HOPWA assisted housing, but HOPWA funds may also be used to provide services independently of any housing activity.

(b) *Activities.* The following activities may be carried out with HOPWA funds:

(1) Housing information services including, but not limited to, counseling, information, and referral services to assist eligible individuals to locate, acquire, finance and maintain housing. This may also include fair housing counseling for eligible beneficiaries who may encounter discrimination on the basis of race, color, religion, sex, age, national origin, familial status, or handicap;

(2) Resource identification to establish, coordinate and develop housing assistance resources (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives);

(3) Acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing and services;

(4) New construction (for single room occupancy (SRO) dwellings and community residences only).

(5) Project- or tenant-based rental assistance;

(6) Short-term rent, mortgage, and utility payments to prevent the homelessness of the tenant or mortgagor of a dwelling;

(7) Supportive services including, but not limited to, health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, nutritional services, intensive care when required, and assistance in gaining access to local, State, and Federal government benefits and services;

(8) Operating costs for housing including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs;

(9) Technical assistance in establishing and operating a community residence, including planning and other pre-development or pre-construction expenses;

(10) For community residences only: administrative expenses including, but not limited to, costs relating to community outreach and educational activities regarding AIDS and related diseases. Not more than 10 percent of the funds used for community residences may be used for administrative costs; and

(11) Any other activity proposed by the applicant and approved by HUD.

(c) *Limitations of assistance to primarily religious organizations.*—(1) *Provision of assistance.* (i) Assistance may be provided under this part by a grantee to a project sponsor that is a primarily religious organization if the primarily religious organization agrees to provide all eligible activities under this program in a manner that is free from religious influences and in accordance with the following principles:

(A) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion.

(B) It will not discriminate against any person applying for any of the eligible activities under this part on the basis of religion and will not limit such housing or other eligible activities or give preference to persons on the basis of religion.

(C) It will provide no religious instruction or counseling, conduct no religious services or worship (which term does not include voluntary nondenominational prayer before meetings), engage in no religious proselytizing, and exert no other

religious influence in the provision of eligible activities under this part.

(ii) Assistance will not be provided to a project sponsor that is a primarily religious organization to construct or acquire a structure. Assistance may be provided to a project sponsor that is a primarily religious organization to rehabilitate or convert a structure owned by the organization, only as described in paragraph (c)(2) of this section.

(2) *Rehabilitation or conversion of structures owned by primarily religious organizations.* Grant amounts may be used to rehabilitate or convert a structure that is owned by a primarily religious organization, only if:

(i) The structure (or portion thereof) that is to be rehabilitated or converted with HUD assistance has been leased to an existing or newly established wholly secular organization (which may be established by the religious organization under the provisions of paragraph (c)(3) of this section).

(ii) The HUD assistance is provided to the secular organization (and not the religious organization) to make the improvements.

(iii) The leased structure will be used exclusively for secular purposes available to all persons regardless of religion.

(iv) The lease payments paid to the primarily religious organization do not exceed the fair market rent for the structure before the rehabilitation or conversion was done.

(v) The portion of the cost of any improvements that benefit any unleased portion of the structure will be allocated to, and paid for by, the religious organization.

(vi) The primarily religious organization agrees that if the secular organization does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay an amount equal to the residual value of the improvements to the original grantee from which the amounts used to rehabilitate or convert the building were derived. While the original grantee is expected to use this amount for eligible HOPWA activities, there is no requirement that funds received after the close of the grant period be used in accordance with the requirements of this part.

(3) *Assistance to a wholly secular private nonprofit organization established by a primarily religious organization.*

(i) A primarily religious organization may establish a wholly secular private nonprofit organization to serve as a project sponsor. The secular organization may be eligible to receive all forms of assistance available under this part.

(ii) The secular organization must agree to provide eligible activities under this part in a manner that is free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

(iii) The secular organization may enter into a contract with the religious organization to operate the housing assistance, supportive services and other eligible activities for the project. In such a case, the religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

(vi) The rehabilitation or conversion of structures are subject to the requirements of paragraph (c)(2) of this section.

§ 574.310 General standards for eligible housing activities.

All grantees using grant funds to provide housing must adhere to the following standards:

(a) *Supportive services.* The grantee shall ensure that qualified service providers in the area provide appropriate supportive services to the individuals assisted with housing under this subpart. Supportive services are described in § 574.300(b)(7). For any individual who requires more intensive care than can be provided in housing assisted under this subpart, the grantee shall provide for locating a care provider who can appropriately care for the individual and for referring the individual to the care provider.

(b) *Housing quality standards.* All housing assisted under § 574.300 (b) (3), (4), (5), (6), and (8) must meet the applicable housing quality standards outlined below.

(1) *State and local requirements.* Each recipient of assistance under this part must provide safe and sanitary housing that is in compliance with all applicable State and local housing codes, licensing requirements, and any other requirements in the jurisdiction in which the housing is located regarding the condition of the structure and the operation of the housing.

(2) *Habitability standards.* Except for such variations as are proposed by the locality and approved by HUD, recipients must meet the following requirements:

(i) *Structure and materials.* The structures must be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the residents from hazards.

(ii) *Access.* The housing must be accessible and capable of being utilized without unauthorized use of other private properties. Structures must provide alternate means of egress in case of fire.

(iii) *Space and security.* Each resident must be afforded adequate space and security for themselves and their belongings. An acceptable place to sleep must be provided for each resident.

(iv) *Interior air quality.* Every room or space must be provided with natural or mechanical ventilation. Structures must be free of pollutants in the air at levels that threaten the health of residents.

(v) *Water supply.* The water supply must be free from contamination at levels that threaten the health of individuals.

(vi) *Thermal environment.* The housing must have adequate heating and/or cooling facilities in proper operating condition.

(vii) *Illumination and electricity.* The housing must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of residents. Sufficient electrical sources must be provided to permit use of essential electrical appliance while assuring safety from fire.

(viii) *Food preparation and refuse disposal.* All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner.

(ix) *Sanitary condition.* The housing and any equipment must be maintained in sanitary condition.

(c) *Minimum use period for structures.* (1) Any building or structure assisted with amounts under this part must be maintained as a facility to provide housing or assistance for individuals with acquired immunodeficiency syndrome or related diseases:

(i) For a period of not less than 10 years, in the case of assistance provided under an activity eligible under § 574.300(b)(3) and (4) involving new construction, substantial rehabilitation or acquisition of a building or structure; or

(ii) For a period of not less than 3 years in the cases involving non-substantial rehabilitation or repair of a building or structure.

(2) *Waiver of minimum use period.* HUD may waive the minimum use period of a building or structure as stipulated in paragraph (c)(1) of this section if the grantee can demonstrate, to the satisfaction of HUD, that:

(i) The assisted structure is no longer needed to provide supported housing or assistance, or the continued operation of the structure for such purposes is no longer feasible; and

(ii) The structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, if the Secretary finds that such variations are necessary because of construction costs or unusually high or low family incomes.

(d) *Resident rent payment.* Each person receiving rental assistance under this program or residing in any rental housing assisted under this program must pay as rent an amount determined in accordance with section 3(a) of the United States Housing Act of 1937 and 24 CFR 813.106. Under these authorities, each resident must pay as rent the higher of:

(1) 30 percent of the family's monthly adjusted income (adjustment factors include the age of the individual, medical expenses, size of family and child care expenses and are described in detail in 24 CFR 813.102);

(2) 10 percent of the family's monthly gross income; or

(3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated.

(e) *Termination of assistance.* Assistance to participants who reside in housing programs under this grant may be terminated if the participant violates program requirements or conditions of occupancy. Grantees must ensure that supportive services are provided, so that a participant's assistance is terminated only in the most severe cases.

(f) *Due process.* In terminating assistance to any program participant, grantees must provide a formal process that recognizes the rights of individuals receiving assistance to due process of law. This process at a minimum, must consist of:

(1) Serving the participant with a written notice containing a clear statement of the reasons for termination;

(2) Permitting the participant to have a review of the decision, in which the participant is given the opportunity to present written objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and

(3) Providing prompt written notification of the final decision to the participant.

§ 574.320 Additional standards for rental assistance.

If grant funds are used to provide rental assistance, the following additional standards apply:

(a) *Maximum subsidy.* The amount of grant funds used to pay monthly assistance for an eligible person may not exceed the difference between: (1) The lower of the rent standard or reasonable rent for the unit; and (2) the resident's rent payment calculated under § 574.310(d).

(b) *Rent standard.* The rent standard shall be established by the grantee and shall be no more than the published Section 8 fair market rent (FMR) or the HUD-approved community-wide exception rent for the unit size. However, on a unit by unit basis, the grantee may increase that amount by up to 10 percent for up to 20 percent of the units assisted.

(c) *Rent reasonableness.* The rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units.

§ 574.330 Additional standards for short-term supported housing.

Short-term supported housing includes facilities to provide temporary shelter to eligible individuals as well as rent, mortgage, or utilities payments to enable eligible individuals to remain in their own dwellings. If grant funds are used to provide such short-term supported housing assistance, the following additional standards apply:

(a) *Time limits.* A short-term supported housing facility may not provide residence to any individual for more than 60 days during any six month period. Rent, mortgage, or utilities payments to prevent the homelessness of the tenant or mortgagor of a dwelling may not be provided to such an individual for these costs accruing over a period of more than 21 weeks in any 52 week period.

(b) *Residency and location limitations.*—(1) Residency. A short-term supported facility may not provide shelter or housing at any single time for more than 50 families or individuals;

(2) *Location.* A facility for short-term supported housing may only be located in or contiguous to another emergency or short-term housing facility if that other facility is used exclusively by individuals with acquired immunodeficiency syndrome or related diseases.

(3) *Waiver of residency and location limitations.* HUD may waive, as it determines appropriate, the limitations of paragraphs (b)(1) and (b)(2) of this section.

(c) *Placement.* A short-term supported housing facility assisted under this part must, to the maximum extent practicable, provide each individual living in such housing the opportunity for placement in permanent housing or in a living environment appropriate to his or her health and social needs.

(d) *Assistance to continue independent living.* In addition to the supportive services provided when an individual is relocated to a short-term supported housing facility, supportive services may be provided to individuals when they remain in their residence because the residence is appropriate to the needs of the individual. In the latter case, a rent, mortgage or utilities payments program assisted under this part shall provide, when reasonable, supportive services specifically designed to maintain the individual in such residence.

(e) *Case management services.* A program assisted under this section shall provide each assisted individual with an opportunity, if eligible, to receive case management services from the appropriate social service agencies.

§ 574.340 Additional standards for community residences.

(a) A community residence is a multiunit residence designed for individuals with acquired immunodeficiency syndrome or related diseases to provide a lower cost residential alternative to institutional care; to prevent or delay the need for such care; to provide a permanent or transitional residential setting with appropriate services to enhance the quality of life for those who are unable to live independently; and to enable such persons to participate as fully as possible in community life.

(b) If grant funds are used to provide a community residence, except for planning and other expenses preliminary to construction or other physical improvement for the development of a community residence, the grantee must, prior to the expenditure of such funds, obtain and keep on file certifications that:

(1) The jurisdiction in which the community residence is located has entered into a written agreement to provide services as required by § 574.310(a) to individuals assisted by the community residence;

(2) The jurisdiction in which the community residence is located has acquired sufficient funding for these services, and the service providers are qualified to assist individuals with acquired immunodeficiency syndrome and related diseases; and

(3) Any construction or physical improvements carried out with amounts received from the grant will comply with any applicable State and local housing codes and licensing requirements in the jurisdiction in which the community residence is located.

Subpart E—Special Responsibilities of Grantees and Project Sponsors.

§ 574.400 Prohibition of substitution of funds.

Amounts received from grants under this part may not be used to replace other amounts made available or designated by State or local governments for use for the purposes of this part.

§ 574.410 Capacity.

The grantee shall ensure that any project sponsor with which the grantee contracts to carry out an activity under this part has the capacity and capability to effectively administer the activity.

§ 574.420 Cooperation.

(a) The grantee shall agree, and shall ensure that each project sponsor agrees, to cooperate and coordinate in providing assistance under this part with the agencies of the relevant State and local governments responsible for services in the area served by the grantee for individuals with acquired immunodeficiency syndrome or related diseases and other public and private organizations and agencies providing services for such individuals.

(b) A grantee that is a State shall obtain the approval of the unit of general local government in which a project is to be located before entering into a contract with a project sponsor to carry out an activity authorized under this part.

§ 574.430 Fee prohibitions.

The grantee shall agree, and shall ensure that each project sponsor agrees, that no fee, except rent, will be charged of any individual for any service provided with amounts from a grant under this part.

§ 574.440 Confidentiality.

The grantee shall agree, and shall ensure that each project sponsor agrees, to ensure the confidentiality of the name of any individual assisted under this part and any other information regarding individuals receiving assistance.

§ 574.450 Financial records.

The grantee shall agree, and shall ensure that each project sponsor agrees, to maintain and make available to HUD for inspection financial records sufficient, in HUD's determination, to ensure proper accounting and disbursing of amounts received from a grant under this part.

Subpart F—Grant Administration

§ 574.500 Responsibility for grant administration.

(a) *General.* Grantees are responsible for ensuring that grants are administered in accordance with the requirements of this part and other applicable laws. Grantees are responsible for ensuring that their respective project sponsors carry out activities in compliance with all applicable requirements.

(b) *Grant agreement.* The grant agreement will provide that the grantee agrees, and will ensure that each project sponsor agrees, to:

(1) Operate the program in accordance with the provisions of these regulations and other applicable HUD regulations;

(2) Conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

(3) Assure the adequate provision of supportive services to the participants in the program; and

(4) Comply with such other terms and conditions, including recordkeeping and reports (which must include racial and ethnic data on participants) for program monitoring and evaluation purposes, as HUD may establish for purposes of carrying out the program in an effective and efficient manner.

(c) *Enforcement.* HUD will enforce the obligations in the grant agreement in accordance with the provisions of 24 CFR 85.43. A grantee will be provided an opportunity for informal consultation before HUD will exercise any remedies authorized in paragraph (a) of that section.

§ 574.510 Environmental procedures and standards.

(a) Before any amounts under this program are used to acquire, rehabilitate, convert, lease, repair or construct properties to provide housing, HUD shall perform a review in accord with 24 CFR part 50, which implements the National Environmental Policy Act and the related Federal environmental laws and authorities listed under 24 CFR 50.4. In performing its environmental review, HUD may use previously issued environmental reviews prepared by other local, State, or federal agencies for the proposed property. The grantee will cooperate in providing these documents. HUD must, however, conduct the environmental analysis and prepare the environmental review and be responsible for the required environmental findings.

(b) HUD shall determine whether the proposed property triggers thresholds for the applicable federal environmental laws and authorities listed under 24 CFR 50.4. These may apply when the property is:

(1) Located within designated coastal barriers;

(2) Listed on, or eligible for listing on, the National Register of Historic Places; located within, or adjacent to, an historic district, or is a property whose area of potential effects includes a historic district or property;

(3) Located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature;

(4) Contaminated by toxic chemicals or radioactive materials;

(5) Located within a runway clear zone at a civil airport or within a clear zone or accident potential zone at a military airfield;

(6) Located within certain flood hazard areas or a designated wetland;

(7) Located within an area requiring flood insurance protection; or

(8) Located within a high noise area.

(c) A grantee or project sponsor shall refer the property to HUD for threshold review and shall submit all available, relevant information to HUD to permit HUD to make the review.

(d) If HUD determines that one or more of the thresholds are exceeded, HUD shall conduct an environmental review of the issue and, if appropriate establish mitigating measures that the grantee and/or project sponsor shall carry out for the property unless it decides it select an alternate property.

(e) HUD will issue a notice specifying applicable threshold and documentation requirements.

§ 574.520 Performance reports.

A grantee shall submit to HUD annually a report describing the use of the amounts received, including the number of individuals assisted, the types of assistance provided, and any other information that HUD may require. Annual reports are required until all grant funds are expended.

§ 574.530 Recordkeeping.

Each grantee must ensure that records are maintained for a three-year period to document compliance with the

provisions of this part. Grantees must maintain current and accurate data on the race and ethnicity of program participants.

§ 574.540 Obligation and deobligation of funds.

Selection of an application for funding and notification of the applicant constitutes the obligation of funds by HUD to cover the amount of the approved assistance. HUD may deobligate all or a portion of the amounts approved for eligible activities if such amounts are not expended in a timely manner, or the proposed activity for which funding was approved is not provided in accordance with the approved application and the requirements of this regulation. The grant agreement may set forth other circumstances under which funds may be deobligated or sanctions imposed.

Subpart G—Other Federal Requirements

§ 574.600 Nondiscrimination and equal opportunity.

Grantees and project sponsors must, within the eligible population, comply with the following requirements for nondiscrimination on the basis of race, color, religion, sex, national origin, age, familial status and handicap:

(a) *Fair housing requirements.* The requirements of the Fair Housing Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR part 100; Executive Order 11063 and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(b) *Discrimination on the basis of age or handicap.* The prohibitions against discrimination based on age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146; and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8.

(c) *Employment opportunities.* The requirements of section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701(u)) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects).

(d) *Minority and women's business enterprises.* The requirements of Executive Orders 11625, 12432, and 12138 apply to grants under this part. Consistent with HUD's responsibilities under these Orders, the grantee and project sponsor must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(e) *Affirmative outreach.* A grantee or project sponsor must adopt procedures to ensure that all persons who qualify for the assistance, regardless of their race, color, religion, sex, age, national origin, familial status, or handicap, know of the availability of the HOPWA program, including facilities and services accessible to persons with a handicap, and maintain evidence of implementation of the procedures.

(f) *Disability requirements.* The grantee and project sponsor must not discriminate against persons with AIDS or related diseases based on an additional handicap of such persons in violation of the Fair Housing Act or Section 504 of the Rehabilitation Act of 1973. In addition, the grantee and project sponsor must comply with the reasonable modification requirement of the Fair Housing Act, the reasonable accommodation requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, and the accessibility requirements of the Fair Housing Act and section 504, and implementing regulations. See 42 U.S.C. 3604(f) and 24 CFR 100.203—100.205; 29 U.S.C. 794 and 24 CFR part 8.

§ 574.605 Applicability of OMB circulars.

The policies, guidelines, and requirements of 24 CFR part 85 (codified pursuant to OMB Circular No. A–102) and OMB Circular No. A–87 apply with respect to the acceptance and use of funds under the program by States and units of general local government, including public agencies, and Circulars Nos. A–110 and A–122 apply with respect to the acceptance and use of funds under the program by private non-profit entities. (Copies of OMB Circulars may be obtained from E.O.P. Publications, Room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395–7332. (This is not a toll-free number.) There is a limit of two free copies.)

§ 574.610 Drug-free workplace

Grantees are subject to the requirements of sections 5151–5180 of the Drug-Free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR part 24, subpart F.

§ 574.615 Anti-lobbying certification.

Recipients of Federal contracts, grants, and loans are prohibited from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government. The rule is found at 24 CFR part 87. It requires applicants, grantees, and project sponsors of assistance exceeding $100,000 to certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. The rule also requires disclosures from applicants, grantees, and project sponsors if nonappropriated funds have been spent or committed for lobbying activities if those activities would be prohibited if paid with appropriated funds. Substantial monetary penalties may be imposed for failure to file the required certification or disclosure.

§ 574.620 Debarred or suspended contractors.

The provisions of 24 CFR part 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status are applicable to grantees and project sponsors under this part.

§ 574.625 Conflict of interest.

In addition to the conflict of interest requirements in OMB Circular A–102 and 24 CFR 85.36(b)(3), no person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee or project sponsor and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

§ 574.630 Displacement, relocation and real property acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, grantees and project sponsors must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of,

the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24.

(c) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) *Appeals.* A person who disagrees with the grantee's or project sponsor's determination concerning whether the person qualifies as a "displaced person," or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the grantee. A low-income person who is dissatisfied with the grantee's determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.

(e) *Responsibility of grantee.* (1) Each grantee shall certify (i.e., provide assurance of compliance as required by 49 CFR part 24) that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section, and shall ensure such compliance notwithstanding any third party's contractual obligation to the grantee to comply with these provisions.

(2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. Such costs also may be paid for with funds available from other sources.

(3) The grantee shall maintain records in sufficient detail to demonstrate compliance with these provisions.

(f) *Definition of displaced person.* (1) For purposes of this section, the term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. This includes any permanent, involuntary move for an assisted project including any permanent move for an assisted project, including any permanent move from the real property that is made:

(i) After notice by the grantee, project sponsor, or property owner to move permanently from the property, if the move occurs on or after the date that the grantee submits to HUD an application for assistance that is later approved and funded;

(ii) Before the submission of the application to HUD, if the grantee, project sponsor, or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project; or

(iii) By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs:

(A) The tenant moves after the "initiation of negotiations" and the move occurs before the tenant has been provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(*1*) The tenant's monthly rent before the initiation of negotiations and estimated average utility costs, or

(*2*) 30 percent of gross household income; or

(B) The tenant is required to relocate temporarily, does not return to the building/complex and either:

(*1*) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or

(*2*) Other conditions of the temporary relocation are not reasonable; or

(C) The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (f)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation or applicable Federal, State or local law, or other good cause, and HUD determines that the eviction was not undertaken for the purposes of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" (or for any assistance provided under this section), if the project is approved;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The grantee or project sponsor may request, at any time, HUD's determination of whether a displacement is or would be covered under this section.

(g) *Definition of initiation of negotiations.* For purposes of determining the formula for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the grantee and the project sponsor.

§ 574.635 Lead-based paint.

The grantee and project sponsor must comply with the requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing at 24 CFR part 35, as applicable. In addition, the grantee and project sponsor must also meet the following requirements relating to inspection and abatement of defective lead-based paint surfaces:

(a) Treatment of defective paint surfaces must be performed before final inspection and approval of the renovation, rehabilitation or conversion activity under this part; and

(b) Appropriate action must be taken to protect facility occupants from the hazards associated with lead-based paint abatement procedures.

§ 574.640 Flood insurance protection.

No property to be assisted under this part may be located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(a)(1) The community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder (44 CFR parts 59 through 79); or

(2) Less than a year has passed since FEMA notification regarding such hazards; and

(b) The grantee will ensure that flood insurance on the structure is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.).

§ 574.645 Coastal barriers.

In accordance with the Coastal Barrier Resources Act, 16 U.S.C. 3501, no financial assistance under this part may

be made available within the Coastal Barrier Resources System.

§ 574.650 Audit.

The financial management system used by a State or unit of general local government that is a grantee must provide for audits in accordance with 24 CFR part 44. A project sponsor is subject to the audit requirements of OMB Circular A–110.

Dated: June 8, 1992.

Jack Kemp,

Secretary.

[FR Doc. 92–16791 Filed 7–17–92; 8:45 am]

BILLING CODE 4210–32–M

federal register

Monday
July 20, 1992

Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Announcement of Allocations for Housing Opportunities for Persons with AIDS; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-3440; FR-3294-N-01]

Announcement of Allocations for Housing Opportunities for Persons with AIDS

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice contains a listing of formula allocations under the Housing Opportunities for Persons with AIDS (HOPWA) program and information on how eligible applicants may apply for the formula grants to which they are entitled. An Interim Rule containing the requirements and other programmatic information for HOPWA appears elsewhere in this issue of the **Federal Register.**

DATES: Application packages will be available beginning July 20, 1992, from the HUD field offices listed at the end of this announcement. Applications may be submitted any time before the deadline date and will be processed as soon as they are received. Applicants are encouraged to submit their applications as soon as possible.

The original copy of the application must be received at the HUD Field Office serving the jurisdiction of the applicant no later than 4 p.m. local time on September 30, 1992. An additional copy of the application must also be sent to the following address: Department of Housing and Urban Development, Office of Special Needs Assistance Programs, room 7262, 451 Seventh Street, SW., Washington, DC 20410, Attention: James N. Forsberg, Director. However, a determination that an application was received on time will be made solely on receipt of the original application at the Field Office. Additional information regarding the submission of applications is included in the package.

FOR FURTHER INFORMATION CONTACT: The HUD Field Office serving the jurisdiction of the applicant. See the listing at the end of this announcement.

Program Authority

The $42,935,000 in assistance made available in this announcement is authorized by section 854 of the National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990), which established the Housing Opportunities for Persons with AIDS (HOPWA) program, and was appropriated by the Department's appropriation act for fiscal year 1992 (Pub. L. 102-139, approved October 29, 1991). An additional $4,771,000 in appropriated funds, to be awarded by competitive grants, will be announced in a Notice of Funding Availability (NOFA) to be published shortly.

Eligibility

Under the Act, entitlement grants are to be awarded to eligible States and for Eligible Metropolitan Areas (EMAs) which have more than 1,500 cumulative cases of persons with AIDS, and in the case of an EMA, a population of more than 500,000. For the fiscal year 1992 awards, the Department has used 1990 U.S. Census data to determine the populations of the jurisdictions listed below. The number of cumulative cases of AIDS used to determine if the 1,500 threshold has been met, is as of September 30, 1991 (the end of the Fiscal Year 1991) and is from data collected by the U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Center for Infectious Diseases, Division of HIV/AIDS. The Interim Rule at § 574.110 stipulates the method of designating the unit of general local government that will apply on behalf of the EMA.

Recipient Disclosures: HUD Reform Act

States and units of general local government receiving assistance under this NOFA must make all applicant disclosure reports available to the public for three years. Required update reports must be made available along with the applicant disclosure reports, but in no case for a period less than three years. Each State and unit of general local government may use HUD Form 2880 to collect the applicant disclosure and update reports, or it may develop its own form. (See 24 CFR part 12, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942) for further information on these disclosure requirements.

Efforts to influence HUD's decisions with respect to financial assistance under these allocations are subject to disclosure requirements imposed by section 13 of the Department of Housing and Urban Development Act. That Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance or management of the award, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

Listing of Eligible Metropolitan Areas and States with Projected Awards

Charts 1 and 2, below, provide the Department's determination of the States and metropolitan areas entitled to formula grants from the 1992 appropriation and their formula allocations. Chart 2 also lists each EMA's Community Development Block Grant (CDBG) jurisdictions and their respective populations. As provided in § 574.110 of the Interim Rule, these jurisdictions within each EMA must collaborate for the purpose of designating one unit of general local government to administer the program on behalf of the EMA.

CHART 1. STATES THAT QUALIFY FOR THE HOPWA PROGRAM AND FISCAL YEAR 1992 AWARDS

State	1992 award
California	$1,106,000
Connecticut	433,000
Florida	1,048,000
Missouri	442,000
New Jersey	664,000
New York	656,000
North Carolina	395,000
Ohio	526,000
Puerto Rico	445,000
Texas	894,000
Virginia	299,000

CHART 2. ELIGIBLE METROPOLITAN AREAS (EMA'S) THAT QUALIFY FOR THE HOPWA PROGRAM, FISCAL YEAR 1992 AWARDS, AND CDBG URBAN COUNTIES AND METROPOLITAN CITIES WITHIN EACH EMA

Name of EMA	1990 population	1992 award
Anaheim-Santa Ana, CA		
Anaheim		$296,000
Buena Park	266,406	
Costa Mesa	68,784	
Fountain Valley	96,357	
Fullerton	53,691	
Garden Grove	114,144	
Huntington Beach	143,050	
Irvine	181,519	
Newport Beach	110,330	
Orange	66,643	
Orange County	110,658	
Santa Ana	827,114	
Westminster	293,742	
Atlanta, GA	78,118	
Atlanta		1,097,000
Cobb County	394,017	
De Kalb County	403,767	
Fulton County	512,298	
Gwinnett County	291,793	
Marietta	355,701	
Baltimore, MD	44,129	
Annapolis		447,000
Anne Arundel County	33,187	
Baltimore	393,950	
Baltimore County	736,014	
Bergen-Passaic, NJ	692,134	
Bergen County		290,000
Clifton	811,550	
Passaic	71,742	
Paterson	58,041	
Wayne Township	140,891	
Boston, MA	47,025	
Arlington		589,000
Boston	44,630	
Brookline	574,283	
Cambridge	54,718	
Framingham	95,802	
Lynn	64,989	
Malden	81,245	
Medford	53,884	
Newton	57,407	
Quincy	82,585	
Somerville	84,985	
Waltham	76,210	
Weymouth	57,878	
Chicago, IL	54,063	
Arlington Hts		919,000
Berwyn	75,460	
Chicago	45,426	
Chicago Heights	2,783,726	
Cicero	33,072	
Cook County	67,436	
Des Plaines	1,669,329	
Du Page County	53,223	
Evanston	719,086	
Mount Prospect	73,233	
Naperville	53,170	
Oak Lawn	85,351	
Oak Park	56,182	
Schaumburg Village	53,648	
Skokie	68,586	
Dallas, TX	59,432	
Carrollton		674,000
Dallas	82,169	
Dallas County	1,006,877	
Denton	193,778	
Garland	66,270	
Grand Prairie	180,650	
Irving	99,616	
Mesquite	155,037	
Plano	101,484	
Richardson	128,713	
Denver, CO	74,840	
Adams County		300,000
Arapahoe County	194,755	
	182,749	

CHART 2. ELIGIBLE METROPOLITAN AREAS (EMA'S) THAT QUALIFY FOR THE HOPWA PROGRAM, FISCAL YEAR 1992 AWARDS, AND CDBG URBAN COUNTIES AND METROPOLITAN CITIES WITHIN EACH EMA—Continued

Name of EMA	1990 population	1992 award
Arvada	89,235	
Aurora	222,103	
Denver	467,610	
Lakewood	126,481	
Westminster	74,625	
Detroit, MI		321,000
Canton TWP	57,040	
Clinton TWP	85,866	
Dearborn	89,286	
Dearborn Heights	60,838	
Detroit	1,027,974	
Farmington Hills	74,652	
Lincoln Park	41,832	
Livonia	100,850	
Macomb County	247,230	
Oakland County	544,410	
Pontiac	71,166	
Port Huron	33,694	
Redford TWP	54,387	
Rochester Hills	61,766	
Roseville	51,412	
Royal Oak	65,410	
Southfield	75,728	
St Clair Shores	68,107	
Sterling Heights	117,810	
Taylor	70,811	
Troy City	72,884	
Warren	144,864	
Waterford, TWP	66,692	
Wayne County	454,785	
Westland	84,724	
Fort Lauderdale-Hollywood, FL		1,111,000
Broward County	701,012	
Coral Springs	79,443	
Ft Lauderdale	149,377	
Hollywood	121,697	
Plantation	66,692	
Pompano Beach	72,411	
Sunrise	64,407	
Houston, TX		1,512,000
Baytown City	63,850	
Fort Bend County	131,464	
Harris County	1,040,082	
Houston	1,630,553	
Pasadena	119,363	
Jersey City, NJ		638,000
Bayonne	61,444	
Hudson County	205,106	
Jersey City	228,537	
Union City	58,012	
Los Angeles-Long Beach, CA		2,917,000
Alhambra	82,106	
Baldwin Park	69,330	
Bellflower	61,815	
Burbank	93,643	
Carson	83,995	
Cerritos	53,240	
Compton	90,454	
Downey	91,444	
El Monte	106,209	
Gardena	49,847	
Glendale	180,038	
Hawthorne	71,349	
Huntington Park	56,065	
Inglewood	109,602	
Lakewood	73,557	
Lancaster	97,291	
Long Beach	429,433	
Los Angeles	3,485,398	
Los Angeles County	2,290,545	
Lynwood	61,945	
Montebello	59,564	
Monterey Park	60,738	
Norwalk	94,279	
Pasadna	131,591	
Pico Rivera	59,177	
Pomona	131,723	

CHART 2. ELIGIBLE METROPOLITAN AREAS (EMA'S) THAT QUALIFY FOR THE HOPWA PROGRAM, FISCAL YEAR 1992 AWARDS, AND CDBG URBAN COUNTIES AND METROPOLITAN CITIES WITHIN EACH EMA—Continued

Name of EMA	1990 population	1992 award
Redondo each	60,167	
Santa Clarita	110,642	
Santa Monica	86,905	
South Gate	86,284	
Torrance	133,107	
West Covina	96,086	
Whittier	77,671	
Miami-Hialeah, FL		2,308,000
Dade County	1,270,731	
Hialeah	188,004	
Miami	358,548	
Miami Beach	92,639	
Nassau-Suffolk, NY		362,000
Babylon Town	202,889	
Huntington Town	191,474	
Islip Town	299,587	
Nassau County	1,158,699	
Suffolk County	615,441	
New Orleans, LA		429,000
Jefferson Parish	376,273	
Kenner	72,033	
New Orleans	496,938	
Slidell	24,124	
New York, NY		11,153,000
Mount Vernon	67,153	
New Rochelle	67,265	
New York	7,322,564	
Rockland County	227,872	
Westchester County	433,853	
White Plains	48,718	
Yonkers	188,082	
Newark, NJ		1,366,000
Bloomfield TWP	45,061	
East Orange	73,552	
Elizabeth	110,002	
Essex County	323,354	
Irvington TWP	61,018	
Morris County	341,571	
Newark	275,221	
Parsippany-Troy Hills TWP	48,478	
Union TWP	50,024	
Union County	333,793	
Oakland, CA		448,000
Alameda	76,459	
Alameda Count7y	264,194	
Antioch	62,195	
Berkeley	102,724	
Concord	111,348	
Contra Costa County	482,195	
Fremont	173,339	
Hayward	111,498	
Livermore	56,741	
Oakland	372,242	
Richmond	87,425	
San Leandro	68,223	
Union City	53,762	
Walnut Creek	60,569	
Philadelphia, PA-NJ		766,000
Abington TWP	56,322	
Bensalem Township	56,788	
Bristol TWP	57,129	
Bucks County	427,257	
Burlington County, NJ	353,889	
Camden, NJ	87,492	
Camden County, NJ	277,679	
Cherry Hill TWP, NJ	69,348	
Chester	41,856	
Chester County	376,396	
Delaware County	374,770	
Gloucester County, NJ	230,082	
Gloucester TWP, NJ	53,797	
Haverford TWP	49,848	
Lower Merion WP	58,003	
Montgomery County	518,282	
Norristown	30,749	
Philadelphia	1,585,577	
Upper Darby	81,177	

CHART 2. ELIGIBLE METROPOLITAN AREAS (EMA'S) THAT QUALIFY FOR THE HOPWA PROGRAM, FISCAL YEAR 1992 AWARDS, AND CDBG URBAN COUNTIES AND METROPOLITAN CITIES WITHIN EACH EMA—Continued

Name of EMA	1990 population	1992 award
San Diego, CA		535,000
Carlsbad	63,126	
Chula Vista	135,163	
El Cajon	88,693	
Encinitas	55,386	
Escondido City	108,635	
La Mesa City	52,931	
National City	54,249	
Oceanside	128,398	
San Diego	1,110,549	
San Diego County	573,859	
Santee	52,902	
Vista	71,872	
San Francisco, CA		3,635,000
Daly	92,311	
Marin County	230,096	
Redwood City	66,072	
San Francisco	723,959	
San Mateo	85,486	
San Mateo County	344,279	
South San Francisco	54,312	
San Juan, PR		1,392,000
Byamaon Municipio	220,262	
Carolina Municipio	177,806	
Fajardo Municipio	36,882	
Guaynabo Municipio	92,886	
Humacao Municipio	55,203	
San Juan Municipio	437,745	
Toa Baja Municipio	89,454	
Trujillo Alto Municipio	61,120	
Seattle, WA		372,000
Auburn	33,102	
Bellevue	86,874	
Everett	69,961	
Federal Way	60,781	
King County	809,542	
Seattle	516,259	
Snohomish County	394,388	
Tampa-St. Petersburg-Clearwater, FL		368,000
Clearwater	98,784	
Hillsborough County	554,039	
Largo	65,674	
Pasco County	276,823	
Pinellas County	444,076	
St Petersburg	238,629	
Tampa	280,015	
Washington, DC-MD-VA		1,314,000
Alexandria, VA	111,183	
Arlington County, VA	180,514	
Fairfax County, VA	823,354	
Frederick, MD	40,148	
Montgomery County, MD	746,445	
Prince Georges County, MD	707,341	
Prince William County, VA	250,377	
Washington, DC	606,900	
West Palm Beach-Boca Raton-Delray, FL		468,000
Boca Raton	61,492	
Delray Beach	47,181	
Palm Beach County	670,930	
West Palm Beach	67,643	

Note: Total grants allocated for 1992 in charts 1 and 2: $42,935,000.

HUD Field Offices

Telephone numbers for Telecommunications Devices for the Deaf (TDD machines) are listed for field offices; all HUD numbers, including those noted*, may be reached via TDD by dialing the Federal Information Relay Service on 1–800–877–TDDY or (1–800–877–8339) or (202) 708–9300.

California

(Southern): Herbert L. Roberts, 1615 W. Olympic Blvd., Los Angeles, CA 90015–3801; (213) 251–7235; TDD (213) 251–7038.

(Northern): Gordon H. McKay, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102–3448; (415) 556–5576; TDD (415) 556–8357.

Colorado

Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202–2349; (303) 844–3811; TDD (303) 844–6158.

Connecticut

Daniel Kolesar, 330 Main St., Hartford, CT 06106–1860; (203) 240–4508; TDD (203) 240–4522.

District of Columbia

James H. McDaniel, 820 First St., NE, Washington, DC 20002; (202) 275–0994; TDD (202) 275–0967.

Florida

James N. Nichol, 325 W. Adams St., Jacksonville, FL 32202–4303; (904) 232–3587; TDD (904) 232–1291.

Georgia

Charles N. Straub, Russell Fed. Bldg., Room 688, 75 Spring St., SW, Atlanta, GA 30303–3388; (404) 331–5139; TDD (404) 730–2654.

Illinois

Richard Wilson, 77 W. Jackson Blvd., Chicago, IL 60606–5760; (312) 353–1696; TDD (312) 353–7143.

Louisiana

Greg Hamilton, P.O. Box 70288, 1661 Canal St., New Orleans, LA 70112–2887; (504) 589–7212; TDD (504) 589–7237.

Maryland

Harold Young, Equitable Bldg., 3rd Floor, 10 N. Calvert St., Baltimore, MD 21202–1865; (301) 962–2417; TDD (301) 962–0106.

Massachusetts

Frank Del Vecchio, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222–1092; (617) 565–5343; TDD (617) 565–5453.

Michigan

Richard Paul, Patrick McNamara Bldg., 477 Michigan Ave., Detroit, MI 48226–2592; (313) 226–4343; TDD * via 1–800–877–8339.

Missouri

Miguel Madrigal, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101–2406; (913) 236–2184; TDD (913) 236–3972.

New Jersey

Frank Sagarese, Military Park Bldg., 60 Park Pl., Newark, NJ 07102–5504; (201) 877–1776; TDD * via 1–800–877–8339.

New York

Joan Dabelko, 26 Federal Plaza, New York, NY 10278–0068; (212) 264–2885; TDD (212) 264–0927.

North Carolina

Charles T. Ferebee, Koger Building, 2306 West Meadowview Road, Greensboro, NC 27407–3707; (919) 547–4005; TDD (919) 547–4055.

Ohio

Jack E. Riordan, 200 North High St., Columbus, OH 43215–2499; (614) 469–6743; TDD (614) 469–6694.

Pennsylvania

John Kane, Liberty Sq. Bldg., 105 S. 7th St., Philadelphia, PA 19106–3392; (215) 597–2665; TDD (215) 597–5564.

Puerto Rico

Carmen R. Cabrera, 159 Carlos Chardon Ave., San Juan, PR 00918–1804; (809) 766–5576; TDD (809) 766–5909.

Texas

R.D. Smith, 1600 Throckmorton, P.O. Box 2905, Fort Worth, TX 76113–2905; (817) 885–5483; TDD (817) 885–5447.

Virginia

Joseph Aversano, Fed. Bldg., 400 N. 8th St., P.O. Box 10170, Richmond, VA 23240–9998; (804) 771–2624; TDD (804) 771–2820.

Washington

John Peters, Arcade Plaza Bldg., 1321 2nd Ave., Seattle, WA 98101–2054; (206) 553–0374; TDD (206) 553–4351.

Dated: June 8, 1992.

Randall H. Erben,

Acting Assistant Secretary for Community Planning and Development.

[FR Doc. 92–16790 Filed 7–17–92; 8:45 am]

BILLING CODE 4210–29–M

federal register

Monday
July 20, 1992

Part VII

Department of Housing and Urban Development

Office of the Secretary

Regulatory Waiver Requests Granted by the Department of Housing and Urban Development; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-92-3038; FR-2736-N-07]

Regulatory Waiver Requests Granted by the Department of Housing and Urban Development

AGENCY: Office of the Secretary, HUD.

ACTION: Public notice of the granting of regulatory waiver requests: March 1, 1992 through May 31, 1992.

SUMMARY: Under the Department of Housing and Urban Development Reform Act of 1989 (Reform Act), the Department (HUD) is required to make public all approval actions taken on waivers of regulations. This Notice is the fifth in a series, being published on a quarterly basis, providing notification of waivers granted during the preceding reporting period. The purpose of this Notice is to comply with the requirements of section 106 of the Reform Act.

FOR FURTHER INFORMATION CONTACT: For general information about this Notice, contact Grady J. Norris, Assistant General Counsel for Regulations, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. (Telephone 202–755–7055. This is not a toll-free number.) For information concerning a particular waiver action about which public notice is provided in this document, contact the person whose name and address is set out, for the particular item, in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989, the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by the Department. Section 106 of the Act (Section 7(q)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(q)(3)), provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that the Department has approved, by publishing a notice in the **Federal Register**. These Notices (each covering the period since the most recent previous notification) shall;

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purposes of today's document.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives Issued by HUD (56 FR 16337, April 22, 1991). This is the fifth Notice of its kind to be published under section 106. The first Notice, published on August 26, 1991, updated waiver-grant activity by the Department from the period immediately following passage of the Reform Act through the end of May 1991. Thereafter, notices updating waiver-grant activity for the ensuring three-month periods were published on October 28, 1991, January 13, 1992, and April 8, 1992.

Today's document updates HUD's waiver-grant activity through the end of May, 1992. In approximately three months, the Department will publish a similar Notice, providing information about waiver-grant activity for the period from June 1, 1992 through August, 1992.

For ease of reference, waiver requests granted by departmental officials authorized to grant waivers are listed in a sequence keyed to the section number of the HUD regulation involved in the waiver action. For example, a waiver-grant action involving exercise of authority under 24 CFR 24.200 (involving the waiver of a provision in part 24) would come early in the sequence, while waivers in the Section 8 and Section 202 programs (24 CFR chapter VIII) would be among the last matters listed. Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. (For example, a waiver of both § 811.105(b) and § 811.107(a) would appear sequentially in the listing under § 811.105(b).)

Should the Department receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occur between June and August 1992. (Today's document contains a few notices involving waivers granted before the beginning of the calendar quarter covered by this notice.)

Accordingly, information about approved waiver requests pertaining to regulations of the Department is provided in the Appendix that follows this Notice.

Dated: July 9, 1992.

Jack Kemp,

Secretary.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Officers of the Department of Housing and Urban Development, March 1, 1991 Through May 31, 1992

Note to Reader: The person to be contacted for additional information about the waiver-grant items numbered 1 through 9 in this listing is: Mr. Jan C. Opper, Field Coordination Officer, U.S. Department of Housing and Urban Development, Office of Community Planning and Development, 541 Seventh Street, SW., room 7270, Washington, DC 20410–7000, Phone: (202) 708–2565.

Grant of Waiver of Regulation

1. Regulation: 24 CFR 91.40(b).

Project/Activity: Rockland County, NY consortium; Oxnard, CA; Hawthorne, CA. Waiver of the 60-day comment period for the Comprehensive Housing Affordability Strategy (CHAS).

Nature of Requirement: 24 CFR 91.40(b) requires that a jurisdiction make its proposed housing strategy (CHAS) available to the public for a reasonable length of time (at least sixty days) for an examination and comment period.

Granted by: Jack Kemp, Secretary.

Date Granted: April 30, 1992; May 4, 1992; May 8, 1992.

Reasons Waived: Section 216(5) of the National Affordable Housing Act (24 U.S.C. 12746) requires that a jurisdiction eligible for the HOME Investment Partnerships program submit a CHAS not later than 90 days after providing HUD with a notification of intent to apply for the Home Program. Because the Rockland County consortium and the Cities of Oxnard and Hawthorne could not meet this statutory requirement, they requested that requirement at 24 CFR 981.40(b) be waived and the required length of time for comments be shortened to thirty days. Each jurisdiction agreed to consider comments submitted beyond the thirty-day period and committed to incorporating those subsequent

comments in an amendment to the CHAS or in its annual update. Because of the potential detrimental impact to each of the jurisdiction's low-income population, the Secretary determined that good cause existed for which to waive 24 CFR 91.40(b).

2. Regulation: 24 CFR 92.150(a).

Project/Activity: Atlanta, GA; Hartford, CT; Dade County, FL; Miami Beach, FL; Dakota County, MN consortium; Cuyahoga County, OH consortium, Tucson/Pima County, AZ consortium; Santa Monica, CA; Washington, DC; State of West Virginia; Lake County, IL consortium; Mount Vernon, NY; New Britain, CT. Waiver of HOME Investment Partnerships program description submission requirements.

Nature of Requirement: 24 CFR 92.150(a) requires that a jurisdiction that has not yet been designated a participating jurisdiction for the HOME program must submit a program description within 45 days of designation.

Granted by: Anna Kondratas, Assistant Secretary for Community Planning and Development or Randall H. Erben, Acting Assistant Secretary for Community Planning and Development.

Date Granted: March 9, 1992 through April 24, 1992

Reasons Waived: Waivers of 24 CFR 92.150(a) were granted to the above participating jurisdictions for good cause. In going through the HOME application process for the first time, in this new program, each of the above jurisdictions encountered difficulties in synchronizing local legislative hearing and meeting requirements with the 45-day deadline.

3. Regulation: 24 CFR 570.200(a)(5) and 24 CFR 570.200(h)

Project/Activity: Cumberland, MD—purchase of an aerial telescopic platform fire fighting truck; Montgomery County, MD—acquisition and rehabilitation of a facility to provide services to the homeless; Davenport, IA—purchase of property for use as a domestic violence shelter; Wayne County, MI (City of Belleville)—reconstruction of the West Columbia sewer system; Kenosha, WI—removal of a pedestrian mall and conversion to a traffic-bearing street. Waiver of reimbursement of pre-agreement costs under the Community Development Block Grant program.

Nature of Requirement: 24 CFR 570.200(h) permits reimbursement of certain eligible costs incurred prior to the date of the grant agreement. 24 CFR 570.200(a)(5) limits pre-agreement costs to those described in subparagraph 570.200(h).

Granted By: Anna Kondratas, Assistant Secretary for Community Planning and Development and Randall H. Erben, Acting Assistant Secretary for Community Planning and Development.

Date Granted: March 2, 1992 through May 21, 1992.

Reasons Waived: In each of the jurisdictions above, except Kenosha WI, the Assistant Secretary determined that not granting a waiver would cause undue hardship on low and moderate income persons that would otherwise benefit from the service or facility. In the case of Kenosha, WI, not granting the waiver would adversely affect the purposes of the Act by inhibiting the elimination of a slum and blighted area.

4. Regulation: 24 CFR 570.490(b).

Project/Activity: States of Oklahoma and Wyoming. Final Statement submission deadline extension.

Nature of Requirement: 24 CFR 257.490(b) requires each state administering the State Community Development Block Grant (CDBG) Program to submit a Final Statement and certifications by March 31 of each Federal fiscal year. The States requested extension to May 29, 1992 and April 30, 1992, respectively, for submission of its Fiscal Year 1992 Statement.

Granted By: Anna Kondratas, Assistant Secretary for Community Planning and Development.

Dates Granted: March 23, 1992 and April 1, 1992, respectively.

Reasons Waived: The State of Oklahoma requested a time extension to allow it to use 1990 Census information for its geographic allocation. Otherwise, the State would have to use 12 year old data in distributing its FY 1992 funds. The State of Wyoming requested a time extension to complete its 45-day public comment period which was delayed due to unforeseen circumstances. If waivers were not granted, small communities within those States would not be able to assist low and moderate income persons, causing undue hardship and adversely affecting the purposes of the Act.

5. Regulation: 24 CFR 576.51(a).

Project/Activity: Oxnard, CA; Middlesex County, NJ; Yonkers, NY. Under the Emergency Shelter Grants program, waiver of the application submission deadline requirements to permit submission at a later date.

Nature of Requirement: 24 CFR 576.51(a) requires that any State, or formula city or county, or Territory, that elects to receive an Emergency Shelter Grant, submit an application no later than 45 days after the date of notification of the grant allocation amount.

Granted by: Anna Kondratas, Assistant Secretary for Community Planning and Development and Randall H. Erben, Acting Assistant Secretary for Community Planning and Development.

Date Granted: April 30, 1992 and May 13, 1992.

Reasons Waived: Waivers were granted for the above applicants because they would have been unable to submit Comprehensive Housing Affordability Strategies (CHAS) prior to or on the date of the deadline for submission of the FY 1992 Emergency Shelter Grant application, as required. The CHAS is being submitted by applicants for the first time, as required by the National Affordable Housing Act. Not to grant a waiver of the application deadline and to extend the deadline would have caused undue hardship and would adversely affect the purposes of Title IV of the Stewart B. McKinney Homeless Assistance Act, as amended.

6. Regulation: 24 CFR 576.55(b)(2).

Project/Activity: Cincinnati, OH. Deadline for expenditure of Emergency Shelter Grant (ESG) funds. An extension until December 31, 1992 was requested.

Nature of Requirement: 24 CFR 576.55(b)(2) requires that each ESG formula grantee spend all of the grant amounts it was allocated within 24 months of the date of the grant award by HUD.

Granted by: Anna Kondratas, Assistant Secretary for Community Planning and Development.

Date Granted: March 5, 1992.

Reasons Waived: The city requested an extension of the deadline because it needs additional time to obtain financing to rehabilitate a shelter facility. Irregularities discovered in the original bidding documents necessitated rebidding. Under these circumstances, it was determined that undue hardship would result if a waiver were not granted and that the shelter facility would contribute significantly to the purposes of the McKinney Act.

7. Regulation: 24 CFR 577.115(a).

Project/Activity: Chicago, IL. Waiver of operating and supportive service cost participation requirements under the Transitional Housing program.

Nature of Requirement: 24 CFR 577.115(a) states that assistance for operating and supportive service costs will be available for up to 75 percent of the total costs for two years and up to 50 percent of the total costs for three years.

Granted by: Anna Kondratas, Assistant Secretary for Community Planning and Development.

Date Granted: April 17, 1992.

Reasons Waived: Failure to waive the requirements at 24 CFR 577.115(a) would prevent the City of Chicago from becoming the substitute grantee for two Transitional Housing projects, and adversely affect the purposes of the program.

8. Regulation: 24 CFR 577.135(b).

Project/Activity: El Paso, TX. Providing Transitional Housing assistance to a project in which residents receive Section 8 assistance.

Nature of Requirement: 24 CFR 577.135(b) prohibits the provision of Transitional Housing program assistance if the project involves a structure, or residents of the structure, that will receive assistance under the U.S. Housing Act of 1937 (includes section 8), et al.

Granted by: Anna Kondratas, Assistant Secretary for Community Planning and Development.

Date Granted: April 7, 1992.

Reasons Waived: Since the project was underway prior to HUD realizing that Section 8 project-based certificates were to be used, failure to grant a waiver would adversely affect those homeless persons the project was intended to serve and cause them undue hardship.

9. Regulation: 24 CFR 577.335(e).

Project/Activity: Sacramento Housing and Redevelopment Agency, CA. Waiver of conflict of interest provisions under the Transitional Housing Program.

Nature of Requirement: 24 CFR 577.335(b) prohibits any person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient under the program and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, from obtaining a personal or financial interest or benefit from the activity or have an interest in any contract, subcontract, or agreement with respect thereto, or proceeds thereunder, either for himself or herself or for those with whom he of she has family or business ties, during his or her tenure or for one year thereafter.

Granted by: Anna Kondratas, Assistant Secretary for Community Planning and Development.

Date Granted: March 2, 1992.

Reasons Waived: A person who has been on the board of a nonprofit organization that operated a transitional living center for quadriplegics under a HUD Transitional Housing grant to the Sacramento Housing and Redevelopment Agency. (The person was not on the board when the grant was awarded and had no role in obtaining the grant funds.) That person became the transitional living center coordinator when the previous coordinator resigned unexpectedly. The nonprofit organization acted in good faith in appointing the coordinator. To deny the waiver and force the new coordinator to resign would result in a hardship for the residents who have special needs because of their physical condition. It would be disruptive to their progress to lose a second coordinator within six months.

Note to Reader: The person to be contacted for additional information about the waiver-grant items numbered 10 through 12 in this listing is: Gerald Benoit, Director, Rental Assistance Division, Department of Housing and Urban Development, 451 Seventh Street, SW., room 6128, Washington, DC 20410, Phone: (202) 708–0477.

10. Regulation: 24 CFR 882.101(b)(2).

Project/Activity: Housing Authority of the City of Jefferson, Missouri.

Nature of Requirement: Regulation prohibits a PHA from administering housing assistance under the Section 8 rental certificate program for units owned by the PHA.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: April 3, 1992.

Reason Waived: To prevent undue hardship for a family participating in the Section 8 rental certificate program who resided in the unit before the acquisition of the building by the housing authority. (This waiver only extends to the unit occupied by the one family and no other assisted families may move into this building.)

11. Regulation: 24 CFR 882.110(d).

Project/Activity: New York City Housing Authority.

Nature of Requirement: Regulation requires that the total number of assisted units may not exceed 40 percent of the total number of units in a section 221(d)(3) below-market interest rate project or in a section 236 project.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: April 10, 1992.

Reason Waived: In order to settle litigation, HUD agreed to grant a waiver to the New York City Housing Authority to allow the total number of its assisted units to exceed 40 percent of the total number of units in its section 221(d)(3) below market interest rate projects or its 236 projects.

12. Regulation: 24 CFR 882.209(K); 24 CFR 877.207(e).

Project/Activity: New York City Housing Authority.

Nature of Requirement: Regulation requires that under the Section 8 rental certificate and rental voucher programs, the housing assistance contract be executed before commencement of the assisted tenancy.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: April 10, 1992.

Reason Waived: In order to settle litigation, HUD agreed to grant a waiver to permit the New York City Housing Authority to execute retroactive housing assistance payments.

Note to Reader: The person to be contacted for additional information about the waiver-grant items numbered 13–16 in this listing is: Robert W. Wilden, Director, Assisted Elderly and Handicapped Housing Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Phone: (202) 708–2730.

13. Regulation: 24 CFR 885.425(d).

Project/Activity:

Project name	Project No.	Field office
Two, Inc	051–EH172	Richmond Office.
Three, Inc	051–HH004	Richmond Office.
Four, Inc	051–HH013	Richmond Office.

Nature of Requirement: Regulation requires that the owner's simplified certificate of actual cost be verified by an independent certified public accountant or an independent public accountant licensed by a State or local regulatory agency prior to December 31, 1970.

Granted by: Arthur J. Hill, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 24, 1991.

Reason Waived: To avoid placing a financial hardship on the Borrower, and because HUD staff believed, as indicated in outstanding Section 202 and full insurance instructions, that an accountant's opinion is not always necessary to protect the Secretary's and the Borrower's interests when a project qualifies to use the simplified form of cost certification, Form HUD–92205, the requirement of verification by a licensed accountant was waived.

14. Regulation: 24 CFR 885.810(c)(3)(i).

Project/Activity:

Project name	Project No.	Field office
Edison Arms	012–EH692	New York.

Nature of Requirement: The regulation requires the Department of Housing and

Urban Development to limit direct loan financing to the development cost limits set forth in paragraphs (c)(1) and (c)(2) of § 885.810. Paragraph (c)(3)(i) authorizes the Assistant Secretary to increase the cost limits by up to 110 percent in any geographic area where the cost levels require, and to increase the cost limits by up to 140 percent on a project-by-project basis. Waivers of this section may permit an increase in the cost limits by up to 160 percent on a project-by-project basis for specific HUD Offices where development costs are consistently higher than anywhere else in the nation.

Granted by: Arthur J. Hill, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 19, 1991.

Reason Waived: Not to approve the above HCP waiver would cause hardship to the Borrower, which has expended substantial funds to reach this stage of processing. Further, if the project is cancelled, much needed housing would not be built. Granting the waiver was, therefore, in the public interest and consistent with both programmatic objectives and the Secretary's goal of increasing affordable housing opportunities for low income families.

15. Regulation: 24 CFR 855—Loans for Housing for the Elderly or Handicapped § 885.825(c), Reduction of Loan Amount and Contract Rents.

Project/Activity:

Project Name	Project No.	Regional Office
Village on Park.	045-EH070	Philadelphia.

Nature of Requirement: The Regulation cited above requires that if the certified costs approved by HUD are less than the loan amount established under § 885.805, the loan amount and the contract rents will be reduced accordingly.

Granted by: Arthur J. Hill, Assistant Secretary for Housing-Housing Commissioner.

Date Granted: May 21, 1992.

Reason Waived: There was an overpayment of funds to the general contractor which resulted from the criminal activity that occurred between a HUD representative and the general contractor. HUD agreed with the U.S. Attorney that to require the Borrower to repay these funds would penalize the Borrower for the wrongdoings of a HUD representative and the general contractor, about which the Borrower had no knowledge or control.

16. Regulation: 24 CFR 855—Loans for Housing for the Elderly or Handicapped § 885.230. Duration of section 202 Fund Reservation.

Project/Activity:

Project Name	Project No.	Regional Office
Bay Cove GH IV	023-EH343	Boston.
Independence Housing.	024-EH197	Boston.
Monsignor Fiorentino.	012-EH622	New York.
WNY Veterans Hsg.	014-EH250	New York.
Casa Victoria Hsg.	012-EH583	New York.
John Walter Edwards.	012-EH655	New York.
Gethsemane Manor.	014-EH257	New York.
The Bridges	014-EH247	New York.
Riese St. Gerard Sr.	031-EH221	New York.
Monsignor Henry J. Reel.	012-EH672	New York.
Bellerose Apartments.	012-EH661	New York.
Belmont Blvd Apts.	012-EH665	New York.
Diakonia Housing	034-EH312	Philadelphia.
United Cerebral Palsy.	034-EH383	Philadelphia.
Sansom House	034-EH393	Philadelphia.
Concord House I & II.	045-EH097	Philadelphia.
Howard Sheltered Homes.	052-EH162	Philadelphia.
Accessible Apartments.	051-EH185	Philadelphia.
Capitol Commons	000-EH157	Philadelphia.
DEAF-Reach	000-HD003	Philadelphia.
Buena Vista Apts	051-EH182	Philadelphia.
Toombs-Lyon Housing.	061-EH208	Atlanta.
Distinctive Care Homes.	061-EH210	Atlanta.
Broadway Towers	061-EH215	Atlanta.
Travis House	061-EH216	Atlanta.
Independent Lifestyles.	061-EH220	Atlanta.
Coral Bay Terrace.	066-EH211	Atlanta.
Teamster Retiree Hsg.	087-EH157	Atlanta.
Burnell Brown Housing.	071-EH502	Chicago.
Westhaven of Englewood.	071-EH536	Chicago.
The Center Apartments.	071-EH545	Chicago.
Muncie Place Apts.	073-EH306	Chicago.
Wieder-Silver Manor.	042-EH419	Chicago.
Apple Grove	042-EH428	Chicago.
Family Initiative	042-EH418	Chicago.
Handicapped Hsg Harmony.	092-EH246	Chicago.
Asi-Brainerd Barrier.	092-EH250	Chicago.
HM & Community Options.	092-EH258	Chicago.
Willmar Housing	092-EH260	Chicago.
AL-CAR/VOA Elderly.	113-EH028	Ft. Worth.
Long Beach Gardens.	122-EH495	San Francisco.
Masselin Senior Hsg.	122-EH503	San Francisco.
The Gardens	122-EH502	San Francisco.
Harding Project	122-EH499	San Francisco.
Riverside VOA Elderly.	122-EH434	San Francisco.
Simi Valley Sr Citizen.	122-EH485	San Francisco.
Vista Serena Apts.	122-EH479	San Francisco.
Lazzell Residence	122-EH487	San Francisco.

Nature of Requirement: The Regulations cited above require the Department of Housing and Urban Development to cancel any section 202 fund reservation for which construction, rehabilitation or acquisition has not begun within 24 months after the Notice of section 202 Fund Reservation is issued, unless a 12-month extension is granted by the Regional Administrator, for a total maximum 36-month period.

Granted by: Arthur J. Hill, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: Waivers approved between March 1, 1992 and May 31, 1992.

Reason Waived: Circumstances beyond the control of the Section 202 Owners delayed project development within the maximum period of 36 months. Further, sponsors had expended substantial funds to bring the projects to construction starts and development of these units furthered the Secretary's goal of expanding affordable housing opportunities. Waivers of this section granted authority to extend these fund reservations beyond 24 months to allow additional time to reach construction starts.

Note to Reader: The person to be contacted for additional information about waiver-grant item number 17 in this listing is: Kerry J. Mulholland, Chief, Mortgage Credit Branch, Technical Support Division, Office of Insured Multifamily Housing Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Phone: (202) 708-0283.

17. Regulation: 24 CFR 885.425(d).

Project/Activity:

Project name	*Project No.*	*Field office*
Two, Inc.	051-EH172	Richmond Office.
Three, Inc.	051-HH004	Richmond Office.
Four, Inc.	051-HH013	Richmond Office.

Nature of Requirement: Regulation requires that the owner's simplified certificate of actual cost be verified by an independent certified public accountant or an independent public accountant licensed by a State or local regulatory agency prior to December 31, 1970.

Granted by: Arthur J. Hill, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 24, 1991.

Reason waived: To avoid placing a financial hardship on the Borrower and inasmuch as we believe, as is indicated in outstanding section 202 and full insurance instructions, that an accountant's opinion is not always necessary to protect the Secretary's and the Borrower's interests when a project qualifies to use the simplified form of cost certification, Form HUD–92205.

Note to Reader: The person to be contacted for additional information about waiver-grant item number 18 in this listing is: Felix Coward, Chief, Architectural and Engineering Branch, Technical Support Division, Office of Insured Multifamily Housing Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Phone: (202) 708–0743.

18. Regulation: 24 CFR 885.810(c)(3)(i).
Project/Activity:

Project name	*Project No.*	*Field office*
Edison Arms	012–EH692	New York.

Nature of Requirement: The Regulation cited above requires the Department of Housing and Urban Development to limit direct loan financing to the development cost limits set forth in paragraphs (c)(1) and (c)(2) of this section. Paragraph (c)(3)(i) authorizes the Assistant Secretary to increase the cost limits by up to 110 percent in any geographic area where the cost levels require, and to increase the cost limits by up to 140 percent on a project-by-project basis. Waivers of this section grant authority to increase the cost limits by up to 160 percent on a project-by-project basis for specific HUD Offices where development costs are consistently higher than anywhere else in the nation.

Granted by: Arthur J. Hill, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: December 19, 1991.

Reason Waived: To not approve the above HCP waiver would cause hardship to the Borrower which has expended substantial funds to reach this stage of processing. Further, if the project is cancelled, much-needed housing would not be built. Granting the waiver is, therefore, in the public interest and consistent with both programmatic objectives and the Secretary's goal of increasing affordable housing opportunities for low income families.

Note to Reader: The person to be contacted for additional information about waiver-grant item number 19 in this listing is: Kerry J. Mulholland, Chief, Mortgage Credit Branch, Technical Support Division, Office of Insured Multifamily Housing Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Phone: (202) 708–0283.

19. Regulation: Section 24 CFR 855—Loans for Housing for the Elderly or Handicapped Section 885.825(c), Reduction of Loan Amount and Contract Rents.

Project/Activity:

Project name	Project No.	Regional office
Village on Park.	045–EH070	Philadelphia.

Nature of Requirement: The Regulation cited above requires that if the certified costs approved by HUD are less than the loan amount established under § 885.805, the loan amount and the contract rents will be reduced accordingly.

Granted by: Arthur J. Hill, Assistant Secretary for Housing—Housing Commissioner.

Date Granted: May 21, 1992.

Reason Waived: There was an overpayment of funds to the general contractor which resulted from the criminal activity that occurred between a HUD representative and the general contractor. HUD agreed with the U.S. Attorney that to require the Borrower to repay these funds, penalizes the Borrower for the wrongdoings of a HUD representative and the general contractor of which it had no knowledge or control.

Note to Reader: The person to be contacted for additional information about waiver-grant item number 20 in this listing is: Dom Nessi, Director, Office of Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Phone: (202) 708–1015.

20. Regulation: 24 CFR 905.705.

Project/Activity: Providing Performance Funding System subsidy for one unit from the Blackfeet Indian Housing Authority's rental inventory which is used as a Family Child Care Program.

Nature of Requirement: The regulation cited above discusses how to determine the amount of operating subsidy for which an IHA is eligible.

Granted by: Joseph Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: March 25, 1992.

Reason Waived: This waiver was requested, and granted, to provide Performance Funding System operating subsidy for one unit removed from the Blackfeet Indian Housing Authority's rental inventory. The rental unit is being used to support a Family Child Care Program to promote economic self sufficiency services to the community.

Note to Reader: The person to be contacted for additional information about the waiver-grant items numbered 21 through 26 in this listing is: Edward C. Whipple, Occupancy Division, Office of Management Operations, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Phone: (202) 708–0744.

21. Regulation: 24 CFR 913.107(a).

Project/Activity: DeKalb County Housing Authority.

Nature of Requirement: 24 CFR 913.107(a) requires that the Total Tenant Payment required to be paid by public housing tenants be the greater of 30 percent of Monthly Adjusted Income, 10 percent of Monthly Income or, where welfare benefits are determined on the basis of the family's actual housing costs, and amount equal to the portion of the grant designated for shelter and utilities.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: January 9, 1992.

Reason Waived: To allow DeKalb County Housing Authority to establish ceiling rents on the basis of the 1987 amendments to the United States Housing Act of 1937, which permits public housing agencies (PHAs), with the approval of the Secretary, to establish ceiling rents.

22. Regulation: 24 CFR 913.107(a).

Project/Activity: Cambridge Housing Authority; Turnkey III Homeownership Opportunity Programs Project MA 3–15.

Nature of Requirement: 24 CFR 913.107(a) requires that the Total Tenant Payment required to be paid by public housing tenants be the greater of 30 percent of Monthly Adjusted Income, 10 percent of Monthly Income or, where welfare benefits are determined on the basis of the family's actual housing costs, and amount equal to the portion of the grant designated for shelter and utilities.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: January 28, 1992.

Reason Waived: To allow Cambridge Housing Authority Turnkey III Homeownership Opportunity Program (Project MA 3–15) to establish ceiling rents on the basis of the 1987 amendments to the United States Housing Act of 1937 which permits public housing agencies (PHAs), with the approval of the Secretary, to establish ceiling rents.

23. Regulation: 24 CFR 913.107(a).

Project/Activity: Lyon, KS Housing Authority.

Nature of Requirement: 24 CFR 913.107(a) requires that the Total Tenant Payment required to be paid by public housing tenants be the greater of 30 percent of Monthly Adjusted Income, 10 percent of Monthly Income or, where welfare benefits are determined on the basis of the family's actual housing costs, and amount equal to the portion of the grant designated for shelter and utilities.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: March 9, 1992.

Reason Waived: To allow Lyon Housing Authority to establish ceiling rents on the basis of the 1987 amendments to the United States Housing Act of 1937 which permits public housing agencies (PHAs), with the approval of the Secretary, to establish ceiling rents.

24. Regulation: 24 CFR 913.107(a).

Project/Activity: Osage, OK Housing Authority.

Nature of Requirement: 24 CFR 913.107(a) requires that the Total Tenant Payment required to be paid by public housing tenants be the greater of 30 percent of Monthly Adjusted Income, 10 percent of Monthly Income or, where welfare benefits are determined on the basis of the family's actual housing costs, and amount equal to the portion of the grant designated for shelter and utilities.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: March 9, 1992.

Reason Waived: To allow Osage Housing Authority to establish ceiling rents on the basis of the 1987 amendments to the United States Housing Act of 1937 which permits public housing agencies (PHAs), with the approval of the Secretary, to establish ceiling rents.

25. Regulation: 24 CFR 913.107(a).

Project/Activity: Sleepy Eye, MN Housing and Redevelopment Authority.

Nature of Requirement: 24 CFR 913.107(a) requires that the Total Tenant Payment required to be paid by public housing tenants be the greater of 30 percent of Monthly Adjusted Income, 10 percent of Monthly Income or, where welfare benefits are determined on the basis of the family's actual housing costs, and amount equal to the portion of the grant designated for shelter and utilities.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: April 22, 1992.

Reason Waived: To allow Sleepy Eye Housing and Redevelopment Authority to establish ceiling rents on the basis of the 1987 amendments to the United States Housing Act of 1937 which permits public housing agencies (PHAs), with the approval of the Secretary, to establish ceiling rents.

26. Regulation: 24 CFR 913.107(a).

Project/Activity: Cincinnati, OH Metropolitan Housing Authority.

Nature of Requirement: 24 CFR 913.107(a) requires that the Total Tenant Payment required to be paid by public housing tenants be the greater of 30 percent of Monthly Adjusted Income, 10 percent of Monthly Income or, where welfare benefits are determined on the basis of the family's actual housing costs, and amount equal to the portion of the grant designated for shelter and utilities.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: March 9, 1992.

Reason Waived: To allow Cincinnati Metropolitan Housing Authority to establish ceiling rents on the basis of the 1987 amendments to the United States Housing Act of 1937 which permits public housing agencies (PHAs), with the approval of the Secretary, to establish ceiling rents.

Note to Reader: The person to be contacted for additional information about the waiver-grant items numbered 27 through 31 in this listing is: David Caprara, Deputy Assistant Secretary, Office of Resident Initiatives, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Phone: (202) 708–4214.

27. Regulation: 24 CFR 990.104.

Project/Activity: Waiver for approval of units for non-dwelling use to support economic self-sufficiency and anti-drug programs at Housing Authorities.

Nature of Requirement: Housing Authority of Wilkes-Barre, PA is authorized to increase the operating subsidy for two units removed from the dwelling rental inventory to support their economic self-sufficiency program.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: May 15, 1992.

Reason Waived: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory unless a waiver of PFS is granted.

28. Regulation: 24 CFR 990.104.

Project/Activity: Waiver for approval of units for non-dwelling use to support economic self-sufficiency and anti-drug programs at Housing Authorities.

Nature of Requirement: Housing Authority of Tallahassee, Florida is authorized to increase the operating subsidy for two units removed from the dwelling rental inventory to support their economic self-sufficiency program.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: May 22, 1992.

Reason Waived: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory unless a waiver of PFS is granted.

29. Regulation: 24 CFR 990.104.

Project/Activity: Waiver for approval of units for non-dwelling use to support economic self-sufficiency and anti-drug programs at Housing Authorities.

Nature of Requirement: Housing Authority of Las Cruces, New Mexico is authorized to increase the operating subsidy for two units removed from the dwelling rental inventory to support their economic self-sufficiency program.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: May 29, 1992.

Reason Waived: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory unless a waiver of PFS is granted.

30. Regulation: 24 CFR 990.104.

Project/Activity: Waiver for approval of units for non-dwelling use to support economic self-sufficiency and anti-drug programs at Housing Authorities.

Nature of Requirement: Housing Authority of Bernalillo, New Mexico is authorized to increase the operating subsidy for two units removed from the dwelling rental inventory to support their economic self-sufficiency program.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: June 5, 1992.

Reason Waived: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory unless a waiver of PFS is granted.

31. Regulation: 24 CFR 990.104.

Project/Activity: Waiver for approval of units for non-dwelling use to support economic self-sufficiency and anti-drug programs at Housing Authorities.

Nature of Requirement: Housing Authority of Rio Arriba, New Mexico, is authorized to increase the operating subsidy for two units removed from the dwelling rental inventory to support their economic self-sufficiency program.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: June 5, 1992.

Reason Waived: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory unless a waiver of PFS is granted.

Note to Reader: The person to be contacted for additional information about the waiver-grant items numbered 32 through 33 in this listing is: John Comerford, Director, Financial Management Division, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Phone: (202) 708–1872.

32. Regulation: 24 CFR 990.109(b)(3)(iv).

Project/Activity: Detroit Housing Department, Detroit, MI.

Nature of Requirement: The regulation requires a Low Occupancy PHA without an approved Comprehensive Occupancy Plan (COP) to use a projected occupancy percentage of 97%.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: April 10, 1992.

Reason Waived: The initial request for a waiver came shortly after HUD had published a proposed rule in the **Federal Register** that would have established new conditions under which a PHA could include vacant units in the determination of operating subsidy eligibility. Congressional action on the Department's 1992 Appropriations Bill, however, included language in the Conference report that barred appropriated funds from being used to implement the proposed rule.

The proposed rule would have corrected inefficiencies and removed inequities contained in the current Vacancy Rule. The Congressional abrogation of the rule-making process meant a continuation of these problems. It was thus felt necessary to develop a general policy describing the circumstances under which Vacancy Rule waivers would be considered and approved, so that these problems could be minimized without the Department's being in conflict with the congressional action. Waiver requests received during and after this period were reviewed but generally were not acted upon.

In response to this situation, HUD approved an obligation of $28.9 million of operating subsidy funds by issuing a letter-of-intent (LOI) in September 1991. In determining this amount, 62% was used as the assumed occupancy percentage. It was hoped, however, that a policy on Vacancy Rule waiver requests would be in place before payments of the LOI began, so that appropriate conditions could be placed on the released funds, if warranted.

In November 1991, the Detroit Field Office was authorized to pay $14.4 million to the DHD and payment of an additional $4 million was authorized in March 1992. No conditions were placed on these payments. HUD is now asking Congress to reverse its earlier action on the proposed vacancy rule and allow HUD to proceed with publication of a final rule. Since only three months remained in the DHD's fiscal year, and because there was an approvable budget in the Field Office, good cause was found to exist to permit the DHD to use 62% as its projected occupancy percentage.

33. Regulation: 24 CFR 990.109(e)(2).

Project Activity: Denver Housing Authority, Denver, CO.

Nature of Requirement: The regulation requires a PHA to include locally-generated income in its calculation of operating subsidy eligibility.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: April 24, 1992.

Reason Waived: The waiver allows the exclusion from the subsidy calculation of surcharge income from a cable TV service being offered to residents at the Denver Housing Authority. The provision of this cable service is seen as a desirable resident initiative project. The Central Resident Council (CRC) is expected to become responsible for the cable service contract with a year. Residents chosing cable service will pay a mandatory $2 surcharge as part of their monthly bill and this income, less reasonable administrative expenses, would be used by the CRC for resident initiatives such as the scholarship fund. This project will be operated with the full consultation and involvement of the CRC. This waiver is for a period not to exceed 12 months from the time the cable service is implemented. During this period, the housing authority shall train and prepare CRC to assume complete responsibility for the cable service contract.

[FR Doc. 92–16971 Filed 7–17–92; 8:45 am]

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federal register

Monday
July 20, 1992

Part VIII

Environmental Protection Agency

Incentives for Development and Registration of Reduced Risk Pesticides; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP-36184; FRL 4006-7]

Incentives for Development and Registration of Reduced Risk Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice, request for comment.

SUMMARY: This notice solicits comment on potential policies employing economic incentives to encourage the development, registration and use of pesticides or pest control practices that present lower risks to public health and the environment. An additional, more specific goal of such policies would be to encourage the registration of lower risk substitutes for existing high-risk pesticides. Such policies would require the Agency to establish workable criteria for selecting promising registration candidates for this program and offering possible reductions in required data, accelerated processing by EPA, or other measures. Criteria might also be necessary for identifying existing pesticides that pose higher risks and that therefore are priority candidates for substitution. When less hazardous substitutes become available, the registration of such existing pesticides may be reassessed by the Agency. Finally, EPA may consider other approaches to improve the incentives for pesticide users to adopt pest control practices that are less likely to threaten public health or the environment. These may include changes to existing Agency policies that prohibit safety claims for pesticides. EPA requests public comments on both the specific questions raised in this notice and on any other ways the Agency might attain these goals. In view of the significance and complexity of this topic, EPA plans to hold a public workshop to further explore the issues and suggestions raised in the comments received. The time and place of the public workshop will be announced in a later **Federal Register** notice.

DATES: Written comments, identified by the document control number [OPP-36184], must be received on or before September 18, 1992.

ADDRESSES: By mail, submit written comments to: Public Response Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the project and any written comments will be available for public inspection in Room 1128 at the Virginia address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Stephanie R. Irene, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 305-5447.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

EPA registers (licenses the marketing of) pesticide products approved for specific uses under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). A pesticide is registered for control of particular pests (e.g., specific insects or weeds) on particular sites (e.g., specific crops, ornamentals or structures) at specified doses (e.g., pounds per acre). Registrations may also specify the use of particular pesticide application techniques, precautions or restrictions.

To obtain a registration for a pesticide under FIFRA, an applicant must demonstrate that the pesticide will perform its intended function without causing unreasonable adverse effects on the environment [FIFRA, section 3(c)(5)]. Such effects are defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide" [FIFRA, section 2(bb)]. This standard requires a finding that the benefits of use of the pesticide outweigh the risks of use, when the pesticide is used in compliance with the terms and conditions of registration, or in accordance with commonly recognized practices.

Pesticides are intended to prevent, destroy, repel or mitigate any pest, or to act as plant growth regulators, defoliants, or desiccants. Since they are designed to be biologically active, virtually all pesticides present some intrinsic risk incidental to their use. However, the procedures used for the registration of pesticide products are designed to identify potential risks to humans and the environment, and to ensure that when such pesticide products are used in accordance with label instructions, any risks are outweighed by the benefits obtained.

B. Current Problems

EPA recognizes that the current registration system has several weaknesses that may contribute to delays in developing and registering preferable lower risk pesticides and that may hamper the dissemination of adequate information to assist users or the public in making more knowledgeable pest control choices. A discussion of these problems follows.

1. *Barriers to market entry favor existing products.* Many people believe that the existence of one or more pesticides registered for a use often raises barriers to the introduction of an alternative product. This may occur because existing pesticides become familiar to users, making the penetration of the market by new products more difficult. In addition, because data requirements and registration costs have increased over the last decade, market entry costs for a new product may have become a substantial hurdle, whereas an older product which dominates the market may have borne lower testing and other registration costs. Moreover, all or some of such costs may have been recovered through sales of the older pesticide, allowing the older product to be sold more cheaply than a new one. EPA's accelerated reregistration program will reduce some of these differences in data requirements by effecting the updating of data bases for existing pesticides. However, existing products will remain on the market as additional data are generated, while new and unregistered alternatives cannot enter the market until all or most of the more recently imposed data requirements are satisfied. In addition, under existing law, the Agency must go through a costly and time-consuming process to cancel the registration of a pesticide. To address this problem, the President has proposed legislative reforms which include procedural changes enabling the Agency to act more quickly when necessary to remove an existing pesticide from the marketplace. In any case, we can expect that many older pesticides will continue to enjoy advantages over newer (including potentially safer) products that could replace them.

2. *Existing products may pose known and unknown risks.* While EPA's registration approach permits certain distinctions among registered products based on risk, such as restricted-use classification and label precautionary statements, the extent to which a pesticide is employed for registered uses is generally not limited. For example, a pesticide registered for use on wheat may ordinarily be lawfully used on any fraction of that crop, from 0 to 100 percent. This approach may lead to a perception that EPA is not concerned about potential risks stemming from the amount of use of a registered pesticide, provided it is used in a manner consistent with the instructions on its labeling. While FIFRA requires a finding by EPA that a pesticide's use will not cause unreasonable adverse effects on people or the environment, EPA recognizes that even the careful use of most existing pesticides may pose potential risk to public health and/or the environment. As mentioned above, pesticides, by their very nature, tend to be biologically active and thus tend to pose some risk to some species. For example, nearly all pesticides can affect some nontarget organisms. Moreover, some pesticides pose potential risks of some concern but were registered or allowed to remain on the market because their benefits were found to outweigh their risks, and lower risk, effective alternatives were not available.

It is also likely that some pesticides will be found in the future to have adverse effects or problematic exposures not now recognized, due to changes in our scientific understanding. In addition, data are not routinely available on the interactive (e.g., additive, synergistic, or antagonistic) effects of sequential or concurrent exposure to pesticides. For these reasons, EPA encourages users to employ pesticides only in amounts necessary to control pests and only when the need for them is such that nonchemical alternative practices would not be cost-effective. When pesticides are required, EPA believes that users should be encouraged to select the least risky among alternative effective pesticides, in combination with biological controls or pest control practices that will provide adequate protection.

3. *Structure of the registration process does not offer incentives.* The traditional registration and labeling process provides only limited information and few incentives to guide users in making environmentally desirable choices. Pesticide product labeling does provide a variety of indications of Agency concern, including indications of acute toxicity, selected warnings, and use precautions. It also indicates which products are restricted for sale to and use by certified applicators. Beyond this, however, pesticide labels usually provide no clear basis for comparison of risks among alternative pesticides. Indeed, EPA has forbidden direct or comparative safety claims in an attempt to avoid misleading labeling that could confuse users (40 CFR 156.10(a)(5)). Discussions with pesticide manufacturers, however, indicate that permitting truthful, non-misleading claims could have a strong effect on the marketing of pesticides as registrants seek competitive advantage.

In short, as a result of registration and reregistration practices as they affect old and new pesticides, pesticide producers may not have adequate incentives to get higher risk pesticides off the market and to develop less hazardous pesticides. In addition, pesticide users have not been provided adequate information through pesticide labeling or advertising to choose use practices likely to prevent needless pollution or risk to public health and the environment.

C. Goal

Through this notice, the Agency seeks to develop policies to create improved economic incentives for the development, registration, and use of newer biological and other types of safer pesticides. It also seeks to encourage adoption of pest control practices such as integrated pest management (IPM) that may retard the development of pest resistance to pesticides and achieve lower overall risk. Such measures may offer the potential for important reductions in risk to public health and the environment. EPA is soliciting comments on how best to pursue this approach to its overall goal, possibly employing some or all of the potential positive and negative incentives described in this notice.

It is generally recognized that the microbial and biochemical pesticides present lower overall risk than most conventional chemical pesticides. They are typically microorganisms, pheromones, or other substances found in nature and are effective in amounts which are minimal when compared to more conventional chemicals. The resulting exposure to humans and the environment is usually very low, thus presenting little if any risk. Therefore, due to the nature of these microbial or biochemical pesticides, the Agency currently provides some incentives for their registration, such as reduced and tiered data requirements, expedited review times, and tolerance fee waivers in most cases. EPA would like to consider applying these types of incentives more broadly to encourage development of conventional pesticides which present markedly lower risk to human health and the environment.

The goal of encouraging the registration of lower risk pesticides is part of a broader Agency initiative to decrease human health and environmental risk through the prevention of pollution. Under the Pollution Prevention Act of 1990, EPA has issued a broad pollution prevention strategy and is developing more specific, detailed pollution prevention strategies for several economic sectors. One of these sector strategies will address pollution prevention in agriculture, with the goal of protecting human health and aquatic and terrestrial ecosystems while assuring the economic viability of a food and fiber production system providing supplies that are adequate, safe, diverse, and affordable. Clearly, pesticide use will be addressed in the strategy as one of the vital agricultural practices that must be managed carefully to protect the environment.

The Agency is also examining ways to assist pesticide users in making informed choices about products, potentially including pesticides which are environmentally preferable, by allowing appropriate information to be transmitted on product labels and in advertising. This may require EPA to change its prohibition of safety claims on pesticide labeling. An Agency work group—the Environmental Labeling Committee, has been established to define labeling terms, to develop guidelines for the use of such terms in environmental marketing, and to coordinate EPA activities to ensure consistency across Agency programs on labeling issues.

II. Development of Solutions to the Problems

EPA intends to consider modifications in its licensing processes to encourage the development of safer pesticides in general. EPA is considering a two-fold strategy — the accelerated registration of lower risk pesticides in general, and the possible restriction or removal, based on risk-benefit analysis, of the higher risk pesticides for which safer substitutes become available. This approach is outlined below to give an idea of the types of changes EPA would consider. The Agency requests comments on this approach and invites suggestions of new and different approaches to meeting this goal.

Additional details on possible approaches are presented in Unit III of this notice, Summary of Issues.

A. Encouraging Development of Lower risk Pesticides

EPA will consider encouraging the development of lower risk pesticides by streamlining registration and otherwise lowering barriers to market entry when applications for registration meet criteria indicating that the proposed product is likely to pose lower risk to public health and the environment than comparable products currently on the market.

1. *How to identify candidate lower risk pesticides.* For the Agency to give special treatment to applications for the registration of potential lower risk pesticides, it must be able to identify likely candidates efficiently. While this suggests a need for clear criteria, the task of defining lower risk for the wide variety of potential adverse effects of pesticides would be a formidable challenge. For example, to fully define lower risk, one might have to consider such factors as: dietary, occupational, and other human exposure sources; acute and chronic human health effects; lifetime individual risk; general population risk; risk to special sub-populations such as children or non-nursing infants; and risk to a broad range of ecological communities, endangered species and other nontarget species through exposure to ground water and surface water, spray drift, etc. The Agency also recognizes that it would be pointless to establish a set of criteria that virtually no conceivable products could satisfy. This suggests that any useful system of criteria may require a method for explicitly considering tradeoffs among these factors. This further complicates an already difficult task. EPA invites comments on possible specific approaches to such trade-offs or balancing among criteria, as well as suggestions for other approaches.

2. *Suggested EPA actions.* When an application (or potential application) for registration meets the criteria for a potentially lower risk pesticide, the Agency could use a number of measures to create economic incentives to accelerate development and reduce delays and costs of registration. Some examples of such measures are:

a. Counseling applicants to clarify registration requirements; providing advice to the applicants on testing strategies very early in the data development phase of the process.

b. Giving higher priority to reviews for such pesticides, and minimizing the time these applications would spend waiting for reviews to start. This could include the possible initiation of review prior to completion of the chronic studies to decrease time to market entry, if the interim reports indicate that significant long-term effects are unlikely.

c. Waiving fees, such as those for tolerance petitions that must accompany applications for food uses, provided the Agency does approve the registration application and continues to be convinced that the pesticide does present only lower risks.

d. Reducing or deferring data requirements, allowing use of alternative test methods, or permitting use of surrogate data when such measures are consistent with the Agency's obligation and ability to make the determination that the pesticide will not cause unreasonable adverse effects on the environment. That is, the Agency would consider reducing data requirements if information on the uses and properties of any pesticide under review indicated that certain data, which were routinely required of other pesticides, were not required in the current situation in order for the Agency to make the determination that the proposed use would not cause unreasonable adverse effects. Similarly, if available information on any pesticide permitted EPA to conclude that use of the product were unlikely to cause unreasonable adverse effects during any additional time EPA might consider for the generation of data, such a delay may be granted. If, however, additional information becomes available to the Agency indicating that these judgments either may be or were incorrect, any reductions, modifications, or deferrals of data requirements could then be reversed.

B. Replacing Higher Risk Pesticides

The objective of this element of the possible two-fold approach would be to consider regulatory action on those uses of higher risk registered pesticides which raise concerns about the risks posed. These might be uses for which no effective, safer alternatives currently exist. Since FIFRA requires risk-benefit balancing, there are circumstances in which some pesticides are allowed continued registration for certain uses even though they may present risks of concern to humans or the environment. These specific pesticide uses may result in exposures through application, reentry into treated areas by workers, residues in food, contamination of ground water or surface water, or other undesirable environmental impacts.

In such cases, the benefits of such pesticide uses may have been determined to outweigh the risks because there are no cost-effective and safer alternative pesticides or pest control practices available to replace these higher risk pesticides. In short, the risk-benefit standard for registration established in FIFRA is satisfied. Consequently, the Agency retains the registration of these pesticide uses. However, if alternatives become available, the risk-benefit balance may change and the Agency may have cause to reevaluate the risk-benefit equation for these higher risk pesticide uses, possibly resulting in regulatory action to cancel or restrict them. Therefore, the registration of safer and effective alternatives for these higher risk uses would create important opportunities for reducing overall risks from the use of pesticides while retaining pest control benefits. How might EPA include such considerations in its pesticide licensing program?

1. *How to identify higher risk uses as candidates for replacement.* One way in which EPA could identify such higher risk uses is to publish a list of these pesticide-use combinations. Publication of this information might focus public attention on higher risk pesticides and encourage the development of alternatives to their uses. Alternatively, the Agency could publish criteria for judging higher risk.

In addition to, or as an alternative to, a list of uses to be replaced, EPA might establish general criteria for applications that may qualify for preferential treatment. In addition to meeting these criteria, the applicants could be required to submit statements to the Agency describing in detail any high risk uses or pesticides which they believe their submission could replace and the risk reductions associated with their product which qualify it to be reviewed as a safer replacement.

Finally, the Agency could also periodically or continuously invite the public to nominate uses for a list based on submitted evidence of the risks of concern. In addition, the public, such as crop consultants, may be invited to submit data on the availability of significantly safer pesticides or pest control practices for listed uses that may justify reevaluation of risks and benefits under FIFRA, possibly leading to regulatory action.

The Agency recognizes that there are both advantages and disadvantages to publishing a list of specific higher risk uses. The principal advantage is that a list would most effectively inform industry of the pesticide uses that the Agency is seeking to replace, providing them with clear direction for their research and development efforts. A

specific list of higher risk uses could also reduce costs to EPA in screening applications claiming to replace such uses, since the applications would have to request registration for specific listed uses. In addition, a list could provide useful information to pesticide users and exposed persons to alert them to continuing EPA concerns, to possibly reduce use when the need is marginal, and to stimulate extra care in use.

On the other hand, the stigma of being included on such a list might be difficult to erase if, upon thorough review and evaluation of additional data that may have become available since the pesticide was last evaluated, the Agency finds that such a categorization is no longer warranted.

The Agency seeks public comment on both the advantages and disadvantages in general of creating a list of higher risk pesticide uses and the criteria which could be used to identify the components of such a list.

2. *Potential approaches to implementation.* If an application for registration of a pesticide is accompanied by documentation indicating that it may be safer and may effectively replace a higher risk use, EPA could subject the application to a preliminary screen for adequacy and credibility of the claim. If it passed that test, the application could receive review priority, waiver of fees, or other advantages designed to accelerate registration. Once the Agency finds that an application does in fact represent a potentially significant reduction in risk if used to replace a higher risk use, a critical phase of this approach would begin. At that point, EPA could initiate a formal review of the risk-benefit balance of the corresponding higher risk use(s), potentially resulting in the limitation or cancellation of such uses.

Any limitation on use, cancellation, or denial of future registration resulting from a review of the higher risk use would be based upon a finding under FIFRA of unreasonable adverse effects on human health or the environment given the availability of a safer substitute. Thus, the risk-benefit analysis for the higher risk pesticide would have changed such that the benefits may no longer outweigh the risks. In general, the availability of safer and effective alternative pest control products or cultural practices would be expected to lower the net benefits of the higher risk product significantly as weighed under FIFRA's risk-benefit balancing test for registration. That is, the consequences of canceling or restricting the higher risk pesticide would be diminished by the availability of the safer and effective alternative pesticide or pest control practice.

III. Summary of Issues for Comment

The Agency invites comment on the approaches outlined in this notice. Specifically, EPA is interested in the public's views about such issues as: (1) Criteria for distinguishing lower risk and high-risk pesticides, (2) incentives and disincentives that would influence registrants and users to make decisions that favor lower risk pesticides, (3) whether the Agency should publish a list of higher risk pesticides, and (4) what the Agency should require from registrants seeking to register safer alternatives to high-risk pesticides.

In addition, commenters are encouraged to submit suggestions for other approaches designed to further the goals described in this notice.

A. Lower Risk Pesticides

1. *Criteria.* A vital part of this overall policy will be the method for deciding what pesticides present sufficiently lower risk to merit the Agency's special efforts to encourage their registration and use. In this regard, EPA solicits comments on two questions:

a. What specific criteria should the Agency use to identify lower risk pesticide candidates for accelerated review and other special treatment from among applications for registration?

The following are among the criteria the Agency is considering for identifying pesticides that would be eligible for special treatment as lower risk products:

i. Very low acute and chronic toxicity in test animals.

ii. Little or no persistence in the environment.

iii. Little or no potential to contaminate ground and surface water.

iv. Very low potential toxicity to nontarget organisms (e.g., birds, fish, shrimp, bees, etc.).

v. Low exposure to humans and the environment; for example, because the product is formulated to reduce drift, is contained in a trap, or is otherwise formulated to reduce exposure.

vi. Likely to be more compatible with IPM strategies, resulting in reduced pesticide risk, and/or be less likely to result in the development of resistance by the target pest.

These are very general criteria and EPA solicits specific suggestions about how they might be defined and implemented. For example, the first criterion — very low acute and/or chronic toxicity in test animals — could be implemented using the following screening criteria:

- Acute toxicity category III or IV by all routes of exposure (40 CFR 156.10(h)(1)).
- Not a neurotoxicant in hen studies for organophosphates or in mammalian neurotoxicity studies for any chemical class.
- Not a skin sensitizer.
- Not a carcinogen.
- Not a reproductive/developmental toxicant.
- Not a mutagen in two or more tests.

Similarly, the Agency could develop specific criteria for ecological effects and environmental fate parameters. These might specify short half-lives, low mobility in soils, etc.

b. How can EPA determine that an application for registration merits accelerated treatment as a lower risk candidate without detailed review of submitted data? If the Agency accepts representations from an applicant as part of the screening process and these turn out to be incorrect following detailed review, what disincentives should the Agency employ to discourage such applicant behavior?

2. *Incentives.* Registrants may need some positive incentives to encourage them to develop and market lower risk pesticides. The Agency particularly solicits comments on the following questions concerning such incentives:

a. How might EPA create positive market incentives for lower risk pesticides? Should the current regulations as stated in 40 CFR 156.10 prohibiting direct and comparative safety/efficacy claims on labels or in advertising be relaxed and revised to encourage competition in the marketplace by allowing products to make safety/efficacy claims. If this approach were adopted, the Agency may choose to encourage and permit, without prior approval, labeling and advertising of comparative safety/efficacy claims. Permitting claims that a product is "lower risk" or "safer" than competing alternatives could have a strong effect on the marketing of the pesticide as registrants seek competitive advantage. Should the Agency's role be limited to enforcement efforts only, i.e., ensuring that claims are not false and misleading? What should be the role of the Federal Trade Commission under this approach? How can these positive incentives be created without undermining the precautionary emphasis of pesticide labeling, inviting abuse of unsubstantiated safety claims or causing confusion and dissemination of misinformation among consumers? More generally, what type of claims

should be permitted on pesticide labels and in advertising?

b. On what basis should EPA decide to reduce data requirements for apparently good candidates for lower risk pesticides? In other words, under what circumstances can EPA prudently determine the hazards associated with a pesticide without some of the specific data normally used to do so? Which data could be waived or deferred and under what circumstances? How can the Agency ensure that any data requirements that are waived or deferred for selected products can continue to be required for other pesticides, as well as readily reinstated by EPA as circumstances warrant?

B. Higher Risk Pesticides

1. *List of higher risk uses.* The possibility of publishing a list of pesticide uses that pose a higher level of risk raises a number of questions on which the Agency would welcome public comment:

a. Should the Agency publish a list of higher risk pesticides to guide public and private-sector research on safer substitutes, as well as user behavior?

b. How should the Agency formulate its criteria for placing a pesticide-use combination on such a list of higher risk pesticides?

The Agency is considering a number of ways in which this could be implemented. For example, the list of higher risk uses could identify categories of pesticides which are generally known to be more hazardous (e.g., fumigants, fungicides, nematicides, and most wood preservatives), or it could list individually such uses (e.g., tributyltin used in antifouling paint on certain types of boats). One specific approach for consideration involves listing any pesticide uses which, after evaluation in the special review process, were found to pose risks of concern, but whose registrations were maintained because of the lack of viable alternatives. (Special review is EPA's process for performing intensive risk-benefit analysis of registered pesticides that are suspected of causing unreasonable adverse effects on human health and/or the environment).

Candidates for the list could also be identified through the reregistration process pursuant to the 1988 amendments to FIFRA. In this process, EPA is required to review the reregistration eligibility of all pesticides registered prior to 1984. As a part of this process, registrants are required to identify which existing scientific studies will be used by them to support continued registrations and which data requirements will be filled by new studies. As all of these data are reviewed, additional candidates for the list of higher risk uses may be identified and added directly to the list. Alternatively, any such candidates could be referred to the special review process for application of the previously discussed criteria at the end of the review.

Another source of candidates for a list could be those pesticide uses for which EPA has published a Federal Register notice initiating the special review process. Although at this stage the special review process would not have been completed and the final risk-benefit determination would not have been made, the fact that the pesticide use(s) in question triggered the process could be sufficient to justify their identification as higher risk uses for which EPA might wish to encourage substitute pesticide or pest control practices, such as IPM programs. Nonetheless, it must be recognized that the special review process often entails the generation and consideration of additional information, and that the review may not conclude that the pesticide should continue to be regarded as posing higher risk.

c. If the Agency adopts a policy permitting applicants to identify the higher risk uses their proposed product would replace, what criteria should the applicants address in their justification for special treatment, and which should the Agency apply in evaluating such justifications?

2. *Incentives/Disincentives.* EPA recognizes that any policy for promoting pesticides must create a climate that makes these pesticides an attractive option for both registrants and users. The Agency invites comments on the following questions concerning incentives and disincentives:

a. What is the effectiveness of proposed incentives—lowering barriers to registration and the potential for regulatory action on selected existing higher risk uses — when safer substitutes are registered and alter the risk-benefit balance for the older pesticide uses? Other suggestions for incentives within the confines of the FIFRA authority, including informational activities, are also welcome.

b. Should EPA require especially hazardous pesticides (e.g., those bearing labeling for higher risk uses) to be labeled to highlight that fact to potential users? How should such negative messages be expressed? Should positive labeling be extended to those products that, while not innocuous, are significantly safer than higher risk pesticides? As mentioned above, the generic issue of labeling of products for their compatibility with the environment (e.g., "Environmentally Friendly") is being explored by an EPA-wide task force. This notice also invites comments on this subject so they may be conveyed to the task force. The topic may also be discussed at the public workshop planned to explore the issues raised in this notice and written comments on it.

c. If registration of a safer substitute leads to consideration of cancellation or restriction of a higher risk pesticide use, how should EPA address the potential impacts of such action on IPM and the development of pest resistance to available pesticides? That is, how should EPA consider the effect of a possible narrowing of the range of pest control options that may discourage some IPM practices under certain circumstances?

d. It is EPA's current position that the regulations under section 18 of FIFRA do not allow for the authorization of emergency exemptions based solely on the determination that the chemical being requested under section 18 is safer or environmentally preferable to the registered alternatives. Are there changes to the section 18 regulations that would allow authorization of emergency exemptions based on a determination that the chemical being requested is safer than the registered alternatives?

3. *Risk reduction.* Should the Agency define the level of risk reduction that a alternative should achieve when it is being compared to a higher risk counterpart? For example, is a one-order-of-magnitude cancer risk reduction enough to allow the safer alternative the advantage of expedited registration when a risk assessment itself bears at least that amount of uncertainty? How could EPA define equivalent levels of significant risk reduction for ecological effects and environmental fate? In short, how should EPA define "potentially significant reduction in risk"?

C. General

The Agency also invites public input on the following general questions:

1. EPA's goal is to provide incentives to the pesticide industry to develop, register, and encourage the use of pesticides which present lower risk to human health and the environment. What incentives could be offered to users to encourage them to make environmentally responsible decisions regarding pesticide usage and pest control practices, even when such responsible choices may be somewhat less cost-effective for them?

2. Should EPA require that applicants seeking the registration incentives offered by this new policy — especially those claiming that their products are safer alternatives to higher risk pesticides — submit product performance data? Currently, the Agency requires the registrant to generate these data, but they are not submitted to EPA for review unless the pesticide product is used to control microorganisms infectious to humans or is used to control vertebrates that may directly or indirectly transmit diseases to humans. EPA currently waives the submission of such performance data for most products. Should this policy be revised under the proposed policy? It can be argued that such a policy change, if limited to proposed products claiming to be safer, would erect unique barriers to registration of proposed safer replacements. As an alternative, would a delay, after introduction of the safer alternative and before any risk-benefit reevaluation of the existing use, permit users and the market to determine efficacy for most products, without EPA review of efficacy data? EPA could also consider requiring efficacy and comparative performance data for riskier competing products.

3. Should EPA consider the option of charging increased fees for special screening and accelerated review? While this policy could diminish economic incentives for seeking registration of safer pesticides, it would also reflect EPA's higher costs of processing and review and could discourage abuse of the special provisions for lower risk pesticides.

4. Are there other points of intervention where the Agency should adopt special measures to encourage the development and use of safer pesticides, e.g. experimental use permit process, tolerance process, etc.?

5. The Agency recognizes that, by adopting certain policies, it would be deliberately altering the existing pattern of competition within the pesticides industry. What steps would be appropriate to ensure that these changes are constructive? For example, how should EPA deal with pesticides that received special treatment as candidate products, but which do not retain that status after complete review? Such products could be said to have received competitive advantages that they did not deserve. What has that done to similar products that did not receive such advantages? What could the Agency do to prevent or correct such distortions of incentives?

This **Federal Register** notice is meant to solicit public participation in a project designed to encourage the development of pesticides. The project's goal is to develop policies under which EPA would provide economic incentives to registrants, including reducing compliance costs and red tape, to encourage innovation, leading to a net effect of economic growth with decreased risk to public health and the environment. The Agency invites the broadest possible comments on the subject of this notice. Commenters should not feel limited to comment on the issues or possible approaches discussed above.

Dated: July 13, 1992.

Linda J. Fisher,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 92–17104 Filed 7–17–92; 8:45 am]

BILLING CODE 6560–50–F

federal register

Monday
July 20, 1992

Part IX

Department of State

Bureau of Politico-Military Affairs

22 CFR Part 121

Amendment to the International Traffic in Arms Regulations (ITAR), the United States Munition List; Interim Final Rule

DEPARTMENT OF STATE

Bureau of Politico-Military Affairs

22 CFR Part 121

[Public Notice PN 1662]

Amendment to the International Traffic in Arms Regulations (ITAR), the United States Munitions List

AGENCY: Department of State.

ACTION: Interim final rule.

SUMMARY: This rule amends the regulations implementing section 38 of the Arms Export Control Act (AECA). It establishes a process for the expedited movement to the control of the Department of Commerce of mass market software with encryption capabilities which meet certain standards.

EFFECTIVE DATE: This interim final rule is effective immediately.

FOR FURTHER INFORMATION: Details regarding this notice may be obtained from James Andrew Lewis, telephone 202–697–6977 or Daniel L. Cook, telephone 703–875–6647, and details regarding the specified technical characteristics and the expedited commodity jurisdiction process may be obtained from Gary Oncale, Department of State, telephone 703–875–6644.

SUPPLEMENTARY INFORMATION: This rule amends the regulations implementing section 38 of the Arms Export Control Act, which governs the export of defense articles and services. On November 16, 1990, the President signed Executive Order 12735 on Chemical and Biological Weapons Proliferation and directed various other export control measures. The measures directed by the President include the following:

> By June 1, 1991, the United States will remove from the U.S. Munitions List all items contained on the COCOM dual-use list unless significant U.S. national security interests would be jeopardized (Memorandum of Disapproval of H.R. 4653, 26 Weekly Compilation of Presidential Documents 1839).

The Department of State published in July, August, and September 1991 notices of proposed rule changes related to the coverage of articles in categories XII, VIII, XX, and XIII. This rule takes into consideration public comments received in response to these notices. It addresses the request of representatives of the mass-market software industry to relax AECA controls applicable to mass-market software with encryption and to expedite and improve the predictability of procedures to transfer export jurisdiction for such products from the Department of State to the Department of Commerce commodity Control List.

The Department of State has already transferred control of certain mass-marketed software with encryption, when limited to certain functions, to the Department of Commerce (see **Federal Register**, Vol. 57, No. 81/Monday, April 27, 1992/Rules and Regulations, Page 15233 for details). Significant national security interests warrant the continued control of mass-market software products with encryption which can be used to ensure the privacy of data on the U.S. Munitions List. Mass-market software products with encryption that have previously been granted transfers of commodity jurisdiction remain under Department of Commerce jurisdiction. All other such products are under the jurisdiction of the Department of State.

In response to mass-market software industry requests to recognize the particular requirement of that industry for expeditious and predictable export control procedures applicable to mass-market software with encryption, the Department of State has established a process for the expedited review and transfer as appropriate, to the jurisdiction of the Department of Commerce of mass-market software products with encryption that contain certain specified technical characteristics.

Requests to transfer commodity jurisdiction of mass-market software with encryption for privacy of data and the associated key management that meets the specified criteria will be granted on an expedited basis. The Department of State will expeditiously process such a request to verify that the product meets the specified criteria and shall transfer jurisdiction of products so verified to the Department of Commerce.

This amendment involves a foreign affairs function of the United States and is excluded from the major rule procedures of Executive Order 12291 (46 FR 13193) and the procedures of 5 U.S.C. 553 and 554.

List of Subjects in 22 CFR Part 121

Arms and munitions, Classified information, Exports.

For the reasons set out in the preamble, 22 CFR part 121, § 121.1 is amended to read as follows.

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for part 121 continues to read as follows:

Authority: Section 38, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311, 3 CFR 1977 Comp. p. 79; 22 U.S.C. 2658.

2. In § 121.1, a note will be added to Category XIII (b)(1) to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

Category XIII—Auxiliary Military Equipment

* * * * *

(b) * * *

(1) * * *

Note: A procedure has been established to facilitate the expeditious transfer to the Commodity Control List of mass market software products with encryption that meet specified criteria regarding encryption for the privacy of data and the associated key management. Requests to transfer commodity jurisdiction of mass market software products designed to meet the specified criteria may be submitted in accordance with the commodity jurisdiction provisions of § 120.5. Questions regarding the specified criteria or the commodity jurisdiction process should be addressed to the Office of Defense Trade Controls. All mass market software products with cryptography that were previously granted transfers of commodity jurisdiction will remain under DOC control. Mass market software governed by this note is software that is generally available to the public by being sold from stock at retail selling points, without restriction, by means of over the counter transactions, mail order transactions, or telephone call transactions; and designed for installation by the user without further substantial support by the supplier.

Dated: July 6, 1992.

Richard A. Clarke,

Assistant Secretary of State for Politico-Military Affairs.

[FR Doc. 92–17191 Filed 7–17–92; 9:34 am]

BILLING CODE 4710–25–M

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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.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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*500-599	(869-017-00071-0)	21.00	Apr. 1, 1992
*600-799	(869-017-00072-8)	7.00	Apr. 1, 1992
*800-1299	(869-017-00073-6)	18.00	Apr. 1, 1992
1300-End	(869-017-00074-4)	9.00	Apr. 1, 1992
22 Parts:			
1-299	(869-017-00075-2)	26.00	Apr. 1, 1992
300-End	(869-017-00076-1)	19.00	Apr. 1, 1992
23	(869-017-00077-9)	18.00	Apr. 1, 1992
24 Parts:			
0-199	(869-013-00078-1)	25.00	Apr. 1, 1991
200-499	(869-013-00079-0)	27.00	Apr. 1, 1991
*500-699	(869-017-00080-9)	13.00	Apr. 1, 1992
700-1699	(869-013-00081-1)	26.00	Apr. 1, 1991
*1700-End	(869-017-00082-5)	13.00	Apr. 1, 1992
25	(869-017-00083-3)	25.00	Apr. 1, 1992
26 Parts:			
§§ 1.0-1-1.60	(869-017-00084-1)	17.00	Apr. 1, 1992
*§§ 1.61-1.169	(869-017-00085-0)	33.00	Apr. 1, 1992
§§ 1.170-1.300	(869-017-00086-8)	19.00	Apr. 1, 1992
§§ 1.301-1.400	(869-013-00087-1)	17.00	Apr. 1, 1991
§§ 1.401-1.500	(869-013-00088-9)	30.00	Apr. 1, 1991
§§ 1.501-1.640	(869-013-00089-7)	16.00	Apr. 1, 1991
§§ 1.641-1.850	(869-013-00090-1)	19.00	[5] Apr. 1, 1990
*§§ 1.851-1.907	(869-017-00091-4)	23.00	Apr. 1, 1992
§§ 1.908-1.1000	(869-017-00092-2)	26.00	Apr. 1, 1992
§§ 1.1001-1.1400	(869-017-00093-1)	19.00	Apr. 1,1992
§§ 1.1401-End	(869-017-00094-9)	26.00	Apr. 1, 1992
*2-29	(869-017-00095-7)	22.00	Apr. 1, 1992
30-39	(869-017-00096-5)	15.00	Apr. 1, 1992
40-49	(869-017-00097-3)	12.00	Apr. 1, 1992
50-299	(869-017-00098-1)	15.00	Apr. 1, 1992
300-499	(869-013-00099-4)	17.00	Apr. 1, 1991
*500-599	(869-017-00100-7)	6.00	[5] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
600–End	(869–017–00101–5)	6.50	Apr. 1, 1992
27 Parts:			
1–199	(869–013–00102–8)	29.00	Apr. 1, 1991
*200–End	(869–017–00103–1)	11.00	[6]Apr. 1, 1991
28	(869–013–00104–4)	28.00	July 1, 1991
29 Parts:			
0–99	(869–013–00105–2)	18.00	July 1, 1991
100–499	(869–013–00106–1)	7.50	July 1, 1991
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1910 (§§ 1910.1000 to end)	(869–013–00110–9)	14.00	July 1, 1991
1911–1925	(869–013–00111–7)	9.00	[7] July 1, 1989
1926	(869–013–00112–5)	12.00	July 1, 1991
1927–End	(869–013–00113–3)	25.00	July 1, 1991
30 Parts:			
1–199	(869–013–00114–1)	22.00	July 1, 1991
200–699	(869–013–00115–0)	15.00	July 1, 1991
700–End	(869–013–00116–8)	21.00	July 1, 1991
31 Parts:			
0–199	(869–013–00117–6)	15.00	July 1, 1991
200–End	(869–013–00118–4)	20.00	July 1, 1991
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
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1–39, Vol. III		18.00	[2] July 1, 1984
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630–699	(869–013–00122–2)	14.00	July 1, 1991
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800–End	(869–013–00124–9)	18.00	July 1, 1991
33 Parts:			
1–124	(869–013–00125–7)	15.00	July 1, 1991
125–199	(869–013–00126–5)	18.00	July 1, 1991
200–End	(869–013–00127–3)	20.00	July 1, 1991
34 Parts:			
1–299	(869–013–00128–1)	24.00	July 1, 1991
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36 Parts:			
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200–End	(869–013–00133–8)	26.00	July 1, 1991
37	(869–013–00134–6)	15.00	July 1, 1991
38 Parts:			
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61–80	(869–013–00141–9)	14.00	July 1, 1991
81–85	(869–013–00142–7)	11.00	July 1, 1991
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190–259	(869–013–00146–0)	13.00	July 1, 1991
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41 Chapters:			
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1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
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42 Parts:			
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400–429	(869–013–00159–1)	21.00	Oct. 1, 1991
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43 Parts:			
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4000–End	(869–013–00163–0)	12.00	Oct. 1, 1991
44	(869–013–00164–8)	22.00	Oct. 1, 1991
45 Parts:			
1–199	(869–013–00165–6)	18.00	Oct. 1, 1991
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156–165	(869–013–00174–5)	14.00	Oct. 1, 1991
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47 Parts:			
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2 (Parts 252–299)	(869–013–00186–9)	10.00	Dec. 31, 1991
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49 Parts:			
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50 Parts:			
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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 Apr. 1, 1991 to Mar. 30, 1992. The CFR volume issued April 1, 1991, should be retained.

[7] 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.

[8] No amendments to this volume were promulgated during the period July 1, 1990 to June 30, 1991. The CFR volume issued July 1, 1990, should be retained.