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**WHO:** The Office of the Federal Register.

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**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.

### WASHINGTON, DC

**WHEN:** February 28, at 9:00 a.m.
**WHERE:** Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
**RESERVATIONS:** 202–523–5240.
**DIRECTIONS:** North on 11th Street from Metro Center to southeast corner of 11th and L Streets

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 907

[Docket No. FV-91-408FR]

## Navel Oranges Grown in Arizona and Designated Part of California; Weekly Levels of Volume Regulation for the 1991-92 Season

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes the weekly shipping schedule and percentage allocation between districts for California-Arizona navel oranges for the 1991-92 navel orange season. Consistent with program objectives, such action is expected to establish and maintain orderly marketing conditions for fresh California-Arizona navel oranges during the 1991-92 season and to enhance producer returns. This action is based on a marketing policy which was adopted by the Navel Orange Administrative Committee (Committee) on June 25, 1991, and subsequently revised at open meetings held within the production area and on comments received from interested persons. The Committee locally administers the marketing order covering navel oranges grown in Arizona and a designated part of California.

**EFFECTIVE DATE:** February 7, 1992.

**FOR FURTHER INFORMATION CONTACT:** Maureen T. Pello, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2524-S, P.O. Box 96456, Washington, DC. 20090-6456; telephone: (202) 720-5127.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Order No. 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and a designated part of California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This final rule has been reviewed by the 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.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this 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. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 130 handlers of navel oranges who are subject to regulation under the marketing order and approximately 4,000 producers in the regulated area. 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 are defined as those whose annual receipts are less than $3,500,000. The majority of producers and handlers of California-Arizona navel oranges may be classified as small entities.

The Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

The declaration of policy in the Act includes a provision concerning establishing and maintaining such orderly marketing conditions as will provide, in the interests of producers and consumers, an orderly flow of the supply of a commodity throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices. Limiting the quantity of California-Arizona navel oranges that handlers may handle on a weekly basis is expected to contribute to the Act's objectives of orderly marketing and improving producers' returns.

The navel orange, like many other citrus fruits, is unique in that mature oranges can be stored on the tree, to be marketed at a later time. Usually a high proportion of the crop is mature enough to be marketed early in the season; but markets may be insufficient to absorb that quantity of fruit in a short period of time at satisfactory prices. The on-tree storage characteristic of the navel orange permits the effective use of the flow-to-market (volume regulation) provisions of the order. Thus, volume regulations can be a valuable tool in achieving the goal of market stabilization for navel oranges.

The major reason for the use of volume regulations under the navel orange marketing order is to establish and maintain orderly marketing conditions for navel oranges and thereby benefit producers through higher total returns. Such regulation can at the same time benefit consumers by maintaining adequate supplies of navel oranges in the marketplace at reasonable prices for prolonged periods during the season.

The navel orange marketing order also contains a variety of provisions designed to provide handlers with marketing flexibility within an established volume regulation week. When volume regulation is established by the Secretary for a given week, the Committee calculates the quantity of oranges (allotment) which may be handled by each handler. The provisions of the order allow handlers to ship navel oranges in excess of their allotments, within specified limits, in response to marketing opportunities. The order includes provisions for: (1) marketing incentive allotments; (2) shipment of oranges in excess of a handler's allotment (overshipments); (3) shipment of oranges in quantities less than a handler's allotment (undershipments); and (4) allotment loans. Marketing incentive allotments provide handlers additional allotment (up to 10 percent of each handler's weekly allotment for a specified number of weeks) for market development programs and to allow handlers to take advantage of special marketing opportunities. Handlers who want to ship more than their allotment are permitted to overship that amount by one car (one car equals 1,000 cartons

at 37.5 pounds net weight each) or by 20 percent of their allotment level, whichever is greater. A handler may overship in a given week, but the overshipment must be offset against the following week's allotment. Handlers may also ship less than their allotment during a given week which would give them the opportunity to ship more than their allotment during the next two succeeding weeks. Finally, handlers may borrow allotment from other handlers who choose to ship less than their allotment or who cannot fully utilize their allotment.

In addition, the order includes provisions that exempt the handling of certain navel oranges from volume regulation. Oranges which are used for the following purposes are exempt from volume regulation: (1) Charitable institutions or relief organizations for distribution by such agencies; (2) commercial processors for processing into products, including juice; (3) export markets; and (4) parcel post and express shipments. The Committee may also recommend for approval by the Secretary the exemption of minimum quantities of oranges from order provisions.

Pursuant to § 907.50 of the marketing order, the Committee is required to submit a marketing policy to the Secretary prior to recommending volume regulations for the ensuing season. The order authorizes volume and size regulations applicable to fresh shipments of California-Arizona navel oranges to markets in the continental United States and Canada. The marketing order does not authorize regulation of export shipments of navel oranges or navel oranges utilized in the production of processed orange products.

The Committee adopted its marketing policy for the 1991–92 season at its June 25, 1991, meeting in Newhall, California. The Committee presented its policy at district meetings for further discussion and review as follows: (1) Districts 1 and 4 on September 24, 1991; and (2) Districts 2 and 3 on October 1, 1991. Revisions discussed at those meetings were later adopted at a meeting on October 15, 1991. Further revisions in the crop estimate been approved by the Committee at meetings on November 19 and December 3, 1991, and are adopted in this final rule.

The Committee estimates the 1991–92 navel orange crop will total 64,600 cars. This compares to last year's total production of only 32,695 cars due to the severe freeze suffered throughout the production area in December 1990. The 64,600 car estimate is a revision of the Committee's initial estimate of 58,700 cars, and was adopted by the Committee at its November 19 meeting.

The Committee estimates District 1, Central California, 1991–92 production at 55,000 cars compared to 26,026 cars produced in 1990–91. In District 2, Southern California, the crop is expected to be 8,300 cars compared to 5,808 cars produced last year. In District 3, the Arizona-California Desert Valley, the Committee estimates a production of 1,200 cars compared to 893 cars produced last year. In District 4, Northern California, the crop is expected to be 100 cars compared to 168 cars produced last year. The Committee's production estimates are revisions of the Committee's initial estimates of 50,000 cars for District 1, 7,500 cars for District 2, 950 cars for District 3, and 250 cars for District 4. These revised estimates were adopted by the Committee at its meeting on November 19. The Committee's production estimates may again be modified as the season progresses.

At its district meetings, the Committee reviewed current crop conditions. At those meetings, the Committee's field staff reported that random fruit measurements for the 1991–92 navel orange crop had been completed. The projected average fruit size for District 1 was reported as about five percent smaller than last season. Navel oranges in Districts 2 and 3 were reported as about 22 percent smaller than last season while District 4 oranges were reported as 17 percent larger.

There may be times when small sizes as well as excessively large sizes will be shipped in fresh fruit channels at heavily discounted prices which could produce a negative return to producers. Such discounting could be disruptive to the orderly marketing of navel oranges. This condition could be alleviated through the use of size regulations authorized under the marketing order. The Committee has indicated that if size regulation would achieve program objectives, it would make such recommendations to the Secretary. There is currently no size regulation in effect for California-Arizona navel oranges.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic fresh market, which may be subject to regulation, is a preferred market for California-Arizona navel oranges while the export market continues to grow. Japan and Hong Kong continue to be the leading export markets for navel oranges. Navel oranges which are diverted to processing are generally those oranges which do not meet quality requirements or are too small to market economically as fresh fruit.

The Committee revised its estimates of crop utilization based on its crop estimate of 64,600 cars, and the revisions were adopted at a meeting on December 3. The Committee estimates that approximately 43,650 cars of the 1991–92 crop (68 percent) will be utilized in fresh domestic markets compared with 16,675 cars (51 percent) in 1990–91; fresh exports are projected at 9,000 cars (14 percent) of the total 1991–92 crop compared to 2,456 cars (7 percent) in 1990–91; and 11,950 cars (18 percent) of the 1991–92 crop will be utilized in by-product channels and other forms of processing compared with 13,764 cars (42 percent) in 1990–91. The Committee's crop utilization estimates are revisions of its initial estimates of 40,500 cars (69 percent) utilized in fresh domestic markets; fresh exports at 7,000 cars (12 percent), and 11,200 cars (19 percent) utilized in byproduct channels and other forms of processing.

The 1991–92 season average on-tree price for California-Arizona navel oranges is not expected to exceed the projected season average fresh parity equivalent price. Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1991–92 season average on-tree price is estimated at $6.33 per carton, about 85 percent of the estimated fresh on-tree parity equivalent price of $7.44 per carton. In contrast, the 1990–91 season average fresh on-tree price was $7.75 per carton, or 119 percent of the estimated fresh on-tree parity equivalent price of $6.52 per carton.

Based on the information available and for the purposes of this rule making process, the Committee recommended to the Secretary on June 25, 1991, a proposed weekly schedule of the quantities of navel oranges that can be shipped, if volume regulation is recommended, approved and implemented for the 1991–92 season. The proposed shipping schedule, which was based on the Committee's initial utilization estimate of 40,500 cars, was revised at its October 15 meeting based on 40,800 cars, and was then revised again at its December 3 meeting, and is now based on a domestic utilization estimate of 43,650 cars. This figure may be adjusted throughout the season to reflect revised crop estimates.

In developing the proposed shipping schedule, the Committee considered equity of marketing opportunity and established an equity factor pursuant to §§ 907.51(b) and 907.110. The Committee compiles production estimates in cars

for each district. These production estimates are based on the entire anticipated tree crop in each district. The Committee combines these production estimates to project the total production for all four districts. The Committee then projects the number of cars that could be marketed in fresh domestic channels. From the relationship between these two totals, an equity factor is derived and then applied to each district's estimated production in order to determine the estimated amount of each district's production that could be moved into fresh domestic markets under regulation. Therefore, all districts, no matter how much handlers ship weekly to fresh domestic markets, should be provided the opportunity to ship, under volume regulation, the same proportionate amount to fresh domestic market during the season. The equity factor for this season is 68 percent and is the same for all districts.

The shipping schedule also establishes the percentage allocation, pursuant to § 907.110 of the regulations, for each district for each week which is used to determine each district's proportionate share of the allotment established issued for a particular week. Each district's volume limitation for a particular week is then equitably apportioned among all handlers in each district. Thus, each handler's individual allotment is based on the entire quantity of navel oranges available for all uses, including export.

A proposed rule concerning this action was published in the September 30, 1991, issue of the **Federal Register** (56 FR 49432). That rule was based on the Committee's initial shipping schedule as adopted on June 25, 1991, and provided for volume regulation for the period from the week ending on October 24, 1991, through the week ending May 21, 1992.

Comments concerning this action were invited until October 30, 1991. Forty-six comments were received. Comments supporting the proposed action, with some modification, were submitted by the Committee, Sunkist Growers, Inc. (Sunkist), Central California Orange Growers Co-op (CCOG), and five producers and/or handlers. Comments opposing the proposed action were submitted by the Antitrust Division of the U.S. Department of Justice (DOJ); the Small Business Administration's Office of Advocacy (SBA); Farmers Alliance for Improved Regulation (FAIR); Citizens for a Sound Economy (CSE); Consumer Alert; Competitive Enterprise Institute (CEI); Growers for Modern Marketing (GMM); and thirty-one producers and/or handlers.

Comments submitted by the Committee, Sunkist, CCOG, and five producers and/or handlers supported the proposed use of volume regulation for navel oranges during the 1991–92 season, in general, with some modifications. In its comment, the Committee revised its production and utilization estimates based on reviews of its marketing policy at its district meetings. The Committee's production estimates, as mentioned previously, were again revised at its November 19 meeting. In summary, the Committee revised its total production forecast from 58,700 to 64,600 cars; revised its estimate of domestic shipments from 40,500 to 40,800 cars, and has since revised it again to 43,650 cars. The Committee revised its weekly shipping schedule to reflect these changes. These changes, as recommended and adopted by the Committee, are adopted in this final rule.

In its comment, Sunkist provided a general discussion of the navel orange marketing order. Sunkist stated that the main advantage of the order's rate of flow provisions is that it allows producers in an industry to harvest and market their fruit in a manner that tailors supply to market demands, a major criterion for orderly marketing. Sunkist also stated that orderly marketing benefits producers by stabilizing and enhancing shipping point prices and benefits consumers by ensuring an adequate supply of high quality fruit over an extended period of time.

In its comment, Sunkist also cited a study conducted by the Department's Economic Research Service (ERS). The study was designed to measure the effects of suspensions of volume regulations on California-Arizona navel oranges during certain periods during the 1980s. The suspensions resulted in increased utilization and lower prices of processed navel oranges. Producer revenue fell during the suspensions. According to Sunkist, ERS's study indicated that short run revenues to the navel orange industry are raised when it follows a marketing strategy that allocates the total navel orange crop to its various uses on the basis of the differences in demand relationships that exist for those different uses.

Sunkist and two handlers also commented that volume regulation is necessary this season because of the lingering effects of last December's devastating freeze. Sunkist stated that producers will be mindful of the freeze and may wish to market their oranges early in the season so as to minimize the possibility of having their crops subjected to a freeze. If heavy supplies of navel oranges are available for sale when the crop first matures, there will be market gluts and correspondingly low prices to producers. Considering these conditions along with, as two handlers mentioned, the crop size, the flexabilities provided by the navel orange order will be necessary, according to Sunkist, to help ensure the orderly marketing of this year's crop.

Sunkist also commented that while some opponents to volume regulation this season may argue that the 1991–92 crop is too small to warrant such regulation, Sunkist view is that the crop is of sufficient volume to warrant regulation. According to Sunkist, regulating the 1991–92 crop would provide producers the opportunity to market their crop in an orderly fashion. Sunkist also mentioned that the first revised crop estimate of 59,300 cars was about 90 percent of the average of the 1984–85 through 1988–89 seasons. Again, this figure was revised at the Committee's November 19 meeting to 64,600 cars.

In their comments, Sunkist, CCOG, and most of the producers and handlers supporting the proposed rule confirmed their support for the need for volume regulation this season, the weekly shipping schedule, the weekly percentage allocation between districts, the dates for the onset and duration of regulation, and the entire marketing policy as adopted and submitted by the Committee. In addition, CCOG and those supporting producers and handlers commented that the order's volume regulation features provide a practical system to even out the flow of oranges when warranted by market needs, thus reducing gluts and shortages, enhancing producer returns and stabilizing weekly supplies and prices to consumers. The commenters also confirmed their support for mid-week increases, stating that, when used wisely, they help ensure maximum delivery of fruit to market with a minimum impact on price.

The remaining commenters raised several issues opposing the use of volume regulation for the 1991–92 navel orange crop. Many commenters who raised objections to the proposed action posed several questions on various aspects of volume regulation and the marketing order. Each issue raised is addressed herein.

Several commenters who opposed the proposal contended that volume regulation is not necessary this season because of the small size of the freeze-reduce crop. One commenter mentioned

that with the size of the crop and the size of the fruit this year, it will be very hard to keep a steady workforce. Another commenter mentioned that because of the freeze last season, Florida shippers made significant entry into traditional California navel orange fresh markets, and that regulating this season's short crop will allow unregulated Florida oranges to remain entrenched in those markets, resulting in a reduction in needed revenue to aid California producers in their recovery from the freeze. Two handlers commented that California producers are still recovering from the December 1990 freeze and want to market as much of their fruit as early in the season as possible. Several commenters stated that since this year's crop is allegedly much smaller than normal, there should not be any difficulty in marketing the crop in an orderly fashion without volume regulation.

In response to these concerns regarding the size of the 1991–92 crop, implementing volume regulation this season is expected to help promote orderly marketing conditions. It is possible that the preponderance of small sizes, coupled with the threat of another freeze, could force too much small fruit into the market and thus have a price depressing effect. Thus, volume regulation is necessary to help ensure the orderly marketing of oranges this season. In addition, as stated in Sunkist's comment and cited earlier in this rule, the first revised crop estimate of 59,300 cars was about 90 percent of the average of the 1984–85 through 1988–89 seasons of about 65,000 cars. That figure has since been increased to 64,600 cars, 99 percent of that 5-year average.

Several commenters opposing the implementation of volume regulation this season contended that the Committee's proposed shipping schedule is too restrictive. FAIR, GMM, and several handlers expressed concern that the initial revision of 40,800 cars allocated to the fresh domestic market is about 27 percent lower than actual 1989–90 fresh domestic utilization of over 55,000 cars. Concerning the dates for the onset and duration of volume regulation for the season, these commenters alleged that the schedule as proposed starts too early and goes much too long.

The Committee's proposed schedule reflects the maximum quantity of 1991–92 navel oranges expected to be suitable for the fresh domestic market. Any increase in fresh shipments above the revised amount of 40,800 cars could result in a diminished quality of fresh market supplies. In addition, it is difficult to compare this season's estimated fresh domestic utilization figure with the 1989–90 actual figure because the 1989–90 crop was the largest on record.

Several commenters who opposed the proposed rule questioned the equity of marketing opportunity provisions of the marketing order, particularly in relation to the proposed schedule. FAIR and several handlers commented that District 1 is severely handicapped by the use of volume regulation, and is often forced to divert merchantable oranges to byproducts, a less profitable outlet than the fresh market. Several handlers also commented that the proposed volume restrictions on Districts 2, 3, and 4 are negligible and unfair as compared with District 1. FAIR also commented that the proposed regulations violate the Equal Protection Clause of the Constitution because similarly situated producers and handlers are treated much differently by government regulations.

In response to these concerns regarding equity between districts, § 907.51 of the order requires the Committee to provide equity of marketing opportunity in the regulated market to handlers in all districts. Section 907.110 provides that the Committee must establish an equity factor which is the same for all districts. The equity factor shall be stated as a percentage of the tree crop in each district and shall reflect a quantity of oranges (grown in each district) for which there will be equitable marketing opportunity under volume regulation during the ensuing season. In the development of its marketing policy, the Committee sets an equity factor which is used in the development of the weekly shipping schedules for all districts. While this schedule may change later in the season, i.e., when revised crop forecasts are available (the schedule has already been revised since the Committee's initial marketing policy meeting on June 25 because of changes in the crop forecast), the equity factor will always be applied equally to all districts. Thus, all districts, no matter how much they ship weekly to any market should eventually be provided the opportunity to ship, under regulation, the same proportionate amount to fresh domestic markets during the season. This is in accordance with the marketing order and the underlying statute, both of which have consistently been upheld after litigation in this regard.

One handler from District 4 contended that the use of volume regulations will cause severe problems for District 4 and requested that no volume regulation be imposed on that district. The marketing order, however, contains no general exemption provisions for any district. The adoption of such a general exemption would require an amendment to the marketing order. The Committee, therefore, must each year study the probable effect and timing of volume regulations in each district. The Committee, which represents the interests of the majority of producers and handlers in the industry, considered many factors in projecting a weekly shipping schedule for the season. The schedule represents the desires of the majority of producers and handlers in each district as to the length and scheduling of their shipping seasons, and provides each district with equitable marketing opportunity. In addition, the weekly shipping schedule as published in this final rule is subject to modification throughout the season. The Committee is expected to meet on a weekly basis throughout the season to consider the appropriateness of specified weekly volume regulations and recommend amendments, when necessary, to the amounts allotted by this rule for each district for the upcoming week.

In a related issue, one producer in District 1 requested relief from volume regulation for the season for its handler due to financial hardship at the farm level. The producer commented that its normal season average production of about 450,000 cartons has been reduced because of last year's freeze to about 37,500 cartons. This producer claims to be the largest volume supplier of navel oranges to that handler. In addition to submitting this request as a comment, this producer also made its request earlier in the season to the Committee. After careful review of the order's provisions, the Committee appropriately informed the producer that the order does not provide for such an exemption and subsequently took action at its November 12 meeting to deny the request. Furthermore, it should be noted that it is the handler, and not the producer, who is directly limited by volume regulations.

Several commenters who opposed the proposal contended that volume regulations would have a significant adverse economic impact on small entities, particularly in light of last year's freeze. Many of the handlers who opposed the proposal commented that the use of volume regulation causes severe operational and economic consequences for small entities. Several handlers commented that a small entity's weekly allotment under volume regulation is usually so low that it cannot operate its packinghouse at full

capacity. This in turn results in an inefficient operation creating higher labor and packinghouse costs. Several handlers also commented that small entities are unable to meet the needs of the domestic and export markets under volume regulation.

The Department, in compliance with the RFA, has considered the economic impact of weekly volume regulations on small entities and has certified that such regulations do not have a significant adverse impact on a substantial number of small entities. This determination is not subject to legal review under the RFA.

Furthermore, since the inception of the order, the Department has collected evidence through both formal and informal rulemaking proceedings, analyses of marketing policies, analyses relating to the collection of information under the Paperwork Reduction Act, and the like. The general purpose for, and effect of, volume regulations, as demonstrated in the legislative histories of the Act and the order, is to benefit all producers. Volume regulations would help to assure a share of the domestic fresh market for the smallest and least powerful handlers as well as the largest. Small entities would find access to the fresh domestic market more difficult if the program were discontinued, and their revenues would likely be consistently lower.

The SBA, CSE, and FAIR in their comments urged the Department to perform a regulatory flexibility analysis before adopting any recommendations of the Committee concerning the use of volume controls. The Department has certified that this action will not have a significant economic impact on small entities and, thus, the Department is not required to conduct a regulatory flexibility analysis under the RFA.

Many commenters who opposed the proposed rule questioned why there are no volume restrictions on Florida and Texas navel oranges and other competing fruits. Florida and Texas oranges are also regulated under marketing orders. However, these marketing orders do not contain provisions for volume regulations as does the California-Arizona navel orange marketing order. Producers in Florida and Texas approved marketing orders developed through a formal rulemaking process to fit their own unique fresh marketing conditions, as was done by California-Arizona navel orange producers.

Several commenters opposing the proposal questioned why volume regulations have not been used for California-Arizona Valencia oranges during the past five seasons, but have been used for California-Arizona naval oranges. The Valencia orange industry, as represented by the Valencia Orange Administrative Committee (VOAC), has not recommended regulation for the past five seasons due to the nature of the crops and the market for Valencia oranges. The California-Arizona Valencia orange crop is traditionally more alternate bearing than the California-Arizona navel orange crop and crop maturity across growing areas is more dispersed. Moreover, the processing and export markets for Valencia oranges have been expanding more rapidly than in previous years and the latter provides a particularly attractive outlet for the Valencia crop. Also, most California-Arizona Valencia oranges are sold when no other competing fresh oranges are in the market. Given this combination of factors, there has been little need to regulate the flow of Valencia oranges to the fresh domestic market through the use of volume regulations. The Valencia orange regulatory record demonstrates that the California-Arizona orange industry is not opting to use features of their marketing orders to regulate when regulation is not deemed necessary. Additionally, regulation was not recommended last season because of the damage to the Valencia orange crop caused by the devastating December freeze.

Several commenters, including FAIR, CSE, the DOJ, and Consumer Alert, alleged that consumers do not benefit from volume regulation. Related to this issue, FAIR referenced a study by Dr. Lawrence Shepard, a professor of consumer economics at the University of California at Davis, which discussed the effects of deregulation, and suggested that: "* * * bearing acreage and shipments to processors would fall and processing prices would rise under a market-determined allocation of fruit. Prices and output would be more stable in the processing sector and less stable in the fresh orange market without the marketing order * * * average grower returns per carton would be somewhat higher but less stable and * * * productive capacity would be lower than under regulation * * * adjustment costs attending deregulation would prove transient once acreage and output matched (a new equilibrium described by the author as) market-determined levels of demand * * *"

This is essentially an issue related to the desirability of the marketing order provisions. The order is not reviewable herein, and is only reviewable on the basis of the formal rulemaking record upon which it was adopted. However, the Department agrees that without the marketing order, shipments to processors would likely fall, and prices would be less stable in the fresh orange market. In addition, bearing acreage and productive capacity might be lower, and likely concentrated in fewer hands. Adjustment costs associated with deregulation may prove transient to surviving producers but not to those unable to adjust quickly to the changed economic stitution. Also, consumers would likely question the need for much greater variability in supplies and prices. Thus, volume regulations can provide for the maintenance of ample supplies of navel oranges to consumers at times when they are needed and the ability to obtain a price which will provide suppliers the incentive to stay in business.

Additionally, there is a strong argument that prorates reduce variability in prices on an interseasonal basis, resulting in a rightward shift in the supply curve due to decreased producer uncertainty. That is, with decreased price variability, producers are willing to supply more oranges for a given return, resulting in an increase in social welfare.

Several commenters expressed the opinion that "no regulation" would foster a better long-term market outlook for navel oranges. Again, this basically questions the long-term desirability of prorate provisions in the order. As noted above, the order is not reviewable herein, and is only reviewable on the basis of the formal rulemaking record upon which it was adopted. However, on an interseasonal basis, the program promotes orderly marketing, the purpose of which is to furnish sufficient navel orange supplies to fresh markets throughout the season and to avoid price-depressing gluts, particularly during the first few months of the season when supplies are heaviest. If the program were discountinued, projections based on historical relationships suggest that the short-run effects would be much greater variability in weekly supplies and prices than occurs with the use of prorate regulations. The expected long-run effect of discontinuing prorate is less certain, although there are indications that prices would rise because of more price risk to producers.

Several cementers who opposed the proposed use of volume regulation alleged that Sunkist, the industry's largest marketing cooperative organization, uses prorate to control the market and manipulates the Committee to benefit its producers. FAIR alleged that Sunkist is virtually unrestricted by

volume controls because it can control the weekly prorate figure with five Committee votes.

In truth, all handlers are equally subject to volume regulation and therefore, are limited equally.

In addition, recommendations for volume recommendations are developed by the Committee, which is comprised of members nominated by producers and handlers to represent their interests in administering the navel orange marketing order. This is done in accord with provisions of the order and the regulations that are not under review herein. The Committee members have an in-depth understanding of the navel orange industry and the California-Arizona citrus industries in general and are fully qualified to represent their producer and handler constituents. These members meet weekly to consider all views presented by producers, handlers, and other interested persons in making recommendations for volume regulation. Only a minority of members on the eleven member Committee currently represent Sunkist.

FAIR and other commenters questioned how the inherent characteristics of the navel orange permit the effective use of volume regulation to maintain orderly marketing conditions. Whether a volume regulation provision is desirable for the navel orange order is essentially a question related to the desirability of the order provisions, and, hence, is not reviewable herein, and is only reviewable on the basis of the underlying formal rulemaking record. Furthermore, as previously mentioned, mature navel oranges can be stored on the tree and picked as needed to provide the market with a more even distribution of supplies during the season. This on-tree storage feature is particularly valuable early in the season when a large portion of the crop is often mature but the market may not be able to absorb that amount of fruit at the time.

Several commenters opposing the proposed rule contended that the Department has failed to comply with the Administrative Procedure Act (APA). It is the Department's view that it has acted properly and in accordance with the requirements of the Act and other applicable legislation and within the limits of the navel orange marketing order in issuing volume regulations.

Several commenters opposing the use of volume regulation for the 1991–92 navel orange crop alleged that the proposed rule did not satisfy the criteria for establishing volume regulations under the Act. Volume regulations under the Act and the marketing order may be promulgated if the Secretary finds such action would tend to effectuate the policy of the Act. As stated previously, the declaration of policy in the Act includes a provision concerning establishing and maintaining such orderly marketing conditions as will provide, in the interest of producers and consumers, an orderly flow of the supply of a commodity throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices. It is the Department's view that limiting the quantity of California-Arizona navel oranges that each handler may handle on a weekly basis during the 1991–92 season may contribute to the Act's objectives of orderly marketing and improving producers' returns.

Related to this issue, many commenters asked the Department to define the terms "orderly marketing" and "unreasonable fluctuation in supplies and prices." These are terms used by Congress to describe its policy to be effectuated through marketing order provisions. The intent of Congress in promulgating this statute is not subject to revision by an agency. Thus, there is no need for such definitions in this regulation.

FAIR, in its contention that the proposed rule violates the Act, alleged that the Department is using an improper "local" parity figure, which is only authorized for milk marketing orders, as opposed to the national parity price for oranges. FAIR claimed that if the Department had used the correct national parity figure, projected season average navel prices would be substantially above parity, thus making regulation impossible, according to FAIR, due to the parity limitation in the Act.

The Act provides for regulation in above parity situations in order to avoid a disruption of orderly marketing in the public interest. Furthermore, under the Act, marketing orders are issued for specific commodities, areas and usages. Parity equivalent prices which apply to most of the specific commodities, areas and usages regulated under marketing orders are not published by the National Agricultural Statistics Service (NASS).

The parity price published by the NASS for oranges includes all varieties of oranges grown in Arizona, California, Florida and Texas for all uses. Such an aggregate parity price does not adequately reflect parity for California-Arizona oranges sold in fresh market outlets. Therefore, the Department computes a parity equivalent price for the area and usage specified under Marketing Order No. 907, based on the U.S. parity price for oranges and historical relationships between U.S. average prices for oranges and average prices for California-Arizona oranges utilized for fresh market sale. There is no statutory prohibition to this method of calculating parity.

FAIR also commented that the Department failed to "comply" with the Department's Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders's (Guidelines) "requirement" that prorate programs used as a means of market allocation provide at least 110 percent of recent seasons' sales for the fresh domestic market. FAIR also contended that the Department failed to "comply" with the Guidelines' "requirement" to utilize volume regulations in a guarded manner.

The Guidelines recommend for market allocation and reserve pool programs that the primary markets have available a quantity equal to 110 percent of recent years' sales in those outlets before approving secondary market allocation or pooling. However, the navel orange marketing order utilizes weekly volume regulations which have flow-to-market functions, not market allocation and reserve pool requirements, to provide an orderly flow of available navel oranges in order to avoid unreasonable fluctuations in supplies and prices. Therefore, the 110 percent recommendation is not applicable. Furthermore, the Guidelines provide recommendations only, and are not requirements with which the Secretary must comply.

In addition, the 1991–92 navel orange marketing policy meets the requirements of § 907.50 of the navel orange marketing order and follows the Guidelines' recommendations which permit each industry utilizing prorate recommendations to assess its own unique problems and needs in order to effectively serve the interests of both producers and consumers.

FAIR alleged in its comment that both the Department and the Committee have completely ignored the criteria for evaluating the potential use of supply controls set forth in the 1986 Criteria Commission report. The "Criteria Commission" was an independent team which conducted a study and published a report through the facilities of the ERS. The "Criteria" were considered in this rulemaking process. However, the "Criteria" report was published as an informational tool and imposes no requirements on the Department.

Several commenters who raised objections to the proposed rule questioned various economic issues raised by the implementation of volume regulation. Several commenters who objected to the proposed rule questioned whether producers maximize their

returns under volume regulation. Both the DOJ and FAIR contended that producers do not benefit from prorate in the long run. The DOJ and FAIR alleged that the results of numerous economic studies provide evidence that the use of prorate programs has negative effects on producers' returns and the availability of supplies, and contributes to resource misallocation.

Several commenters asserted that some researchers have concluded that their respective analyses support the contentions that, contrary to the objectives of the Act, volume regulations have reduced producer returns as compared with returns under no regulations, and that such regulations have contributed to the inefficient allocation of resources. As noted above, these comments go to the desirability of volume regulation provisions not under review herein, and which, in any event, cannot be judged on the basis of post-record "evidence". Furthermore, the Department does not agree with these commenters' interpretation of the relevant data. Such an interpretation does not take into account many factors that might be present if there were no volume regulations, including declining shipments to processors, increased fluctuations in fresh market prices, and bearing acreage and production capacity reduced and concentrated in fewer hands. Therefore, the Department does not agree that the data presented necessarily leads to the conclusions suggested by the commenters.

During the years since the inception of the navel orange marketing order, there have been significant changes in the marketing system for California-Arizona navel oranges. At one time, navel oranges were sold at public auction in terminal markets. The fruit was shipped to the auctions by rail and handlers paid the freight. The auctions were open to all buyers and sellers. In the 1960s, the auctions were abandoned in favor of the current system of selling the fruit on an f.o.b. basis under which buyers pay the freight. At the same time, there continue to be marketing risks to producers and handlers that are not effectively offset by other mechanisms, such as pricing methods, risk sharing organizations and income diversification. In addition, the major objectives of the marketing order are unchanged—achieving orderly marketing and parity prices to producers. There is no evidence that, in the absence of flow-to-market controls, a price-depressing surplus of shipments would be any less likely now than it was four decades ago. Currently, there are more pricing points than under the "auction" system. There is evidence to support the conclusion that such regulations have mitigated the adverse effects of price-depressing surpluses, particularly early each season.

One handler in his comment predicted that, with no regulation, producers would be able to market 87 percent of the 1991–92 crop to the fresh domestic market, or 51,069 cars. The handler projected F.O.B. revenue, without regulation, at a range between $485,155,000 and $573,457,000, and on-tree revenue to producers between $5.65 and $6.40 per carton, or between 75.3 and 85.3 percent of parity.

Since the specific equation that the commenter used to calculate the above F.O.B. shipping point revenue and on-tree prices was not provided, the Department was unable to calculate the revenue curve from which the results were reported. However, according to the Department's econometric model, fresh domestic and export shipments totaling 52,229 cars would maximize F.O.B. shipping point revenue at $10.48 per carton valued at $547,215,000, and on-tree revenue at $6.38 per carton valued at $333,076,000. This shipment estimate results in an on-tree value estimate that totals less than one percent more than the on-tree value estimate ($6.89 per carton totaling $330,893,000) that results from the Committee's first revised shipment estimate for fresh domestic and export of 48,000 cars.

Furthermore, estimated season average prices and calculated revenue curves, as well as historical market performance indicate that both on-tree and F.O.B. shipping point revenue would be higher than at the level of shipments projected by the Committee in the 1991–92 marketing policy, providing sufficient tree crop production were available to support such utilization levels. As has been demonstrated in the past, the Committee has been quick to increase projected utilization levels when revised tree crop production and crop size and condition reports indicated such changes were appropriate.

The commenter further suggested that the preliminary estimate of the 1990–91 average price for fresh California-Arizona navel oranges, $7.29, as published in the proposed rule, was somehow related to pre-freeze production and fresh shipment estimates and suggested that the price estimate was "preposterous." However, the $7.29 per carton estimate was based on 1990–91 post-freeze seasonal data available prior to publication of the season average on-tree price by the NASS. The official Department estimate of $7.75 per carton was published by the NASS on September 30. The difference between the official published price and our estimate is six percent. Thus, the Department's estimate is valid.

The commenter further suggested that the Committee projected a 1991–92 on-tree price of $4.96 per carton was also "preposterous." That price was developed and utilized in an interim model to produce an early price estimate in the absence of data from which to build the pre-season models normally used. Since that time, however, this figure was subsequently revised to $6.33 per carton, 85 percent of the estimated fresh on-tree parity equivalent price of $7.44 per carton.

The commenter, FAIR, and others suggested that the absence of volume regulations for navel oranges results in higher producer revenue and cited as evidence that the highest prices were recorded during periods of no prorate regulation or reduced regulation (i.e., certain portions of the 1985 and 1989–90 seasons). However, during those seasons, navel orange volume regulations were curtailed because unusual marketing conditions caused prorate to be unwarranted. Higher producer revenue would be expected to be associated with those periods when supplies and prices were at levels not indicating a need for volume regulation. Furthermore, market performance during the 1989–90 season after prorate was suspended does not change basic demand relationships when considering an entire season. Basing marketing decisions on such short-term periods, when competitive conditions are much different, would not be logical economic behavior.

Three commenters alleged that volume regulations for navel oranges inhibit returns per acre. The relationship between price per unit and regulation has been described above. Beyond that, return per acre is dependent on the efficiency of individual operations. However, the marketing order and the related regulations are not designed to deal with problems related to the efficiency of production or net returns per acre. Additionally, the Act and order do not include authority to control acreage or production.

One commenter questioned why Dr. Roger Fox of the University of Arizona, who the Committee commissioned to model prospective revenues at alternative utilization levels, did not consider sales in excess of 43,000 cars going to the fresh domestic market. Dr. Fox did not consider sales in excess of that amount because, as shown in the Committee's marketing policy, the model indicates that revenue would be reduced

at higher levels and consequently would not be of interest for consideration.

One handler and the SBA recommended in their comments that the rules and regulations of the navel orange marketing order be modified to provide that organically grown oranges be exempt from volume and size regulations. Such a recommendation was submitted to the Department and the Committee for review last season. The Committee formed a subcommittee to review the proposal. The subcommittee met several times last season before the December freeze and resumed discussion in July 1991. Recently, the Committee and the VOAC adopted a recommendation to provide relief for organic oranges through the use of short-life allotments. At this time, the Department is studying this entire issue and expects to issue a separate proposal on this matter in the near future.

Several commenters, including FAIR, also suggested that the orange industry not be re-regulated. At this time, it is the Committee's view that volume regulation is needed for the 1991–92 season. However, the Committee is not precluded from a no-prorate option. In fact, experience shows that when the Committee deems prorate inappropriate, no regulations are recommended. During the 1989–90 season, for example, prorate regulations did not commence until the week ending on November 9, 1989, and were discontinued following the week ending on March 29, 1990. In addition, last season, prorate was terminated in December because of damage to the navel orange crop caused by the devastating freeze.

FAIR proposed several other alternatives in its comment to the shipping schedule as proposed by the Committee. First, FAIR suggested that the Department and Committee comply with the provision in the Guidelines and establish an allocation to the fresh domestic market of 110 percent of recent seasons' primary market sales. This topic was discussed above.

Second, FAIR suggested that prorate should only be utilized as a flow-to-market tool, i.e., making the entire fresh quality crop (approximately 90 percent) available to the domestic fresh market. It is the Department's view that prorate regulations are utilized as a flow-to-market tool whereby the industry attempts to market the largest possible volume of navel oranges in fresh domestic markets in an orderly manner consistent with protecting producer returns.

Third, FAIR suggested that prorate only be initiated when the weekly computed revenue falls 20 percent below the three-week moving average revenue. Such a formula could be used, although on a delayed basis. In view of this delay, this alternative would be unworkable over the course of the season. Relative price levels are established early in the season based primarily on current and prospective supplies as well as consumer demand. Week-to-week price changes thereafter may or may not result in price levels requiring termination or implementation of prorate. Following this procedure also would increase the difficulty of providing equity of marketing opportunity to the districts. The Committee is responsible for evaluating the market during the season and has the flexibility to adjust its recommendation for regulation to emerging conditions to support the orderly marketing of California-Arizona navel oranges.

Fourth, FAIR suggested setting prorates at a constant level of 2,250 cars per week for the entire season providing, according to FAIR, substantially increased flexibility and initiative and a consistent maximum shipping level. Setting any specific level of volume regulation for the entire season would be inconsistent with the nature of the marketing order. The marketing order is one of flow-to-market rather than allocation and is designed to control the short term rate of flow. Further, a constant prorate level would not permit adjustments to changes in price levels or market conditions. This approach would not provide the Committee with the opportunity to individually analyze the need for and level of regulation on a weekly basis.

Fifth, FAIR suggested establishing an early termination date for prorate at approximately February 15 to coincide with the end of freeze risk, and facilitate, according to FAIR, the objectives of the Guidelines that prorate be used guardedly and during limited portions of the season. While mid-February may usually bring an end to the risk of a serious freeze, the risk of a freeze is not the only reason to regulate during any season. The major objective is to provide an orderly flow to market of available navel oranges in order to avoid unreasonable fluctuations in supplies and prices. The 1991–92 navel orange marketing policy meets the requirements of § 907.50 of the navel orange order and conforms with the Guidelines, which call for each industry utilizing prorate recommendations to assess its own unique problems and needs in order to effectively serve the interests of both producers and consumers.

Sixth, FAIR suggested establishing a shipping schedule that allocates prorate consistent with recent historical shipping patterns, providing four-year average weekly shipments plus 10 percent as an example, with the objective of equalizing the burden of regulation felt by all handlers. The Committee uses historical patterns in developing an initial, tentative shipping schedule. However, in addition to historical patterns, it is also necessary to take into account other factors required by the marketing order. Further, arbitrarily increasing the four-year average by any set amount would not necessarily provide a realistic reflection of available supplies or market needs. It is not clear how this alternative would equalize the burden of regulation. The final rule herein is consistent with the marketing order's provisions concerning equity of marketing opportunity and thus provides all districts the opportunity to ship, under regulation, the same proportionate amount to fresh domestic markets during the season.

Seventh, FAIR suggested establishing a shipping schedule that is equally binding on all districts. As discussed earlier, the shipping schedule as it appears in the Committee's marketing policy provides each district with equitable marketing opportunity whereby each district is provided the opportunity to ship, under volume regulation, the same proportionate amount to fresh domestic markets during the season.

Eighth, FAIR recommended that the Department exempt shrink-wrapped oranges from supply controls. The Department would need additional information as to the purpose of such a recommendation and how this recommendation would benefit both producers and handlers in the industry. The Department would then review and determine if such a recommendation is feasible. FAIR should also submit this recommendation, along with the necessary information, to the Committee which could then review and determine whether to submit such a recommendation to the Department.

Therefore, for the reasons stated, the above comments in opposition to the proposed rule, as well as the alternatives presented, are denied.

The shipping schedule set forth in this final rule has been revised by omitting the volume regulation amounts for the weeks ending on October 24, 1991, through February 13, 1992. In addition, the section and regulation numbers, 907.1021 and 721, respectively, have been revised because those numbers

were used earlier this season for an emergency final rule implementing volume regulation for the week ending on November 21. Further, revisions to the allocation of allotment between districts, as recommended by the Committee at a meeting on January 28, 1992, were also incorporated into this rule.

After consideration of all relevant material presented, including the Committee's recommendation, the comments received, and other available information, it is found that this regulation, as hereinafter set forth, will 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** because: (1) Handlers have already begun harvesting their 1991–92 California-Arizona navel oranges; (2) the shipping schedule is based on a marketing policy which was adopted by the Committee at open meetings; and (3) this action is needed to establish and maintain orderly marketing conditions, consistent with the declared policy of the Act.

**List of Subjects in 7 CFR Part 907**

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 907 is to be amended as follows:

## PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. The authority citation for 7 CFR part 907 continues to read as follows:

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

2. A new section 907.1033 is added to read as follows:

**Note:** This section will not appear in the Code of Federal Regulations.

**§ 907.1033 Navel orange regulation 733.**

The shipping schedule below establishes the quantities of navel oranges grown in California and Arizona, by district, which may be handled during the specified weeks as follows:

[Cartons in thousands]

| Week ending | District 1 | | District 2 | | District 3 | | District 4 | | Total cartons |
|---|---|---|---|---|---|---|---|---|---|
| | Cartons | Percent | Cartons | Percent | Cartons | Percent | Cartons | Percent | |
| (a) 02–20–92 | 1,465 | 83.7 | 285 | 16.3 | | | | | 1,750 |
| (b) 02–27–92 | 1,465 | 83.7 | 285 | 16.3 | | | | | 1,750 |
| (c) 03–05–92 | 1,541 | 83.3 | 309 | 16.7 | | | | | 1,850 |
| (d) 03–12–92 | 1,541 | 83.3 | 309 | 16.7 | | | | | 1,850 |
| (e) 03–19–92 | 1,541 | 83.3 | 309 | 16.7 | | | | | 1,850 |
| (f) 03–26–92 | 1,541 | 83.3 | 309 | 16.7 | | | | | 1,850 |
| (g) 04–02–92 | 1,541 | 83.3 | 309 | 16.7 | | | | | 1,850 |
| (h) 04–09–92 | 1,541 | 83.3 | 309 | 16.7 | | | | | 1,850 |
| (i) 04–16–92 | 1,545 | 83.5 | 305 | 16.5 | | | | | 1,850 |
| (j) 04–23–92 | 1,545 | 83.5 | 305 | 16.5 | | | | | 1,850 |
| (k) 04–30–92 | 1,507 | 83.7 | 293 | 16.3 | | | | | 1,800 |
| (l) 05–07–92 | 1,503 | 83.5 | 297 | 16.5 | | | | | 1,800 |
| (m) 05–14–92 | 1,007 | 83.9 | 193 | 16.1 | | | | | 1,200 |
| (n) 05–21–92 | 840 | 84.0 | 160 | 16.0 | | | | | 1,000 |
| (o) 05–28–92 | 662 | 83.8 | 128 | 16.2 | | | | | 790 |

Dated: February 5, 1992.

**Robert C. Keeney,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 92–3137 Filed 2–6–92; 8:45 am]

BILLING CODE 3410–02–M

## FEDERAL DEPOSIT INSURANCE CORPORATION

**12 CFR Part 335**

**RIN 3064–AA11**

## Ownership Reports and Trading by Officers, Directors and Principal Security Holders

**AGENCY:** Federal Deposit Insurance Corporation ("FDIC").

**ACTION:** Final rule.

**SUMMARY:** The FDIC is adopting amendments to its rules and forms, as well as related disclosure requirements for issuers, regarding the filing of ownership reports by officers, directors, and principal security holders, and the exemption of certain transactions by those persons from the short-swing profit recovery provisions of section 16 of the Securities Exchange Act of 1934. The amendments are intended to achieve greater clarity, enhance consistency with the statutory purpose, and improve compliance with the reporting provisions of the rules.

**DATES:** *Effective date:* These amendments are effective March 9, 1992.

*Applicability dates:* The substantive provisions of SEC rule 16b–3 need not be phased in until June 30, 1993. Insiders filing reports late or reporting late transactions after March 31, 1992 will be identified in the proxy statement or Form F–2, for fiscal years ending after June 30, 1992.

**FOR FURTHER INFORMATION CONTACT:** M. Eric Dohm, Staff Accountant, Division of Supervision (202/898–8921) or Gerald J. Gervino, Senior Attorney, Legal Division (202/898–3723).

**SUPPLEMENTARY INFORMATION:** On February 8, 1991 the Securities and Exchange Commission ("SEC") announced the adoption of revisions to its rules promulgated under section 16 of the Securities Exchange Act of 1934 ("Exchange Act", "Act") (15 U.S.C. 78p), 56 FR 7265 (February 21, 1991). All but one SEC rule under section 16 was amended, deleted, or reorganized, and several new section 16 rules were added. SEC proxy requirements, Form 10–K, and Forms 3 and 4 were amended, while a new Form 5 was added. The FDIC does not find a basis for adopting different rules for banks in this area. Thus, it is amending its comparable rules to conform Part 335 with the new SEC amendments. Sections 335.410, 335.411, and 335.412 are revised to reference the provisions of the comparable SEC rules at 17 CFR 240.16a–1 through 240.16a–10, 240.16b–1 through 16b–8, 240.16c–1 through 16c–4 and 240.16e–1.

By referencing the SEC rule structure, investors and their attorneys or other advisors who file under both the SEC and the FDIC rules will not need to read through the FDIC rules in an effort to identify minor differences. Any FDIC differences under section 16 of the Act will be identified and, where feasible, contained in the revised § 335.411. In conformance with the SEC revisions, a new Form F–8A has been adopted, and changes have been made to Form F–5 (12 CFR 335.212) and Form F–2 (12 CFR 335.312), F–7 (12 CFR 335.413), and F–8 (12 CFR 335.414). To avoid confusion with SEC filings, the FDIC will continue to prescribe and print its own forms for use under section 16. The FDIC intends to generally follow the interpretations of the SEC with respect to the referenced SEC regulations. Readers may find the SEC preamble at 56 FR 7242 (Feb. 21, 1991) and other SEC published statements useful in complying with the new rules.

### I. Charts Comparing Former and New Rules and Interpretations

A. The following chart lists the former rules and how they will change under the new regulatory scheme. All references to former rules are to 12 CFR § 335.____. All references to new rules (except forms) are to 17 CFR § 240.16 ____.

| Former rule | New rule | Substantive changes |
|---|---|---|
| 410(a)(1) | 16a–3(a) | Added a Form F–8A requirement. |
| 410(a)(2) | 16a–3(b) | No change. |
| 410(a)(3) | 16a–3(c) | No change. |
| 410(a)(4) | 16a–2(a) | Only persons who become subject to section 16 by the issuer's registration under section 12 will have pre-insider transactions subject to section 16. |
| 410(a)(5) | 16a–2(b) | No change. |
| 410(b)(1) | 16a–1(a)(1) | For purposes of determining status as a 10 percent holder, the rules use a section 13(d) analysis. Exceptions are provided for customer accounts of institutions eligible to file a Form F–11A. |
| 410(b)(2) | None | Deleted since it is not relevant whether a derivative security is presently exercisable. |
| 410(c) | 16a–1(a)(4) | No change. |
| 410(d) | 16a–2(d) | After the 12 month grace period for fiduciaries an estate or trust additionally is subject to section 16 if the trustee is an insider with a pecuniary interest in the trust corpus. |
| 410(e) | 16a–5 | No change. |
| 410(f) | 16a–1(c), 16a–4 | Deleted and replaced by general rules regarding derivative securities. |
| 410(g) | 16a–1(a)(2), 16a–1(a)(5), 16a–8 | 1. Insider trustee with pecuniary interest and investment control subjects trust to section 16.<br>2. Beneficiary or settlor directed transactions are not attributed to trust.<br>3. Deletion of 20 percent trust exemption of former § 335.410(g)(2) (but see new SEC rule 16b–3(d).<br>4. Trustee no longer may report in place of the beneficiaries.<br>5. Remainder interests are excluded only where remainder holders do not exercise investment control.<br>6. Deletion of exclusion for pension or retirement plans (but see new SEC rule 16b–3(d)(2)) and business trust with over 25 beneficiaries.<br>7. Definition of "immediate family expanded to include grandchildren, grandparents, siblings, in-laws, and adoptive relationships. Now covered by SEC rule 16a–1(e). |
| 410(h) | 16a–6, 16b–5 | Bona fide gifts exempt from section 16(b), as well as transfers pursuant to the law of descent. |
| 410(j) | 16b–2 | Exemption from section 16(b) only. |
| 410(i) | 16a–10 | |
| 411(a) | 16b–1(a) | Expanded exemption for investment companies transactions exempted by rule under section 17(a) of the Investment Company Act. |
| 411(b) | 16a–7 | Distributions and related transactions are not reported and equal participation requirement deleted. |
| 411(c) | 16b–3 | 1. The disinterested administration requirement has been modified by requiring a committee of two or more disinterested directors to make grants and awards. The alternative to disinterested administration for automatic plans has been strengthened to permit no discretion by interested persons.<br>2. Deletion of § 335.411(c)(3) plan limitations.<br>3. Addition of transferability restriction exception for qualified domestic relations.<br>4. Deletion of the definition of "exercise of an option."<br>5. Six month holding period for many transactions.<br>6. Specific exemption for participant-directed transactions.<br>7. Exemption for distributions from a plan. |
| None | 16b–4 | |
| 411(d) | None | |
| 411(e) | 16b–7 | No change. |
| 411(f) | 16b–8 | No change. |
| 411(g) | 16b–6(b) | Conversions exempt from section 16(b) without need to satisfy the conditions of SEC rule 16b–9. |
| 411(h) | 16a–9 | Exemption for acquisition rather than disposition of subscription rights and other pro rata rights. Exemption from reporting as well. Exemption for stock splits and dividends added. |
| 412(a) | 16c–1 | No change. |
| 412(b) | 16c–2 | Deletion of the equal participation requirement. |
| 412(c) | 16c–3 | No change. |
| 412(d) | 16e–1 | No change. |

B. The following chart lists the new rules, the former rule from which the new rule is derived, and a summary of the new rule's content.

| New rule | Former rule | Substantive changes |
|---|---|---|
| 16a–1(a) | 410(b)(c) and (g) | Beneficial ownership, Two tier analysis of ownership. Section 13(d) determines 10 percent holder. For other purposes, pecuniary interest determines ownership. Indirect pecuniary interests and exclusions from beneficial ownership identified. |
| 16a–1(b) | None | Definition of call equivalent position as one that benefits from an increase in value of underlying security. |

| New rule | Former rule | Substantive changes |
|---|---|---|
| 16a-1(c) | None | Definition of derivative securities. Excludes pledges, pro rata merger rights, specified cash-only securities (phantom stock), broad-based products, and interests in employee benefit plans. |
| 16a-1(d) | None | Definition of equity security of such issuer. Includes any right related to equity security of the issuer. |
| 16a-1(e) | None | Definition of immediate family. |
| 16a-1(f) | None | Definition of officer to include policy-making executives and principal financial and accounting officers of the issuer. |
| 16a-1(g) | None | Definition of portfolio security. |
| 16a-1(h) | None | Definition of put equivalent position as one that benefits from a decrease in value of underlying security. |
| 16a-2(a) | 410(a)(4) | Transactions by officers and directors before issuer registers under section 12 are subject to section 16. |
| 16a-2(b) | 410(a)(5) | Transactions by officers and directors are subject to section 16 after termination of insider status. |
| 16a-2(c) | None | Transaction creating status as a 10 percent holder is exempt from section 16. |
| 16a-2(d) | 410(d) | Transactions by certain fiduciaries exempt for 12 months. |
| 16a-3(a) | 410(a)(1) | General filing requirement. |
| 16a-3(b) | 410(a)(2) | Additional Form F-7 is not required under certain circumstances. |
| 16a-3(c) | 410(a)(3) | Copies of forms filed with one exchange. |
| 16a-3(d) | None | One filing satisfies Exchange Act, Investment Company Act, and Public Utility Holding Company Act of 1935. |
| 16a-3(e) | None | Copies of all filings must be delivered to issuer. |
| 16a-3(f) | None | Form F-8A must be filed within 45 days after end of issuer's fiscal year unless no transactions conducted and reporting is current. |
| 16a-3(g) | None | Specifies the transactions that may be reported on Form F-8A. |
| 16a-3(h) | None | Date on which a Form F-7, F-8, or F-8A is deemed filed. |
| 16a-4 | 410(b)(2) | Derivative and underlying securities are the same class of securities. Specifies reporting of exercises and conversions. |
| 16a-5 | 410(e) | Exemption for odd-lot dealers. |
| 16a-6 | 410(h) | Deferred reporting for small purchases. Separate exemption for gifts contained in SEC rule 16b-5. |
| 16a-7 | 411(b) | Distribution related transactions are not reported. |
| 16a-8 | 410(g) | Trusts. |
| 16a-9 | 411(h) | Exemption for stock splits, dividends, and grants of pro rata rights. |
| 16a-10 | 410(i) | An exemption from section 16(a) serves as an exemption from section 16(b). |
| 16b-1(a) | 411(a) | Investment companies. |
| 16b-1(b) | None | Public utility holding companies. |
| 16b-1(c) | None | Railroad mergers. |
| 16b-2 | 411(j) | Dividend reinvestment plans. |
| 16b-3 | 411(c) | Employee benefit plans. |
| 16b-3(a) | 411(c)(4)(i) | General plan requirements for exemption. |
| 16b-3(b) | 411(c)(1) | Shareholder approval requirement. |
| 16b-3(c) | 411(c)(4)(iii) | Grant and award transactions. Additional conditions for exemption. |
| 16b-3(d) | None | Participant-directed transactions. Additional conditions for exemption. |
| 16b-3(e) | 411(c)(5) | Stock Appreciation Rights cash settlement conditions for exemption. |
| 16b-3(f) | 411(c) | Exemption for cancellations, expiration, surrenders and qualified domestic relations orders. |
| 16b-3(g) | None | Exemption for plan distributions. |
| 16b-4 | 411(e) | Exemptions for redemptions of securities of a holding company in return for distribution of securities held. |
| 16b-5 | 410(h)(2) | Exemption for bona fide gifts and transactions resulting from the laws of descent and distribution. |
| 16b-6 | None | Derivative securities. |
| 16b-6(a) | None | Transactions in derivative securities equivalent to transactions in the underlying securities. |
| 16b-6(b) | 411(g) | Exemption for exercises and conversions. |
| 16b-6(c) | None | Formula for determining short-swing profit. |
| 16b-6(d) | None | Expirations. |
| 16b-7 | 411(e) | Non-substantive mergers or consolidations. |
| 16b-8 | None | Voting trusts. |
| 16c-1 | 412(a) | Exemption for broker transactions. |
| 16c-2 | 412(b) | Exemption for when-issued securities dispositions. |
| 16c-4 | None | Exemption for "net long" derivative security position. |
| 16e-1 | 412(d) | Arbitrage transactions. |
| Form F-5 or F-2 | None | Requirement to disclose delinquent reporting persons. |

## II. Paperwork Reduction Act

With the exception of forms F-7, F-8, and F-8A, the collections of information contained in this rule have been approved by the Office of Management and Budget under control number 3064-0030 pursuant to section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Unless a public notice is published to the contrary, the public may assume that OMB has approved these information collections during the 60-day period following the publication of this final rule. Comments on the collection of information should be directed to the Office of Management and Budget, Paperwork Reduction Project (3064-0030), Washington, DC 20503, with copies of such comments to be sent to Steven F. Hanft, Office of the Executive Secretary, room F-400, 550 17th Street, NW., Washington, DC 20429.

The FDIC has submitted for OMB approval final amendments to Forms F-7, F-8, and a new Form F-8A, which will restructure the manner in which transactions and holdings by persons subject to section 16 of the Securities Exchange Act of 1934 are reported. These Forms are required pursuant to sections 335.420, 335.421, and 335.422.

The estimated annual reporting burden for Forms F-7, F-8, and F-8A is:

| | Form F-7 | Form F-8 | Form F-8A |
|---|---|---|---|
| Number of Respondents | 400 | 2,500 | 1,400 |
| Number of Responses Per Respondent | 1 | 1 | 1 |
| Total Annual Responses | 400 | 2,500 | 1,400 |
| Hours Per Response | 1.0 | 0.5 | 1.0 |
| Total Annual Burden Hours | 400 | 1,250 | 1,400 |

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

| | |
|---|---|
| Number of Respondents | 4,710 |
| Number of Responses Per Respondent | 1.35 |
| Total Annual Responses | 6,372 |

| | |
|---|---|
| Hours Per Response | 9.08 |
| Total Annual Burden Hours | 57,853 |

### III. Cost-Benefit

It appears to the FDIC that, while some additional cost to issuers and insiders may result from the comprehensive restructuring of the rules under section 16, such costs will be outweighed by the savings to insiders with respect to deferred reporting for exempt transactions and increased compliance with section 16(a) as a result of the new disclosure of nonfiling requirements in Forms F–2 and F–5 which will benefit issuers, shareholders, and investors.

### IV. Regulatory Flexibility

As no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612).

### V. Public Participation

The FDIC has not published the amendments for prior public comment because they have been the subject of extensive public participation over several years at the SEC and the investing public for bank securities does not appear to represent a different interest from the public investing in nonbanking securities, which has already had ample opportunity for comment throughout the previous rulemaking at the SEC.

### VI. Statutory Basis

The amendments to the proxy rules, Form F–2, and the section 16 rules are being adopted by the FDIC pursuant to Exchange Act section 12(i).

### List of Subjects in 12 CFR Part 335

Accounting, Banks, banking, Confidential business information, Reporting and recordkeeping requirements, Securities.

### Text of New Rules

In accordance with the foregoing, chapter III of title 12 of the Code of Federal Regulations is amended as follows:

## PART 335—SECURITIES OF NONMEMBER INSURED BANKS

1. The authority citation for part 335 continues to read as follows:

**Authority:** Sec. 12(i), Securities Exchange Act of 1934, as amended (15 U.S.C. 78*l*(i)).

2. Section 335.212 is amended by adding a new item 21 under Information Required in Statement of Form F-5 to read as follows:

**§ 335.212 Form for proxy statement (Form F–5).**

* * * * *

Information Required in Statement

* * * * *

*Item 21—Compliance with Section 16(a) of the Exchange Act.*

Every bank having a class of equity securities registered pursuant to section 12 of the Exchange Act (15 U.S.C. 78*l*) shall:

(a) Based solely upon a review of Forms F–7 (§ 335.420) and F–8 (§ 335.421) and amendments thereto furnished to the bank during its most recent fiscal year, and Forms F–8A (§ 335.422) and amendments thereto furnished to the bank with respect to its most recent fiscal year, and any written representation referred to in paragraph (b)(2)(i) of this item:

(1) Identify each person who, at any time during the fiscal year, was a director, officer, beneficial owner of more than 10 percent of any class of equity securities of a bank registered pursuant to section 12 of the Exchange Act, ("reporting person") that failed to file on a timely basis, as disclosed in the above Forms, reports required by section 16(a) of the Exchange Act during the most recent fiscal year or prior fiscal years.

(2) For each such person, set forth the number of late reports, the number of transactions that were not reported on a timely basis, and any known failure to file a required Form.

*Note:* The disclosure requirement is based on a review of the forms submitted to the bank during and with respect to its most recent fiscal year, as specified above. Accordingly, a failure to file timely need only be disclosed once. For example, if in the most recently concluded fiscal year a reporting person filed a Form F–8 disclosing a transaction that took place in the prior fiscal year, and should have been reported in that year, the bank should disclose that late filing and transaction pursuant to this item 21 with respect to the most recently concluded fiscal year, but not in material filed with respect to subsequent years.

(b) With respect to the disclosure required by paragraph (a) of this item:

(1) A form received by the bank within three calendar days of the required filing date may be presumed to have been filed with the FDIC by the required filing date.

(2) If the bank: (i) Receives a written representation from the reporting person that no Form F–8A is required; and (ii) Maintains the representation for two years, making a copy available to the FDIC or its staff upon request, the bank need not identify such reporting person pursuant to paragraph (a) of this section as having failed to file a Form F–8A with respect to that fiscal year.

* * * * *

3. Section 335.312 is amended by adding a new paragraph after the second line entitled "(Title of class)" in the introductory portion of Form F–2, and revising item 10 of part III of Form F–2 to read as follows:

**§ 335.312 Form for annual report of bank (Form F–2).**

* * * * *

Indicate by check mark if disclosure of delinquent filers pursuant to item 10 is not contained herein, and will not be contained, to the best of bank's knowledge, in definitive proxy or information statements incorporated by reference in part III of this Form F–2 or any amendment of this Form F–2. [ ]

* * * * *

**Part III—[See General Instruction F(3)]**

* * * * *

*Item 10—Management compensation and transactions.*

Furnish the information required by items 7 and 21 of Form F–5 at § 335.212.

*Instruction*

Checking the box provided on the cover page of this form to indicate that disclosure of delinquent Form F–7, F–8, or F–8A filers is not contained herein is intended to facilitate form processing and review. Failure to provide such indication will not create liability for violation of the federal securities laws. The space should be checked only if there is no disclosure in this form of reporting person delinquencies and the bank at the time of filing the Form F–2, has reviewed the information necessary to ascertain, and has determined that, disclosure of delinquencies is not expected to be contained in Part III of the Form F–2 or incorporated by reference.

* * * * *

**§ 335.412 [Removed]**

4. Sections 335.410 and 335.411 are revised and § 335.412 is removed, to read as follows:

**§ 335.410 Requirements of section 16 of the Act.**

Persons subject to section 16 of the Act with respect to securities registered under part 335 shall follow the applicable and currently effective SEC regulations issued under section 16 of the Act (17 CFR 240.16a–1 through 240.16e–1), except that:

(a) The forms required by §§ 335.420 (Form F–7), 335.421 (Form F–8), and 335.422 (Form F–8A) of this part 335 shall be used in lieu of SEC Form 3, Form 4, or Form 5; and

(b) Any SEC regulations specified in § 335.411, as superseded by the FDIC, shall not be followed and any other rules adopted and published in § 335.411 in lieu of those superseded regulations shall be followed.

**§ 335.411 Superseded SEC regulations and FDIC substituted regulations.**

The following is a list of SEC regulations superseded by the FDIC: None.

5. New §§ 335.420 through 335.422 are added to read as follows:

**§ 335.420 Initial statement of beneficial ownership of securities (Form F-7).**

(a) This form shall be filed in lieu of SEC Form 3 pursuant to SEC rule 16a-3 (17 CFR 240.16a-3) for initial statements of beneficial ownership of securities. The FDIC is authorized to solicit the information required by this form pursuant to sections 16(a) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78p and 78w) and the rules and requlations thereunder. (SEC rules referenced in this form appear at 17 CFR 240.16a-1 through 240.16e-1.)

(b) Disclosure of information specified on this form is mandatory, except for disclosure of IRS (Tax Identification) or Social Security Numbers of the reporting person, which is voluntary. If such numbers are furnished, they will assist the FDIC in distinguishing reporting persons with similar names and will facilitate the prompt processing of the form. The information will be used for the primary purpose of disclosing the holdings of directors, officers and beneficial owners of registered companies. Information disclosed will be a matter of public record and available for inspection by members of the public. The FDIC can use the information in investigations or litigation involving the Federal securities laws or other civil, criminal, or regulatory statutes or provisions, as well as for referral to other governmental authorities and self-regulatory organizations. Failure to disclose required information may result in civil or criminal action against persons involved for violations of the Federal securities laws and rules.

(c) Copies of this form and the instructions thereto can be obtained from the Registration and Disclosure Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

**§ 335.421 Statement of changes in beneficial ownership of securities (Form F-8).**

(a) This form shall be filed pursuant to SEC rule 16a-3 (17 CFR 240.16a-3) for statements of changes in beneficial ownership of securities. The FDIC is authorized to solicit the information required by this form pursuant to sections 16(a) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78p and 78w) and the rules and regulations thereunder. (SEC rules referenced in this form appear at 17 CFR 240.16a-1 through 16e-1).

(b) Disclosure of information specified on this form is mandatory, except for disclosure of IRS (Tax Identification) or Social Security numbers of the reporting person, which is voluntary. If such numbers are furnished, they will assist the FDIC in distinguishing reporting persons with similar names and will facilitate the prompt processing of the form. The information will be used for the primary purpose of disclosing the transactions and holdings of directors, officers and beneficial owners of registered companies. Information disclosed will be a matter of public record and available for inspection by members of the public. The FDIC can use the information in investigations or litigation involving the federal securities laws or other civil, criminal, or regulatory statutes or provisions, as well as for referral to other governmental authorities and self-regulatory organizations. Failure to disclose required information may result in civil or criminal action against persons involved for violations of the federal securities laws and rules.

(c) Copies of this form and the instructions thereto can be obtained from the Registration and Disclosure Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington DC 20429.

**§ 335.422 Annual statement of beneficial ownership of securities (Form F-8A).**

(a) This form shall be filed pursuant to SEC rule 16a-3 (17 CFR 240.16a-3) for annual statements of beneficial ownership of securities. The FDIC is authorized to solicit the information required by this form pursuant to sections 16(a) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78p and 78w), and the rules and regulations thereunder. (SEC rules referenced in this form appear at 17 CFR 16a-1 through 16e-1.)

(b) Disclosure of information specified on this form is mandatory, except for disclosure of IRS (Tax Identification) or Social Security numbers of the reporting person, which is voluntary. If such numbers are furnished, they will assist the FDIC in distinguishing reporting persons with similar names and will facilitate the prompt processing of the form. The information will be used for the primary purpose of disclosing the transactions and holdings of officers, directors and beneficial owners of registered companies. Information disclosed will be a matter of public record and available for inspection by members of the public. The FDIC can use the information in investigations or litigation involving the federal securities laws or other civil, criminal, or regulatory statutes or provisions, as well as for referral to other governmental authorities and self-regulatory organizations. Failure to disclose required information may result in civil or criminal action against persons involved for violations of the federal securities laws and rules.

(c) Copies of this form and the instructions thereto can be obtained from the Registration and Disclosure Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

## Appendix to this final rule—Text of new forms

**Note:** The text and instructions of Forms F-7, F-8 and F-8A in this appendix do not, and the amendments will not, appear in the Code of Federal Regulations.

Form F-7 (§ 335.420) and Form F-8 (§ 335.421) are revised, and Form F-8A (§ 335.422) is added as set forth below:

Federal Deposit Insurance Corporation

Washington, DC 20429

Form F-7

Initial statement of beneficial ownership of securities the FDIC is authorized to solicit the information required by this form pursuant to sections 16(a) and 23(a) of the Securities Exchange Act of 1934, and the rules and regulations thereunder.

SEC rules referenced in this form appear at 17 CFR §§ 240.16a-1 through 240.16e-1.

Disclosure of information specified on this form is mandatory, except for disclosure of IRS (tax identification) or Social Security numbers of the reporting person, which is voluntary. If such numbers are furnished, they will assist the FDIC in distinguishing reporting persons with similar names and will facilitate the prompt processing of the form. The information will be used for the primary purpose of disclosing the holdings of directors, officers, and beneficial owners of registered companies. Information disclosed will be a matter of public record and available for inspection by members of the public. The FDIC can use it in investigations or litigation involving the Federal Securities laws or other civil, criminal, or regulatory statutes or provisions, as well as for referral to other governmental authorities and self-regulatory organizations. Failure to disclose required information may result in civil or criminal action against persons involved for violations of the Federal Securities laws and rules.

General Instructions

1. Who Must File

(a) This form must be filed by the following persons (each, a "reporting person"):

(i) any director or officer of a bank with a class of equity securities registered pursuant to section 12 of the Securities Exchange Act of 1934 ("Exchange Act"); (Note: Title is not determinative for purposes of determining "officer" status. See SEC rule 16a-1(f) for the definition of "officer");

(ii) any beneficial owner of greater than 10 percent of a class of equity securities registered under section 12 of the Exchange Act, as determined by voting or investment

control over the securities pursuant to SEC rule 16a–1(a)(1) ("10 percent holder"); and

(iii) any trust, trustee, beneficiary or settlor required to report pursuant to SEC rule 16a–8.

(b) If a reporting person is not an officer, director, or 10 percent holder, the person should check "other" in item 5 (Relationship of Reporting Person to Bank) and describe the reason for reporting status in the space provided.

(c) If a person described above does not beneficially own any securities required to be reported (see SEC rule 16a–1 and instruction 5), the person is required to file this form and state that no securities are beneficially owned.

2. When Form Must be Filed

(a) This form must be filed within 10 days after the event by which the person becomes a reporting person (*i.e.*, officer, director, 10 percent holder or other person). This form and any amendment is deemed filed with the FDIC or the Exchange on the date it is received by the FDIC or the Exchange, respectively. *See,* however, SEC rule 16a–3(h) regarding delivery to a third party business that guarantees delivery of the filing no later than the specified due date.

(b) A reporting person of a bank that is registering securities for the first time under section 12 of the Exchange Act must file this form no later than the effective date of the registration statement.

(c) A separate form shall be filed to reflect beneficial ownership of securities of each bank.

3. Where Form Must be Filed

(a) File three copies of this form or any amendment, at least one of which is manually signed, with the Registration and Disclosure Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington DC 20429. (Note: Acknowledgment of receipt by the FDIC may be obtained by enclosing a self-addressed stamped postcard identifying the form or amendment filed.)

(b) At the time this form or any amendment is filed with the FDIC, file one copy with each Exchange on which any class of securities of the bank is registered. If the bank has designated a single Exchange to receive section 16 filings, the copy shall be filed with that Exchange only.

(c) Any person required to file this form or amendment shall, not later than the time the form is transmitted for filing with the FDIC, send or deliver a copy to the person designated by the bank to receive the copy or, if no person is so designated, the bank's corporate secretary (or person performing similar functions) in accordance with SEC rule 16a–3(e).

4. Class of Securities Reported

(a) Persons reporting pursuant to section 16(a) of the Exchange Act shall include information as to their beneficial ownership of any class of equity securities of the bank, even though one or more of such classes may not be registered pursuant to section 12 of the Exchange Act.

(b) The title of the security should clearly identify the class, even if the bank has only one class of securities outstanding; for example, "Common Stock," "Class A Common Stock," "Class B Convertible Preferred Stock," etc.

(c) The amount of securities beneficially owned should state the face amount of debt securities (U.S. Dollars) or the number of equity securities, whichever is appropriate.

5. Holdings Required to be Reported

(a) *General Requirements*

Report holdings of each class of securities of the bank beneficially owned as of the date of the event requiring the filing of this form. See instruction 4 as to securities required to be reported.

(b) *Beneficial Ownership Reported (Pecuniary Interest)*

(i) Although, for purposes of determining status as a 10 percent holder, a person is deemed to beneficially own securities over which that person has voting or investment control (*see* SEC rule 16a–1(a)(1)), for reporting purposes, a person is deemed to be the beneficial owner of securities if that person has or shares the opportunity, directly or indirectly, to profit or share in any profit derived from a transaction in the securities ("pecuniary interest"). See SEC rule 16a–1(a)(2). See also SEC rule 16a–8 for application of the beneficial ownership definition to trust holdings and transactions.

(ii) Both direct and indirect beneficial ownership of securities shall be reported. Securities beneficially owned directly are those held in the reporting person's name or in the name of a bank, broker or nominee for the account of the reporting person. In addition, securities held as joint tenants, tenants in common, tenants by the entirety, or as community property are to be reported as held directly. If a person has a pecuniary interest, by reason of any contract, understanding or relationship (including a family relationship or arrangement), in securities held in the name of another person, that person is an indirect beneficial owner of those securities. *See* SEC rule 16a–1(a)(2)(ii) for certain indirect beneficial ownerships.

(iii) Report securities beneficially owned directly on a separate line from those beneficially owned indirectly. Report different forms of indirect ownership on separate lines. The nature of indirect ownership shall be stated as specifically as possible; for example, "By Self as Trustee for X," "By Spouse," "By X Trust," "By Y Corporation," etc.

(iv) In stating the amount of securities owned indirectly through a partnership, corporation, trust, or other entity, report the number of securities representing the reporting person's proportionate interest in securities beneficially owned by that entity. Alternatively, at the option of the reporting person, the entire amount of the entity's interest may be reported. *See* SEC rule 16a–1(a)(2)(ii)(B) and SEC rule 16a–1(a)(2)(iii).

(c) *Non-Derivative and Derivative Securities*

(i) Report non-derivative securities beneficially owned in table I and derivative securities (*e.g.*, puts, calls, options, warrants, convertible securities, or other rights or obligations to buy or sell securities) beneficially owned in table II. Derivative securities beneficially owned that are both equity securities and convertible or exchangeable for other equity securities (*e.g.*, convertible preferred securities) should be reported only on table II.

(ii) The title of a derivative security and the title of the equity security underlying the derivative security should be shown separately in the appropriate columns in table II. The "puts" and "calls" reported in table II include, in addition to separate puts and calls, any combination of the two, such as spreads and straddles. In reporting an option in table II, state whether it represents a right to buy, a right to sell, an obligation to buy, or an obligation to sell the equity securities subject to the option.

(iii) Describe in the appropriate columns in table II characteristics of derivative securities, including title, exercise or conversion price, date exercisable, expiration date, and the title and amount of securities underlying the derivative security.

(iv) Securities constituting components of a unit shall be reported separately on the applicable table (*e.g.*, if a unit has a non-derivative security component and a derivative security component, the non-derivative security component shall be reported in table I and the derivative security component shall be reported in table II). The relationship between individual securities comprising the unit shall be indicated in the space provided for explanation of responses.

6. Additional Information

If space provided in the line items of this form or space provided for additional comments is insufficient, attach another form (or copy of the form) completed as appropriate. Each form attached as a continuation must include information required in items 1, 4 and 6 of the form. The number of pages comprising the report (form plus attachment) shall be indicated at the bottom of each report page (*e.g.*, 1 of 3, 2 of 3, 3 of 3). If additional information is not reported in this manner, the FDIC will assume no additional information was provided.

7. Signature

(a) If the form is filed for an individual, it shall be signed by that person or specifically on behalf of the individual by a person authorized to sign for the individual. If signed on behalf of the individual by another person, the authority of such person to sign the form shall be confirmed to the FDIC in writing in an attachment to the form or as soon as practicable in an amendment by the individual for whom the form is filed, unless such a confirmation still in effect is on file with the FDIC. The confirming statement need only indicate that the reporting person authorizes and designates the named person or persons to file the form on the reporting person's behalf, and state the duration of the authorization.

(b) If the form is filed for a corporation, partnership, trust, or other entity, the capacity in which the individual signed shall be set forth, (*e.g.*, John Smith, Secretary, on behalf of X Corporation).

BILLING CODE 6714–01–M

**FORM F-7**

**Federal Deposit Insurance Corporation**
**Washington, D.C. 20429**

## INITIAL STATEMENT OF BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934

| OMB APPROVAL |
|---|
| OMB NUMBER: 3064-0030<br>EXPIRES:<br>Estimated average burden hours per response ...1.0 |

*(PLEASE PRINT OR TYPE ALL RESPONSES)*

| 1. Name of Reporting Person (Last, First, Middle) | | | 2. Date of Event Requiring Statement (Month/Day/Year) | 4. Issuer: Name and Ticker or Trading Symbol. | |
|---|---|---|---|---|---|
| Street Address | | | 3. IRS or Social Secuirty Number of Reporting Person (Voluntary) | 5. Relationship of Reporting Person to Issuer (Check all applicable)<br>____ Director ____ 10% Owner<br>____ Officer (give title below) ____ Other (Specify below)<br>_____ | 6. If Amendment, Date of Original (Month/Day/Year) |
| City | State | Zip Code | | | |

**Table I - Non-Derivative Securities Beneficially Owned**

| 1. Title of Security (Instr. 4) | 2. Amount of Securities Beneficially Owned (Instr. 4) | 3. Ownership Form: Direct (D) or Indirect (I) (Instr. 5) | 4. Nature of Indirect Beneficial Ownership (Instr. 5) |
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FDIC 6112/01 (1-92) **REMINDER: Report on a Separate Line for each class of securities beneficially owned directly or indirectly. (Continue on reverse)**

FORM F-7

**Table II - Derivative Securities Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)**

| 1. Title of Derivative Security (Instr. 4) | 2. Date Excerisable and Expiration Date (Month/Day/Year) | | 3. Title and Amount of Securities Underlying Derivative Security (Instr. 4) | | 4. Conversion or Exercise Price of Derivative Security | 5. Ownership Form of Derivative Security: Direct (D) or Indirect (I) (Instr. 5) | 6. Nature of Indirect Beneficial Ownership (Instr. 5) |
|---|---|---|---|---|---|---|---|
| | Date Excerisable | Expiration Date | Title | Amount or Number of shares | | | |
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Explanation of Responses:

_____ _____

**Signature of Reporting Person Date

Note: File three copies of this Form, one of which must be manually signed. If space provided is insufficient, *See* Instruction 6 for procedure (12 C.F.R. 335.420)
** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

**BURDEN STATEMENT**

Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to, the Assistant Executive Secretary (Administration), Room F-400, FDIC, Washington, D.C. 20429; and to the Office of Management and Budget Paperwork Reduction Project (3064-0030), Washington, D.C. 20503.

FDIC 6112/01 (1-92) Reverse

**BILLING CODE 6714-01-C**

Federal Deposit Insurance Corporation

Washington, DC 20429

Form F–8

Statement of changes of beneficial ownership of securities the FDIC is authorized to solicit the information required by this form pursuant to Sections 16(a) and 23(a) of the Securities Exchange Act of 1934, and the rules and regulations thereunder.

SEC rules referenced in this form appear at 17 CFR §§ 240.16a–1 through 240.16e–1.

Disclosure of information specified on this form is mandatory, except for disclosure of IRS (Tax Identification) or Social Security numbers of the reporting person, which is voluntary. If such numbers are furnished, they will assist the FDIC in distinguishing reporting persons with similar names and will facilitate the prompt processing of the form. The information will be used for the primary purpose of disclosing the transactions and holdings of directors, officers, and beneficial owners of registered companies. Information disclosed will be a matter of public record and available for inspection by members of the public. The FDIC can use it in investigations or litigation involving the Federal Securities laws or other civil, criminal, or regulatory statutes or provisions, as well as for referral to other governmental authorities and self-regulatory organizations. Failure to disclose required information may result in civil or criminal action against persons involved for violations of the Federal Securities laws and rules.

**General Instructions**

1. When Form Must be Filed

(a) This form must be filed on or before the tenth day after the end of the month in which a change in beneficial ownership has occurred (the term "beneficial owner" is defined in SEC rule 16a–1(a)(2) and discussed in instruction 4). This form and any amendment is deemed filed with the FDIC or the Exchange on the date it is received by the FDIC or the Exchange, respectively. See, however, SEC rule 16a–3(h) regarding delivery to a third party business that guarantees delivery of the filing no later than the specified due date.

(b) A reporting person no longer subject to section 16 of the Securities Exchange Act of 1934 ("Exchange Act") must check the exit box appearing on this form. However, Form F–8 and Form F–8A obligations may continue to be applicable. See SEC rules 16a–3(f) and 16a–2(b). Form F–8A transactions to date may be included on this form and subsequent Form F–8A transactions may be reported on a later Form F–8 or Form F–8A, provided all transactions are reported by the required date.

(c) A separate form shall be filed to reflect beneficial ownership of securities of each bank.

(d) If a reporting person is not an officer, director, or 10 percent holder, the person should check "other" in item 6 (Relationship of Reporting Person to Bank) and describe the reason for reporting status in the space provided.

2. Where Form Must be Filed

(a) File three copies of this form or any amendment, at least one of which is manually signed, with the Registration and Disclosure Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC, 20429. (*Note:* Acknowledgment of receipt by the FDIC may be obtained by enclosing a self-addressed stamped postcard identifying the form or amendment filed.)

(b) At the time this form or any amendment is filed with the FDIC, file one copy with each Exchange on which any class of securities of the bank is registered. If the bank has designated a single Exchange to receive section 16 filings, the copy shall be filed with that Exchange only.

(c) Any person required to file this form or amendment shall, not later than the time the form or amendment is transmitted for filing with the FDIC, send or deliver a copy to the person designated by the bank to receive the copy or, if no person is so designated, the bank's corporate secretary (or person performing similar functions) in accordance with SEC rule 16a–3(e).

3. Class of Securities Reported

(a) Persons reporting pursuant to section 16(a) of the Exchange Act shall report each transaction resulting in a change in beneficial ownership of any class of equity securities of the bank and the beneficial ownership at the end of the month of that class of equity securities, even though one or more of such classes may not be registered pursuant to section 12 of the Exchange Act.

(b) The title of the security should clearly identify the class, even if the bank has only one class of securities outstanding; for example, "Common Stock," "Class A Common Stock," "Class B Convertible Preferred Stock," etc.

(c) The amount of securities beneficially owned should state the face amount of debt securities (U.S. Dollars) or the number of equity securities, whichever is appropriate.

4. Transactions and Holdings Required to be Reported

(a) *General Requirements*

(i) Report, in accordance with SEC rule 16a–3(g), all transactions resulting in a change of beneficial ownership in the bank's securities, except those transactions reportable on Form F–8A. Every transaction shall be reported even though acquisitions and dispositions during the month with respect to a class of securities are equal, or the change involves only the nature of ownership, such as a change from indirect ownership through a trust or corporation to direct ownership by the reporting person. Report total beneficial ownership as of the end of the month for each class of securities in which a transaction was reported.

(ii) Each transaction should be reported on a separate line. Transaction codes specified in instruction 8 should be used to identify the nature of the transaction resulting in an acquisition or disposition of a security.

*Note:* Transactions reportable on Form F–8A may, at the option of the reporting person, be reported on a Form F–8 filed before the due date of the Form F–8A. Exercises or conversions of derivative securities and small acquisitions specified in SEC rule 16a–6(a) must be reported on the next required Form F–8 or Form F–8A but may be reported voluntarily on Form F–8 at an earlier date. (*See* instruction 8 for the code for voluntarily reported transactions.)

(b) *Beneficial Ownership Reported (Pecuniary Interest)*

(i) Although for purposes of determining status as a 10 percent holder, a person is deemed to beneficially own securities over which that person has voting or investment control (*see* SEC rule 16a–1(a)(1)), for reporting transactions and holdings, a person is deemed to be the beneficial owner of securities if that person has or shares the opportunity, directly or indirectly, to profit or share in any profit derived from a transaction in the securities ("pecuniary interest"). *See* SEC rule 16a–1(a)(2). *See also* SEC rule 16a–8 for the application of the beneficial ownership definition to trust holdings and transactions.

(ii) Both direct and indirect beneficial ownership of securities shall be reported. Securities beneficially owned directly are those held in the reporting person's name or in the name of a bank, broker or nominee for the account of the reporting person. In addition, securities held as joint tenants, tenants in common, tenants by the entirety, or as community property are to be reported as held directly. If a person has a pecuniary interest, by reason of any contract, understanding, or relationship (including a family relationship or arrangement), in securities held in the name of another person, that person is an indirect beneficial owner of the securities. *See* SEC rule 16a–1(a)(2)(ii) for certain indirect beneficial ownerships.

(iii) Report transactions in securities beneficially owned directly on separate lines from those beneficially owned indirectly. Report different forms of indirect ownership on separate lines. The nature of indirect ownership shall be stated as specifically as possible; for example, "By Self as Trustee for X," "By Spouse," "By X Trust," "By Y Corporation," etc.

(iv) In stating the amount of securities acquired, disposed of, or beneficially owned indirectly through a partnership, corporation, trust, or other entity, report the number of securities representing the reporting person's proportionate interest in transactions conducted by that entity or holdings of that entity. Alternatively, at the option of the reporting person, the entire amount of the entity's interest may be reported. *See* SEC rule 16a–1(a)(2)(ii)(B) and SEC rule 16a–1(a)(2)(iii).

(c) *Non-Derivative and Derivative Securities*

(i) Report acquisitions or dispositions and holdings of non-derivative securities in table I. Report acquisitions or dispositions and holdings of derivative securities (*e.g.*, puts, calls, options, warrants, convertible securities, or other rights or obligations to buy or sell securities) in table II. Report the exercise or conversion of a derivative security in table II (as a disposition of the derivative security) and report in table I the holdings of the underlying security. Report acquisitions or dispositions and holdings of derivative securities that are both equity securities and convertible or exchangeable

for other equity securities (*e.g.*, convertible preferred securities) only on table II.

(ii) The title of a derivative security and the title of the equity security underlying the derivative security should be shown separately in the appropriate columns in table II. The "puts" and "calls" reported in table II include, in addition to separate puts and calls, any combination of the two, such as spreads and straddles. In reporting an option in table II, state whether it represents a right to buy, a right to sell, an obligation to buy, or an obligation to sell the equity securities subject to the option.

(iii) Describe in the appropriate columns in table II characteristics of derivative securities, including title, exercise or conversion price, date exercisable, expiration date, and the title and amount of securities underlying the derivative security. If the transaction reported is a purchase or sale of a derivative security, the purchase or sale price of that derivative security shall be reported in column 8. If the transaction is the exercise or conversion of a derivative security, leave column 8 blank and report the exercise or conversion price of the derivative security in column 2.

(iv) Securities constituting components of a unit shall be reported separately on the applicable table (*e.g.*, if a unit has a non-derivative security component and a derivative security component, the non-derivative security component shall be reported in table I and the derivative security component shall be reported in table II). The relationship between individual securities comprising the unit shall be indicated in the space provided for explanation of responses. When securities are purchased or sold as a unit, state the purchase or sale price per unit and other required information regarding the unit securities.

5. Price of Securities

(a) Prices of securities shall be reported in U.S. dollars on a per share basis, not an aggregate basis, except that the aggregate price of debt shall be stated. Amounts reported shall exclude brokerage commissions and other costs of execution.

(b) If consideration other than cash was paid for the security, describe the consideration, including the value of the consideration, in the space provided for explanation of responses.

6. Additional Information

If space provided in the line items of this form or space provided for additional comments is insufficient, attach another form (or copy of the form) completed as appropriate. Each form attached as a continuation must include information required in items 1, 4 and 6 of the form. The number of pages comprising the report (form plus attachment) shall be indicated at the bottom of each report page (*e.g.*, 1 of 3, 2 of 3, 3 of 3). If additional information is not reported in this manner, the FDIC will assume no additional information was provided.

7. Signature

(a) If the form is filed for an individual, it shall be signed by that person or specifically on behalf of the individual by a person authorized to sign for the individual. If signed on behalf of the individual by another person, the authority of such person to sign the form shall be confirmed to the FDIC in writing in an attachment to the form or as soon as practicable in an amendment by the individual for whom the form is filed, unless such a confirmation still in effect is on file with the FDIC. The confirming statement need only indicate that the reporting person authorizes and designates the named person or persons to file the form on the reporting person's behalf, and state the duration of the authorization.

(b) If the form is filed for a corporation, partnership, trust, or other entity, the capacity in which the individual signed shall be set forth (*e.g.*, John Smith, Secretary, on behalf of X Corporation).

8. Transaction Codes

Use the codes listed below to indicate in table I, column 3 and table II, column 4 the character of the transaction reported. Use the code that most appropriately describes the transaction. If the transaction is not specifically listed, use transaction Code "J" and describe the nature of the transaction in the space for explanation of responses. If a transaction is voluntarily reported earlier than required, place "V" in the appropriate column to so indicate; otherwise, the column should be left blank.

*General Transaction Codes*

P—Open market or private purchase of non-derivative or derivative security
S—Open market or private sale of non-derivative or derivative security
V—Transaction voluntarily reported earlier than required

*Employee Benefit Plan Transaction Codes*

A—Grant or award transaction pursuant to SEC rule 16b–3(c)
M—Exercise of in-the-money or at-the-money derivative security acquired pursuant to SEC rule 16b–3 plan
B—Participant-directed transaction in ongoing acquisition plan pursuant to SEC rule 16b–3(d)(2) (except for intra-plan transfers specified in Code I)
N—Participant-directed transaction pursuant to SEC rule 16b–3(d)(1)
F—Payment of option exercise price or tax liability by delivering or withholding securities incident to exercise of a derivative security issued in accordance with SEC rule 16b–3
I—Intra-plan transfer in accordance with SEC rule 6b–3(d)(2)(ii) resulting in an acquisition or disposition of bank securities
T—Acquisition or disposition transaction under an employee benefit plan other than pursuant to SEC rule 16b–3

*Derivative Securities Codes*

E—Expiration of short derivative position
H—Expiration (or cancellation) of long derivative position
C—Conversion of derivative security
O—Exercise of out-of-the-money derivative security
X—Exercise of in-the-money or at-the-money derivative security

*Other Section 16(b) Exempt Transactions and Small Acquisition Codes* (except for employee benefit plan codes above)

G—Bona fide gift
R—Acquisition pursuant to reinvestment of dividends or interest (DRIPS)
W—Acquisition or disposition by will or laws of descent and distribution
L—Small acquisition under SEC rule 16b–6
Z—Deposit into or withdrawal from voting trust

*Other Transaction Codes*

J—Other acquisition or disposition (describe transaction)
Q—Transfer pursuant to a qualified domestic relations order
U—Disposition pursuant to a tender of shares in a change of control transaction

BILLING CODE 6714–01–M

**FORM F-8**

☐ Check box if no longer subject to Section 16. Form F-8 or Form F-8A obligations may continue. *See* Instruction 1(b)

**Federal Deposit Insurance Corporation**
**Washington, D.C. 20429**

# STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934

| OMB APPROVAL |
|---|
| OMB NUMBER: 3064-0030 |
| EXPIRES: |
| Estimated average burden hours per response ...0.5 |

*(PLEASE PRINT OR TYPE ALL RESPONSES)*

| 1. Name of Reporting Person (Last, First, Middle) | | | 2. Issuer: (Name and Ticker or Trading Symbol) | 6. Relationship of Reporting Person to Issuer (Check all applicable) |
|---|---|---|---|---|
| Street Address | | | 3. IRS or Social Security Number of Reporting Person (Voluntary) | 4. Statement for (Month/Year) | ___ Director ___ 10% Owner ___ Officer (give title below) ___ Other (Specify below) |
| City | State | Zip Code | | 5. If Amendment, Date of Original (Month/Year) | |

**Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned**

| 1. Title of Security (Instr. 3) | 2. Transaction Date (Month/Day/Year) | 3. Transaction Code (Instr. 8) | | 4. Securities Acquired (A) or Disposed of (D) (Instrs. 3, 4 and 5) | | | 5. Amount of Securities Beneficially Owned at End of Month (Instrs. 3 and 4) | 6. Ownership Form: Direct (D) Indirect (I) (Instr. 4) | 7. Nature of Indirect Beneficial Ownership (Instr. 4) |
|---|---|---|---|---|---|---|---|---|---|
| | | Code | V | Amount | (A) or (D) | Price | | | |
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FDIC 6112/02 (1-92)

**REMINDER: Report on a Separate Line for each class of securities beneficially owned directly or indirectly. (Continue on reverse)**

FORM F-8

**Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)**

| 1. Title of Derivative Security (Instr. 3) | 2. Conversion or Exercise Price of Derivative Security | 3. Transaction Date (Month/Day/Year) | 4. Transaction Code (Instr. 8) | | 5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instrs. 3, 4 and 5) | | 6. Date Exceriasable and Expiration Date (Month/Day/Year) | | 7. Title and Amount of Underlying Securities (Instrs. 3 and 4) | | 8. Price of Derivative Security (Instr. 5) | 9. Number of Derivative Securities Beneficially Owned at End of Month (Instr. 4) | 10. Ownership Form of Derivative Security: Direct (D) or Indirect (I) (Instr. 4) | 11. Nature Of Indirect Beneficial Ownership (Instr. 4) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Code | V | (A) | (D) | Date Exercisable | Expiration Date | Title | Amount or Number of Shares | | | | |
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Explanation of Responses:

_____ _____

**Signature of Reporting Person Date

Note: File three copies of this Form, one of which must be manually signed. If space provided is insufficient, *See* Instruction 6 for procedure (12 C.F.R. 335.421)
** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

**BURDEN STATEMENT**

Public reporting burden for this collection of information is estimate to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Assistant Executive Secretary (Administration), Room F- 400 , FDIC, Washington, D.C. 20429; and to the Office of Management and Budget Paperwork Reduction Project (3064-0030), Washington, D.C. 20503.

FDIC 6112/02 (1-92) Reverse

BILLING CODE 6714-01-C

Federal Deposit Insurance Corporation

Washington, DC 20429

Form F–8A

**Annual Statement of Beneficial Ownership of Securities**

The FDIC is authorized to solicit the information required by this form pursuant to sections 16(a) and 23(a) of the Securities Exchange Act of 1934, and the rules and regulation thereunder.

SEC rules referenced in this form appear at 17 CFR 240.16a–1 through 16e–1.

Disclosure of information specified on this form is mandatory, except for disclosure of IRS (Tax Identification) or Social Security Numbers of the reporting person, which is voluntary. If such numbers are furnished, they will assist the FDIC in distinguishing reporting persons with similar names and will facilitate the prompt processing of the form. The information will be used for the primary purpose of disclosing the transactions and holdings of directors, officers, and beneficial owners of registered companies. Information disclosed will be a matter of public record and available for inspection by members of the public. The FDIC can use it in investigations or litigation involving the Federal securities laws or other civil, criminal, or regulatory statutes or provisions, as well as for referral to other governmental authorities and self-regulatory organizations. Failure to disclose required information may result in civil or criminal action against persons involved for violations of the Federal securities laws and rules.

**General Instructions**

1. When Form Must Be Filed

(a) This form must be filed on or before the 45th day after the end of the bank's fiscal year in accordance with SEC rule 16a–3(f). This form and any amendment is deemed filed with the FDIC or the Exchange on the date it is received by the FDIC or the Exchange, respectively. See, however, SEC rule 16a–3(h) regarding delivery to a third party business that guarantees delivery of the filing no later than the specified due date.

(b) A reporting person no longer subject to section 16 of the Securities Exchange Act of 1934 ("Exchange Act") must check the exit box appearing on this form. Transactions and holdings previously reported are not required to be included on this form. Form F–8 or Form F–8A obligations may continue to be applicable. See SEC rules 16a–3(f) and 16a–2(b).

(c) A separate form shall be filed to reflect beneficial ownership of securities of each bank.

(d) If a reporting person is not an officer, director, or 10 percent holder, the person should check "other" in item 6 (Relationship of Reporting Person to Bank) and describe the reason for reporting status in the space provided.

2. Where Form Must Be Filed

(a) File three copies of this form or any amendment, at least one of which is manually signed, with the Registration and Disclosure Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. (Note: Acknowledgment of receipt by the FDIC may be obtained by enclosing a self-addressed stamped postcard identifying the form or amendment filed.)

(b) At the time this form or any amendment is filed with the FDIC, file one copy with each Exchange on which any class of securities of the bank is registered. If the bank has designated a single Exchange to receive section 16 filings, the copy shall be filed with that Exchange only.

(c) Any person required to file this form or amendment shall, not later than the time the form or amendment is transmitted for filing with the FDIC, send or deliver a copy to the person designated by the bank to receive the copy or, if no person is so designated, the bank's corporate secretary (or person performing similar functions) in accordance with SEC rule 16a–3(e).

3. Class of Securities Reported

(a) Persons reporting pursuant to section 16(a) of the Exchange Act shall include information as to transactions and holdings required to be reported in any class of equity securities of the bank and the beneficial ownership at the end of the year of that class of equity securities, even though one or more of such classes may not be registered pursuant to section 12 of the Exchange Act.

(b) The title of the security should clearly identify the class, even if the bank has only one class of securities outstanding; for example, "Common Stock," "Class A Common Stock," "Class B Convertible Preferred Stock," etc.

(c) The amount of securities beneficially owned should state the face amount of debt securities (U.S. Dollars) or the number of equity securities, whichever is appropriate.

4. Transactions and Holdings Required To Be Reported

(a) *General Requirements*

(i) Pursuant to SEC rule 16a–3(f), if not previously reported, the following transactions, and total beneficial ownership as of the end of the bank's fiscal year (or the earlier date applicable to a person ceasing to be an insider during the fiscal year) for any class of securities for which a transaction is reported, shall be reported:

(A) any transaction during the bank's fiscal year that was exempt by operation of any rule under section 16(b);

(B) any small acquisition or series of acquisitions in a six month period during the bank's fiscal year not exceeding $10,000 in market value (*see* SEC rule 16a–6); and

(C) any transactions or holdings that should have been reported during the bank's fiscal year on a Form F–7 or Form F–8, but were not reported. The first Form F–8A filing obligation shall include all holdings and transactions that should have been reported in each of the bank's last two fiscal years but were not. *See* instruction 8 for the code to identify delinquent Form F–7 holdings or Form F–8 transactions reported on this Form F–8A.

Note: A required Form F–7 or Form F–8 must be filed within the time specified by the form. Form F–7 holdings or Form F–8 transactions reported on Form F–8A represent delinquent Form F–7 and Form F–8 filings.

(ii) Report transactions and holdings in SEC rule 16b–3(d) ongoing securities acquisition plans as of the most recent date for which the information is reasonably available, specifying the date of the information. Also, report transactions and holdings in ongoing securities acquisition plans for the portion of the prior fiscal year not included on the Form F–8A for the prior year, specifying the date of the information, or, alternatively, this information may be included on a Form F–8 or an amendment to the Form F–8A filed promptly. Plan acquisitions for the period reported, but not dispositions, may be presented on an aggregate basis for each plan. If reported on an aggregate basis, disclose the range of prices paid.

(iii) Each transaction should be reported on a separate line. Transaction codes specified in instruction 8 should be used to identify the nature of the transaction resulting in an acquisition or disposition of a security.

(iv) Except for transactions related to SEC rule 16b–3(d) ongoing acquisition plans noted in (ii) above, every transaction shall be reported even though acquisitions and dispositions with respect to a class of securities are equal, or the change involves only the nature of ownership, such as a change from indirect ownership through a trust or corporation to direct ownership by the reporting person. Report total beneficial ownership as of the end of the bank's fiscal year for all classes of securities in which a transaction was reported.

(b) *Beneficial Ownership Reported (Pecuniary Interest)*

(i) Although, for purposes of determining status as a 10 percent holder, a person is deemed to beneficially own securities over which that person has voting or investment control (*see* SEC rule 16a–1(a)(1)), for reporting transactions and holdings, a person is deemed to be the beneficial owner of securities if that person has or shares the opportunity, directly or indirectly, to profit or share in any profit derived from a transaction in the securities ("pecuniary interest"). *See* SEC rule 16a–1(a)(2). *See also* SEC rule 16a–8 for the application of the beneficial ownership definition to trust holdings and transactions.

(ii) Both direct and indirect beneficial ownership of securities shall be reported. Securities beneficially owned directly are those held in the reporting person's name or in the name of a bank, broker or nominee for the account of the reporting person. In addition, securities held as joint tenants, tenants in common, tenants by the entirety, or as community property are to be reported as held directly. If a person has a pecuniary interest, by reason of any contract, understanding, or relationship (including a family relationship or arrangement), in securities held in the name of another person, that person is an indirect beneficial owner of the securities. *See* SEC rule 16a–1(a)(2)(ii) for certain indirect beneficial ownerships.

(iii) Report transactions in securities beneficially owned directly on separate lines from those beneficially owned indirectly.

Report different forms of indirect ownership on separate lines. The nature of indirect ownership shall be stated as specifically as possible; for example, "By Self as Trustee for X," "By Spouse," "By X Trust," "By Y Corporation," etc.

(iv) In stating the amount of securities acquired, disposed of, or beneficially owned indirectly through a partnership, corporation, trust, or other entity, report the number of securities representing the reporting person's proportionate interest in transactions conducted by that entity or holdings of that entity. Alternatively, at the option of the reporting person, the entire amount of the entity's interest may be reported. *See* SEC rule 16a-1(a)(2)(ii)(B) and SEC rule 16a-1(a)(2)(iii).

(c) *Non-Derivative and Derivative Securities*

(i) Report acquisitions or dispositions and holdings of non-derivative securities in table I. Report acquisitions or dispositions and holdings of derivative securities (*e.g.*, puts, calls, options, warrants, convertible securities, or other rights or obligations to buy or sell securities) in table II. Report the exercise or conversion of a derivative security in table II (as a disposition of the derivative security) and report in table I the holdings of the underlying security. Report acquisitions or dispositions and holdings of derivative securities that are both equity securities and convertible or exchangeable for other equity securities (*e.g.*, convertible preferred securities) only on table II.

(ii) The title of a derivative security and the title of the equity security underlying the derivative security should be shown separately in the appropriate columns in table II. The "puts" and "calls" reported in table II include, in addition to separate puts and calls, any combination of the two, such as spreads and straddles. In reporting an option in table II, state whether it represents a right to buy, a right to sell, an obligation to buy, or an obligation to sell the equity securities subject to the option.

(iii) Describe in the appropriate columns in table II characteristics of derivative securities, including title, exercise or conversion price, date exercisable, expiration date, and the title and amount of securities underlying the derivative security. If the transaction reported is a purchase or sale of a derivative security, the purchase or sale price of the derivative security shall be reported in column 8. If the transaction is the exercise or conversion of a derivative security, leave column 8 blank and report the exercise or conversion price of the derivative security in column 2.

(iv) Securities constituting components of a unit shall be reported separately on the applicable table (*e.g.*, if a unit has a non-derivative security component and a derivative security component, the non-derivative security component shall be reported in table I and the derivative security component shall be reported in table II). The relationship between individual securities comprising the unit shall be indicated in the space provided for explanation of responses. When securities are purchased or sold as a unit, state the purchase or sale price per unit and other required information regarding the unit securities.

5. Price of Securities

(a) Prices of securities shall be reported in U.S. dollars and on a per share basis, not an aggregate basis, except that the aggregate price of debt shall be stated. Amounts reported shall exclude brokerage commissions and other costs of execution.

(b) If consideration other than cash was paid for the security, describe the consideration, including the value of the consideration in the space provided for explanation of responses.

6. Additional Information

If space provided in the line items of this form or space provided for additional comments is insufficient, attach another form (or copy of the form) completed as appropriate. Each form attached as a continuation must include information required in items 1, 4 and 6 of the form. The number of pages comprising the report (form plus attachment) shall be indicated at the bottom of each report page (*e.g.*, 1 of 3, 2 of 3, 3 of 3). If additional information is not reported in this manner, the FDIC will assume no additional information was provided.

7. Signature

(a) If the form is filed for an individual, it shall be signed by that person or specifically on behalf of the individual by a person authorized to sign for the individual. If signed on behalf of the individual by another person, the authority of such person to sign the form shall be confirmed to the FDIC in writing in an attachment to the form or as soon as practicable in an amendment by the individual for whom the form is filed, unless such a confirmation still in effect is on file with the FDIC. The confirming statement need only indicate that the reporting person authorizes and designates the named person or persons to file the form on the reporting person's behalf, and state the duration of the authorization.

(b) If the form is filed for a corporation, partnership, trust, or other entity, the capacity in which the individual signed shall be set forth (*e.g.*, John Smith, Secretary, on behalf of X Corporation).

8. Transaction Codes

Use the codes listed below to indicate in table I, column 3 and table II, column 4 the character of the transaction reported. Use the code that most appropriately describes the transaction.

If the transaction is not specifically listed, use transaction Code "J" and describe the nature of the transaction in the space for explanation of responses.

*General Transaction Codes*

P—Open market or private purchase of non-derivative or derivative security

S—Open market or private sale of non-derivative or derivative security

*Employee Benefit Plan Transaction Codes*

A—Grant or award transaction pursuant to SEC rule 16b-3(c)

M—Exercise of in the-money or at-the-money derivative security acquired pursuant to SEC rule 16b-3 plan

B—Participant-directed transaction in ongoing acquisition plan pursuant to SEC rule 16b-3(d)(2) (except for intra-plan transfers specified in Code I)

N—Participant-directed transaction pursuant to SEC rule 16b-3(d)(1)

F—Payment of option exercise price or tax liability by delivering or withholding securities incident to exercise of a derivative security issued in accordance with SEC rule 16b-3

I—Intra-plan transfer in accordance with SEC rule 16b-3(d)(2)(ii) resulting in an acquisition or disposition of bank securities

T—Acquisition or disposition transaction under an employee benefit plan other than pursuant to SEC rule 16b-3

*Derivative Securities Codes*

E—Expiration of short derivative position

H—Expiration (or cancellation) of long derivative position

C—Conversion of derivative security

O—Exercise of out-of-the-money derivative security

X—Exercise of in-the-money or at-the-money derivative security

*Other Section 16(b) Exempt Transactions and Small Acquisition Codes* (except for employee benefit plan codes above)

G—Bona fide gift

R—Acquisition pursuant to reinvestment of dividends or interest (DRIPS)

W—Acquisition or disposition by will or laws of descent and distribution

L—Small acquisition under SEC rule 16a-6

Z—Deposit into or withdrawal from voting trust

*Other Transaction Codes*

J—Other acquisition or disposition (describe transaction)

Q—Transfer pursuant to a qualified domestic relations order

U—Disposition pursuant to a tender of shares in a change of control transaction

Form F-7 or Form F-8 Holdings or Transactions Not Previously Reported

To indicate that a holding should have been reported previously on Form F-7, place a "3" in table I, column 3 or table II, column 4, as appropriate. Indicate in the space provided for explanation of responses the event triggering the Form F-7 filing obligation. To indicate that a transaction should have been reported previously on Form F-8, place a "4" next to the transaction code reported in table I, column 3 or table II, column 4 (*e.g.*, an open market purchase of a non-derivative security that should have been reported previously on Form F-8 should be designated as "P4"). In addition, the appropriate box on the front page of the form should be checked.

BILLING CODE 6714-01-M

**FORM F-8A**

Federal Deposit Insurance Corporation
Washington, D.C. 20429

**ANNUAL STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP**

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934

| OMB APPROVAL |
|---|
| OMB NUMBER: 3064-0030 |
| EXPIRES: |
| Estimated average burden hours per response ...1.0 |

☐ Check box if no longer subject to Section 16. Form F-8 or Form F-8A obligations my continue. See instruction 1(b).

☐ Form F-7 holdings reported.

☐ Form F-8 transactions reported.

*(PLEASE PRINT OR TYPE ALL RESPONSES)*

| 1. Name of Reporting Person (Last, First, Middle) | | | 2. Issuer: (Name and Ticker or Trading Symbol) | 6. Relationship of Reporting Person to Issuer (Check all applicable) |
|---|---|---|---|---|
| Street Address | | | 3. IRS or Social Secuirty Number of Reporting Person (Voluntary) | 4. Statement for (Month/Year) | ___ Director ___ 10% Owner ___ Officer (give title below) ___ Other (Specify below) |
| City | State | Zip Code | | 5. If Amendment, Date of Original (Month/Year) | |

**Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned**

| 1. Title of Security (Instr. 3) | 2. Transaction Date (Month/Day/Year) | 3. Transaction Code (Instr. 8) | 4. Securities Acquired (A) or Disposed of (D) (Instrs. 3. 4 and 5) | | | 5. Amount of Securities Beneficially Owned at End of Issuer's Fiscal Year (Instrs. 3 and 4) | 6. Ownership Form: Direct (D) or Indirect (I) (Inst. 4) | 7. Nature of Indirect Beneficial Ownership (Instr. 4) |
|---|---|---|---|---|---|---|---|---|
| | | | Amount | (A) or (D) | Price | | | |
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FDIC 6112/04 (1-92)

**REMINDER: Report on a Separate Line for each class of securities beneficially owned directly or indirectly. (Continue on reverse)**

FORM F-8A

**Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)**

| 1. Title of Derivative Security (Instr. 3) | 2. Conversion or Exercise Price of Derivative Security | 3. Transaction Date (Month/Day/Year) | 4. Transaction Code (Instr. 8) | 5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instrs. 3, 4 and 5) | | 6. Date Excerisable and Expiration Date (Month/Day/Year) | | 7. Title and Amount of Underlying Securities (Instrs. 3 and 4) | | 8. Price of Derivative Security (Instr. 5) | 9. Number of Derivative Securities Beneficially Owned at End of Year (Instr. 4) | 10. Ownership Form of Derivative Security: Direct (D) or Indirect (I) (Instr. 4) | 11. Nature of Indirect Beneficial Ownership (Instr. 4) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | (A) | (D) | Date Excerisable | Expiration Date | Title | Amount or Number of Shares | | | | |
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Explanation of Responses:

_____ _____

**Signature of Reporting Person Date

Note: File three copies of this Form, one of which must be manually signed. If space provided is insufficient, *See* Instruction 6 for procedure (12 C.F.R. 335.422)
** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

**BURDEN STATEMENT**

Public reporting burden for this collection of information is estimate to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Assistant Executive Secretary (Administration), Room F- 400 , FDIC, Washington, D.C. 20429; and to the Office of Management and Budget Paperwork Reduction Project (3064-0030), Washington, D.C. 20503.

FDIC 6112/04 (1-92) Reverse

BILLING CODE 6714-01-C

By order of the Board of Directors. Dated at Washington, DC this 28th day of January, 1992.

Federal Deposit Insurance Corporation

**Hoyle L. Robinson,**

*Executive Secretary.*

[FR Doc. 92–2765 Filed 2–6–92; 8:45 am]

BILLING CODE 6714–01–M

## THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

### 12 CFR Chapter XV

### Change of Name

**AGENCY:** Thrift Depositor Protection Oversight Board.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Oversight Board, a corporate instrumentality of the United States established by section 21A(a)(1) of the Federal Home Loan Bank Act, 12 U.S.C. 1441a(a)(1), has been redesignated as the Thrift Depositor Protection Oversight Board, effective February 1, 1992, by the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, Public Law No. 102–233, section 302(a), 105 Stat. 1761, 1767. Accordingly, this action changes the name of the agency in the heading of the chapter in which the Board's regulations are issued, chapter XV of title 12 of the Code of Federal Regulations.

**EFFECTIVE DATE:** February 7, 1992.

**FOR FURTHER INFORMATION CONTACT:** Lawrence Hayes, telephone (202) 786–9681.

**SUPPLEMENTARY INFORMATION:** The Oversight Board, a corporate instrumentality of the United States, was established under section 21A(a)(1) of the Federal Home Loan Bank Act, 12 U.S.C. 1441a(a)(1), as added by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), to oversee the Resolution Trust Corporation ("RTC"), also established under FIRREA. The principal duty of the RTC is to manage and resolve cases involving failing and failed thrift institutions.

The Oversight Board and the RTC were restructured by the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, Public Law No. 102–233, 105 Stat. 1761, and the Board redesignated by section 302(a) of that Act as the "Thrift Depositor Protection Oversight Board," effective February 1, 1992. This rule effects an amendment to the heading of chapter XV of the Code of Federal Regulations, in which chapter the regulations of the Board are issued. The Board finds good cause for making this final rule effective upon publication in the **Federal Register** in that it is not a substantive rule, but a technical amendment which follows the statutory change in the name of the Board. The amendment is not a regulation or rule for the purposes of Executive Order No. 12291.

For the reasons set out in the preamble and under the authority of 12 U.S.C. 1441a(a)(13), title 12, chapter XV of the Code of Federal Regulations is amended as set forth below:

**CHAPTER XV—THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD**

The heading of chapter XV is revised to read as set forth above.

**Peter H. Monroe,**

*President.*

[FR Doc. 92–3023 Filed 2–6–92; 8:45 am]

BILLING CODE 2222–01–M

## DEPARTMENT OF COMMERCE

### 15 CFR Part 29b

**[Docket No. 911200–1300]**

**RIN 0605–AA07**

### Audit Requirements for Institutions of Higher Education and Other Nonprofit Organizations

**AGENCY:** Department of Commerce.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The Department of Commerce is amending 15 CFR part 29b to incorporate new guidance from the Office of Management and Budget (OMB). As a result of this interim final rule, the Department of Commerce is requiring educational institutions and other nonprofit organizations that receive Federal assistance to follow the provisions of OMB's "Compliance Supplement for Audits of Institutions of Higher Education and Other Nonprofit Institutions" when performing the organization-wide audits currently required under this part.

**DATES:** *Effective:* February 7, 1992.

*Application Date:* The provisions of this interim final rule are applicable to audits initiated subsequent to March 9, 1992.

*Comments:* Comments must be received by March 9, 1992.

**ADDRESSES:** Comments may be mailed to Barbara Lambis, Director, Office of Federal Assistance, U.S. Department of Commerce, HCHB Room 6054, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Barbara Lambis, (202) 377–5817.

**SUPPLEMENTARY INFORMATION:** On April 19, 1991, the Department of Commerce published an interim final rule in the **Federal Register** [56 FR 15992] primarily for purposes of implementing guidance provided in OMB Circular A–133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations." That interim final rule added part 29b, "Audit Requirements for Institutions of Higher Education and Other Nonprofit Organizations," redesignated part 8a as part 29a, and reserved the new part 8a for future use. On July 1, 1991, the Department of Commerce published an affirmation of the interim final rule in the **Federal Register** [56 FR 29896], adopting it in final without change.

In the April 19, 1991, **Federal Register** notice publishing the interim final rule, the Department indicated that it anticipated amending part 29b once OMB issued a supplement to Circular A–133. On October 15, 1991, OMB published a notice in the **Federal Register** [56 FR 51730] announcing the availability of the supplement, entitled "Compliance Supplement for Audits of Institutions of Higher Education and Other Nonprofit Institutions."

In accordance with its earlier indication, the Department of Commerce is amending part 29b to incorporate appropriate references to OMB's compliance supplement.

This is not a major rule within the meaning of section 1 of Executive Order 12291. It will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because this rule relates to public property, loans, grants, benefits and contracts, it is exempt from the requirements of notice and opportunity to comment and the 30-day delayed effective date (5 U.S.C. 553(a)(2)). No other law requires that notice and opportunity for comment on this interim final rule be given.

Since notice and opportunity to comment are not required to be given for this interim final rule under section 553

of the Administrative Procedures Act or any other law, no initial or final Regulatory Flexibility Analysis has to be or will be prepared for purposes of the Regulatory Flexibility Act.

Although this interim final rule is exempt from the 30-day delayed effective date and is being issued in interim form, public comments are invited and should be sent to the address listed in the ADDRESSES section above. Comments must be received by March 9, 1992 to be considered in issuing the final rule.

This interim final rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

The provisions of 15 CFR part 29b, published as an interim final rule on April 19, 1991 [56 FR 15992] and final rule on July 1, 1991 [56 FR 29896], include a collection of information subject to the Paperwork Reduction Act. This was approved by OMB under control number 0991–0003.

**List of Subjects in 15 CFR Part 29b**

Accounting, colleges and universities, Grant programs, Nonprofit organizations, reporting and recordkeeping requirements.

For reasons set out in the preamble, part 29b of title 15 to the Code of Federal Regulations is amended as set forth below.

## PART 29B—AUDIT REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT ORGANIZATIONS

1. The authority citation for part 29b continues to read as follows:

**Authority:** 5 U.S.C. 301.

2. Section 29b.16 is amended by revising paragraphs (b)(2)(i) and (b)(2)(ii), adding a new paragraph (b)(2)(iii), redesignating paragraph (c)(6) as paragraph (c) (7) and republishing it, and adding a new paragraph (c)(6) as follows:

**§ 29b.16 Internal controls over Federal awards: compliance reviews.**

* * * * *

(b) * * *

(2) * * *

(i) Perform tests of controls to evaluate the effectiveness of the design and operation of the policies and procedures in preventing or detecting material noncompliance. Tests of controls will not be required for those areas where the internal control structure policies and procedures are likely to be ineffective in preventing or detecting noncompliance, in which case a reportable condition or material weakness should be reported in accordance with § 29b.16(c)(2);

(ii) Review the recipient's system for monitoring subrecipients and obtaining and acting on sub-recipient audit reports; and

(iii) Determine whether controls are in effect to ensure direct and indirect costs were computed and billed in accordance with the guidance provided in the general requirements section of the "Compliance Supplement for Single Audits of Educational Institutions and Other Nonprofit Organizations."

(c) * * *

(6) The principal compliance requirements of the largest Federal programs may be ascertained by referring to the "Compliance Supplement for Single Audits of Educational Institutions and Other Nonprofit Organizations," and the "Compliance Supplement for Single Audits of State and Local Governments" issued by OMB and available from the Government Printing Office. For those programs not covered in OMB's compliance supplements, the auditor should ascertain compliance requirements by reviewing the statutes, regulations, and agreements governing individual programs.

(7) Transactions related to other awards that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

3. Section 29b.21 is amended by revising paragraphs (a) (1) and (2), and adding new paragraphs (a) (3) and (4).

**§ 29.21 Availability of publications.**

(a) * * *

(1) "Catalog of Federal Domestic Assistance";

(2) "Government Auditing Standards";

(3) "Compliance Supplement for Single Audits of Educational Institutions and Other Nonprofit Organizations"; and

(4) "Compliance Supplement for Single Audits of State and Local Governments."

* * * * *

Sonya G. Stewart,

*Director for Federal Assistance and Management Support.*

[FR Doc. 92–2760 Filed 2–6–92; 8:45 am]

BILLING CODE 3510–FAM

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 157

**[Docket No. RM81–19]**

## Project Cost and Annual Limits

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Rule.

**SUMMARY:** Pursuant to the authority delegated by 18 CFR 375.307(e)(1), the Director of the Office of Pipeline and Producer Regulation computes and publishes the project cost and annual limits specified in Table I of § 157.208(d) and Table II of § 157.215(a) for each calendar year.

**EFFECTIVE DATE:** January 1, 1992.

**FOR FURTHER INFORMATION CONTACT:** Martin A. Burless, Jr., Chief, Pipeline Certificates and Projects Branch, Division of Pipeline Certificates, OPPR, (202) 208–0581.

**SUPPLEMENTARY INFORMATION:**

**Order of the Director, OPPR**

Issued January 31, 1992.

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶ 61,216). Section 157.215(a) specified the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the "limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GNP implicit price deflator' published by the Department of Commerce for the previous calendar year."

Pursuant to § 375.307(e)(1) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Pipeline and Producer Regulation. The cost limits for calendar years 1982 through 1992, as published in Table I of § 157.208(d) and Table II of § 157.215(a), are hereby issued.

Note that these inflation adjustments are based on the Gross Domestic Product (GDP) Implicit Price Deflator rather than the Gross National Product (GNP) Implicit Price Deflator, which is

not yet available for 1991. The Commerce Department advises that in recent years the annual change has been virtually the same for both indices. Further adjustments will be made, if necessary.

**List of Subjects in 18 CFR Part 157**

Natural gas.

**Robert J. Cupina,**

*Deputy Director, Office of Pipeline and Producer Regulation.*

Accordingly, 18 CFR part 157 is amended as follows:

## PART 157—[AMENDED]

1. The authority citation for part 157 continues to read as follows:

**Authority:** Natural Gas Act, 15 U.S.C. 717–717w (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 142 (1978); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982), unless otherwise noted.

2. Table I in § 157.208(d) is revised to read as follows:

**§ 157.208 Construction, acquisition, operation, and miscellaneous rearrangement of facilities.**

* * * * *

(d) * * *

TABLE I

| Year | Limit | |
|---|---|---|
| | Auto. Proj. Cost Limit (Col. 1) | Prior Notice Proj. Cost Limit (Col. 2) |
| 1982 | $4,200,000 | $12,000,000 |
| 1983 | 4,500,000 | 12,800,000 |
| 1984 | 4,700,000 | 13,300,000 |
| 1985 | 4,900,000 | 13,800,000 |
| 1986 | 5,100,000 | 14,300,000 |
| 1987 | 5,200,000 | 14,700,000 |
| 1988 | 5,400,000 | 15,100,000 |
| 1989 | 5,600,000 | 15,600,000 |
| 1990 | 5,800,000 | 16,000,000 |
| 1991 | 6,000,000 | 16,700,000 |
| 1992 | 6,200,000 | 17,300,000 |

* * * * *

3. Table II in § 157.215(a) is revised to read as follows:

**§ 157.215 Underground storage testing and development.**

(a) * * *

TABLE II

| Year | Limit |
|---|---|
| 1982 | $2,700,000 |
| 1983 | 2,900,000 |
| 1984 | 3,000,000 |
| 1985 | 3,100,000 |
| 1986 | 3,200,000 |
| 1987 | 3,300,000 |

TABLE II—Continued

| Year | Limit |
|---|---|
| 1988 | 3,400,000 |
| 1989 | 3,500,000 |
| 1990 | 3,600,000 |
| 1991 | 3,800,000 |
| 1992 | 3,900,000 |

* * * * *

[FR Doc. 92–2971 Filed 2–6–92; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF THE TREASURY

### Customs Service

### 19 CFR Part 101

[T.D. 92-10]

### Customs Service Field Organization—Port Hueneme, CA

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

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations pertaining to the field organization of the Customs Service by designating Port Hueneme as a port of entry in the Customs District of Los Angeles, California, of the Pacific Region. The change is being made as part of Customs continuing program to obtain more effficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

**EFFECTIVE DATE:** February 7, 1992.

**FOR FURTHER INFORMATION CONTACT:** Joseph O'Gorman, Office of Inspection and Control (202–566–8157).

**SUPPLEMENTARY INFORMATION:**

**Background**

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public, Customs published a notice in the **Federal Register** on November 1, 1991 (56 FR 56179) proposing to amend §§ 101.3 and 101.4, Customs Regulations (19 CFR 101.3 and 101.4) by designating Port Hueneme, California, as a port of entry for Customs purposes in the Customs District of Los Angeles, California, within the Pacific Region. Port Hueneme has been listed in § 101.4(c), Customs Regulations, as a Customs station within the Los Angeles District.

Two comments were received in response to the notice, both of which strongly supported the proposed designation of Port Hueneme as a port of entry. After a further review of this matter, Customs has determined to adopt the proposal as described in the notice. The list of Customs regions, districts and ports of entry in § 101.3(b), Customs Regulations, and the list of Customs stations in § 101.4(c), Customs Regulations, are amended accordingly.

**Geographical Description**

The geographical limits of the port of entry of Port Hueneme are as follows:

In Ventura County, California, beginning at the northwest corner of Rancho El Rio De Santa Clara O La Colonia and proceeding east along the Santa Clara River to the City of Fillmore and including the Fillmore city limits, and then from the City of Fillmore south on Highway 23 to the City of Thousand Oaks and including the Thousand Oaks city limits, and then from the City of Thousand Oaks south on Highway 23 to the Ventura County/Los Angeles County line, and then southwest along the Ventura County/ Los Angeles County line to a point directly east of Point Mugu, and then directly west to Point Mugu, and then from Point Mugu west along the coastline to the point of beginning.

**Authority**

This change is made under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624.

**Inapplicability of Delayed Effective Date Requirements**

Because the amendments contained in this document concern agency management and will provide presently needed benefits to the general public, pursuant to 5 U.S.C. 553 (a)(2) and (d)(3), a delayed effective date is neither required not appropriate.

**Regulatory Flexibility Act and Executive Order 12291**

Although Customs solicited public comments, no notice of proposed rulemaking was required pursuant to 5 U.S.C. 553 because this matter relates to agency management and organization, and for this reason this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In addition, because it relates to agency management and organization, this document is not subject to Executive Order 12291.

**Drafting Information**

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

**List of Subjects in 19 CFR Part 101**

Customs duties and inspections, Exports, Imports, Organization and functions (Government agencies).

**Amendments to the Regulations**

Part 101, Customs Regulations (19 CFR part 101) is amended as set forth below.

## PART 101—GENERAL PROVISIONS

1.. The authority citation for part 101 continues to read as follows:

**Authority:** U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624.

**§ 101.3 Amended**

2. The list of Customs regions, districts and ports of entry in § 101.3(b) is amended by inserting in appropriate alphabetical order "Port Hueneme, Calif. (T.D. 92–10)" in the column headed "Port of entry" in the Los Angeles, California, District of the Pacific Region.

**§ 101.4 [Amended]**

3. The list of Customs stations in § 101.4(c) is amended by removing the entry "Los Angeles, Calif." in the column headed "District", by removing the entry "Port Hueneme, Calif." in the column headed "Customs stations", and by removing the entry " Los Angeles" in the column headed "Port of entry having supervision".

**Michael H. Lane,**

*Acting Commissioner of Customs.*

Approved: January 24, 1992.

*Peter K. Nunez,*

**Assistant Secretary of the Treasury.**

[FR Doc. 92–2945 Filed 2–6–92; 8:45 am]

**BILLING CODE 4820–02–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR PART 520

### Oral Dosage Form New Animal Drugs Not Subject to Certification; Prednisolone Tablets

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Vet-A-Mix, Inc. The NADA provides for the use of prednisolone tablets as an anti-inflammatory agent in dogs.

**EFFECTIVE DATE:** February 7, 1992.

**FOR FURTHER INFORMATION CONTACT:** Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8614.

**SUPPLEMENTARY INFORMATION:** Vet-A-Mix, Inc., P.O. Box A, Shenandoah, IA 51601, has applied for approval of NADA 140–921, which provides for the oral use of 5-milligram prednisolone tablets as an anti-inflammatory agent in dogs.

The NADA is approved as of November 8, 1991, and the regulations are amended by adding new 21 CFR 520.1880 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

The approval of this NADA is based on a demonstration of bioequivalence with a pre-1962 National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Implementation (DESI) reviewed product; therefore, the product does not qualify for marketing exclusivity.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

**List of Subjects in 21 CFR Part 520**

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

## PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

**Authority:** Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 36b).

2. New § 520.1880 is added to read as follows:

**§ 520.1880 Prednisolone tablets.**

(a) *Specifications.* Each tablet contains 5 milligrams prednisolene.

(b) *Sponsor.* See No. 011789 in § 510.600(c)(2) of this chapter.

(c) *Special considerations.* (1) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate parturition followed by dystocia, fetal death, retained placenta, and metritis.

(2) Do not use in viral infections. Systemic therapy with prednisolone is contraindicated in animals with peptic ulcer, corneal ulcer, and Cushingoid syndrome. The presence of diabetes, osteoporosis, predisposition to thrombophlebitis, hypertension, congestive heart failure, renal insufficiency, and active tuberculosis necessitates carefully controlled use. Some of the above conditions occur only rarely in dogs but should be kept in mind.

(3) Anti-inflammatory action of corticosteroids may mask signs of infection.

(d) *Conditions of use.* (1) *Amount.* Dogs: 2.5 milligrams per 4.5 kilograms (10 pounds) body weight per day. Administer total daily dose orally in equally divided doses 6 to 10 hours apart until response is noted or 7 days have elapsed. When response is attained, dosage should be gradually reduced until maintenance level is achieved.

(2) *Indications for use.* For use in dogs as an anti-inflammatory agent.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: January 31, 1992.

**Gerald B. Guest,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 92–2985 Filed 2–6–92; 8:45 am]

**BILLING CODE 4160–01–M**

**DEPARTMENT OF THE TREASURY**
**Internal Revenue Service**

**26 CFR Part 1**

**[T.D. 8360]**

**RIN 1545-AM95**

## Nondiscrimination Requirements for Qualified Plans; Correction

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Correction to final regulations.

**SUMMARY:** This document contains corrections to final regulations published in the **Federal Register** for Thursday, September 19, 1991, at page 47524 (56 FR 47524). The final regulation interprets the section 401(a)(4) requirement that contributions or benefits provided under a tax-qualified retirement plan not discriminate in favor of highly compensated employees.

**EFFECTIVE DATE:** September 19, 1991.

**FOR FURTHER INFORMATION CONTACT:** Marjorie Hoffman, Patricia McDermott, David Munroe and Rebecca Wilson at (202) 377-9372 (not a toll-free number).

### Background

These final regulations relate to section 401(a)(4) of the Internal Revenue Code of 1986.

### Need for Correction

As published, the final regulation contains errors which may prove to be misleading and are in need of clarification.

### Correction of Publication

Accordingly, the publication of the final regulations which was the subject of FR Doc 91-21924, is corrected as follows:

1. On page 47524, column 1, in the preamble, under the heading **"EFFECTIVE DATES"**, line 3, the language "December 31, 1991, and applied to those" is corrected to read "December 31, 1991, and are applied to those".

2. On page 47525, column 1, in the preamble, under the heading "Summary of Significant Modifications", line 4 from the top of the column, the language "restructuring methods; and the" is corrected to read "restructuring method, and the".

3. On page 47527, column 1, in the preamble, under the heading "Defined Contribution Safe Harbors", the first complete paragraph, line 9, the language "84-155, 84-2 C.B. 95. Thus, under the" is corrected to read "84-155, 1984-2 C.B. 95. Thus, under the".

4. On page 47533, column 2, in the preamble, under the paragraph heading "6. Cross-Testing Defined Benefit and Defined Contribution Plans", line 21, the language "As discussed above, the cross testing" is corrected to read "As discussed above, the cross-testing".

5. On page 47535, column 2, in the preamble, under the paragraph heading "15. Effective Dates", second paragraph under that heading, line 1, the language "In Rev. Proc. 90-73, 1990-2 C.B. 786," is corrected to read "In Notice 90-73, 1990-2 C.B. 353,".

6. On page 47536, column 2, in the preamble, under the paragraph heading "19. Additional Authority", line 6, the language "that the commissioner may, in revenue" is corrected to read "that the Commissioner may, in revenue".

**§ 1.401 [Corrected]**

7. On page 47539, column 3, in § 1.401(a)(4)-0, the entries in the table for §§ 1.401(a)(4)-9 (b) and (c) are flush to the left.

8. On page 47540, column 1, in § 1.401(a)(4)-0, the entries in the table for § 1.401(a)(4)-10(b)(3) (iii)(D) and (iv) should read § 1.401(a)(4)-10(b)(3) (iv) and (v), respectively.

9. On page 47543, column 3, line 6 of § 1.401(a)(4)-2(b)(5)(ii), the language "attributable to disparities permitted" is corrected to read "attributable to uniform disparities permitted".

10. On page 47546, column 1, under § 1.401(a)(4)-2(c)(3)(v), last line in the paragraph, the language "§ 1.410(b)-5(f))." is corrected to read "§ 1.410(b)-5(f).".

11. On page 47547, column 3, under § 1.401(a)(4)-3(b)(2)(iv), lines 7 and 8, the language "substantially all employees in the plan, the same criteria apply as in" is corrected to read "an employee, the same criteria apply as in".

12. On page 47547, column 3, under § 1.401(a)(4)-3(b)(2)(iv), lines 10 and 11, the language "benefits is currently available to a group of employees in the plan under" is corrected to read "benefit is currently available to an employee in the plan under".

13. On page 47549, column 1, under § 1.401(a)(4)-3(b)(4)(ii), in *Example 2.*, last line in the paragraph, the language "percentage of average annual compensation." is corrected to read "percent of average annual compensation.".

14. On page 47549, column 2, under § 1.401(a)(4)-3(b)(4)(ii), lines 1 and 2 of *Example 4.*, the language "Plan D is a section 401(l) plan that provides a normal retirement benefit" is corrected to read "Plan D provides a normal retirement benefit".

15. On page 47549, column 2, under § 1.401(a)(4)-3(b)(4)(ii) paragraphs (1) and (2) of *Example 4.*, are correctly designated as (a) and (b), respectively.

16. On page 47550, column 1, under § 1.401(a)(4)-3(b)(5)(ii), in *Example 3.*, line 2, the language "*Example 1*, except that plan determines each" is corrected to read "*Example 1*, except that the plan determines each".

17. On page 47550, column 2, under § 1.401(a)(4)-3(b)(7)(iii), line 20, the language "See paragraph (b)(5)(ii), *Example 3*, of" is corrected to read "See paragraph (b)(5)(ii), *Example 4*, of".

18. On page 47550, column 2, under § 1.401(a)(4)-3(b)(7)(iii), line 23, the language, "on September 19, 1991 may continue to" is corrected to read "on September 19, 1991, may continue to".

19. On page 47750, column 2, under § 1.401(a)(4)-3(b)(7)(v), line 2, the language "employee who continues participation" is corrected to read "employee who continues benefiting".

20. On page 47552, column 1, under § 1.401(a)(4)-3(b)(8)(xii)(C), lines 16 through 18, the language "(adjusted, if applicable, in accordance with § 1.401(a)(4)-13(c)(5) (i), (ii) and (iv), but not § 1.401(a)(4)-13(c)(5)(iii))." is corrected to read "(adjusted as provided in paragraph (b)(8)(xii)(B) of this section).".

21. On page 47552, column 2, under § 1.401(a)(4)-3(b)(8)(xiii)(C), line 10, the language "solely to all nonhighly compensated" is corrected to read "solely to some or all nonhighly compensated".

22. On page 47552, column 2, under § 1.401(a)(4)-3(b)(8)(xiii)(D)(*2*), line 6, the language "solely to all nonhighly compensated" is corrected to read "solely to some or all nonhighly compensated".

23. On page 47552, column 2, under § 1.401(a)(4)-3(b)(8)(xiii)(D)(*2*), line 10, the language "formula that was available solely to all" is corrected to read "formula that was available solely to some or all".

24. On page 47553, column 1, under § 1.401(a)(4)-3(b)(8)(xiii)(F), in *Example 4.*, the third line from the bottom of the paragraph, the language "because the formula is available solely to all" is corrected to read "because the formula is available solely to some or all".

25. On page 47553, column 2, under § 1.401(a)(4)-3(b)(8)(xiii)(F), the last line in *Example 6.*, the language "(b)(8)(xi)(B) of this section." is corrected to read "(b)(8)(xi)(D) of this section.".

26. On page 47553, column 2, under § 1.401(a)(4)-3(b)(8)(xiii)(F), in *Example 7.*, the fifth line from the bottom of the paragraph, the language "solely to all nonhighly compensated" is corrected to read "solely to some or all nonhighly compensated".

27. On page 47556, column 3, § 1.401(a)(4)–3(d)(2)(iii), in the *Example,* line 24, the language "QJSA in Steps A and B, respectively. For this" is corrected to read "QJSA in steps A and B, respectively. For this".

28. On page 47563, column 3, § 1.401(a)(4)–3(d)(6)(vii)(D), in *Example 1.,* line 27, the language "section) of each QJSA in Steps 1 and 2," is corrected to read "section) of each QJSA in steps 1 and 2,".

29. On page 47564, column 1, under § 1.401(a)(4)–3(d)(6)(vii)(D), in *Example 1.,* the first column in the table preceding the column with the heading "Step 1", the word "Age" is added as the heading for the first column.

30. On page 47564, column 1, under § 1.401(a)(4)–3(d)(6)(vii)(D), in *Example 2.,* lines 5 through 8, the language beginning with "QJSA. The new factor * * *" and ending with "Although this change increases" is corrected to read "QJSA as permitted under § 1.401(a)(4)–13(c)(6)(ii). The new factor applies to benefits accrued both before and after the fresh-start date. Although this change increases".

31. On page 47564, column 1, under § 1.401(a)(4)–3(d)(6)(vii)(D), in *Example 2.,* the fifth line from the bottom of the paragraph, the language "(d)(6)(vii)(B)(*2*) of this section does not" is corrected to read "(d)(6)(vii)(C)(*2*) of this section does not".

32. On page 47565, column 1, under § 1.401(a)(4)–3(d)(6)(viii)(F), under the *Example,* the first column in the table preceding the column with the heading "Step 1", the word "Age" is added as the heading for the first column.

33. On page 47567, column 1, under § 1.401(a)(4)–3(e)(4), in the last line of paragraph (b) of *Example 6.,* the language "plus $15,000 plus $15,000) divided by 5))." is corrected to read "plus $15,000 plus $15,000) divided by 5)."

34. On page 47567, column 3, under § 1.401(a)(4)–3(f)(4)(ii)(A), lines 14 and 15, the language "plan year, but who did not elect the window in that plan year." is corrected to read "plan year.".

35. On page 47569, column 2, under § 1.401(a)(4)–4(b)(2)(iv), the last line in the paragraph, the language "dollar amount is disregarded." is corrected to read "dollar amount is disregarded. In addition, the condition that an employee's vested accrued benefit have an actuarial present value less than or equal to the specified dollar amount (not to exceed $3,500) may be disregarded in determining the employees to whom the mandatory cash-out described in the preceding sentence is available.".

36. On page 47571, column 1, under § 1.401(a)(4)–4(d), paragraph (d)(3) is corrected to read:

"(3) *Early retirement window benefits.* A benefit, right, or feature that is only available to employees who terminate employment within a specified time period must separately satisfy the requirements of this section. Nonetheless, if the benefit, right, or feature meets the definition of an early retirement window benefit in § 1.401(a)(4)–3(f)(4)(iii) (or would meet that definition if the definition applied to all benefits, rights, and features) and if the benefit, right, or feature is available for a specified period that begins in one plan year and ends in the immediately succeeding plan year, the benefit, right, or feature is disregarded for purposes of applying this section to the plan for the second plan year. The preceding sentence applies solely in the case of employees to whom the benefit, right, or feature was treated as currently available for purposes of applying this section to the plan for the first plan year.".

37. On page 47573, column 3, under § 1.401(a)(4)–5(a)(6), in *Example 9.,* line 2, the language "*Example 7,* except that the Plan F limits the" is corrected to read "*Example 7,* except that Plan F limits the".

38. On page 47578, column 2, under § 1.401(a)(4)–7(c)(2), line 11, the language "determined under paragraph (c)(4)(iii)" is corrected to read "determined under paragraphs (c)(4)(iii)".

39. On page 47579, column 2, under § 1.401(a)(4)–7(c)(5), paragraph (b) of the *Example,* line 2, the language "compensation does not exceeds covered" is corrected to read "compensation does not exceed covered".

40. On page 47580, column 3, under § 1.401(a)(4)–8(b)(2)(i)(D), line 5, the language "§ 1.401(a)(4)–7(c)(4)(iv)(C). In" is corrected to read "§ 1.401(a)(4)–7(c)(4)(iii)(C). In".

41. On page 47580, column 3, under § 1.401(a)(4)–8(b)(2)(i)(D), the last line in the paragraph, the language "rate." is corrected to read "rate. If permitted disparity is taken into account, it must be taken into account for all employees in the plan."

42. On page 47580, column 3, under § 1.401(a)(4)–8(b)(2)(i)(E), last line in the paragraph, the language "(b)(2)(i)(D) of this section." is corrected to read "(b)(2)(i)(D) of this section).".

43. On page 47580, column 3, under § 1.401(a)(4)–8(b)(2)(ii)(A), the last line in the paragraph, the language "7(c)(4)(iv)(D) must be applied." is corrected to read "7(c)(4)(iii)(D) must be applied.".

44. On page 47581, column 1, under § 1.401(a)(4)–8(b)(3)(i)(B), line 2, the language "employee's stated benefit is determined" is corrected to read "employee's stated benefit is determined as a straight life annuity".

45. On page 47582, column 2, under § 1.401(a)(4)–8(b)(3)(vi), paragraph (a) in *Example 1.,* the sixth line from the bottom of the paragraph, the language "participated in the plan for 5 years, and has" is corrected to read "participated in the plan for 6 years, and has".

46. On page 47583, column 1, under § 1.401(a)(4)–8(b)(3)(vi), paragraph (b)(4) in *Example 2.,* line 2, the language "*Example* is multiplied by 0.0857, the" is corrected to read "*Example 2* is multiplied by 0.0857, the".

47. On page 47583, column 2, under § 1.401(a)(4)–8(c)(2)(i)(F), last line in the paragraph, the language "(c)(2)(i)(E) of this section" is corrected to read "(c)(2)(i)(E) of this section)."

48. On page 47586, column 1, under § 1.401(a)(4)–8(c)(3)(x), the second line from the bottom of the paragraph, the language "(certain conditions on accruals), or (x)" is corrected to read "(certain conditions on accruals), or (xi)".

49. On page 47586, column 3, under § 1.401(a)(4)–9(a), line 19, the language "of the general test in § 1.401(a)(3)–" is corrected to read "of the general test in § 1.401(a)(4)–".

50. On page 47587, column 3, under § 1.401(a)(4)–9(b)(2)(iv), the first two lines in the column, the language "employees' aggregate accrual or equivalent allocation rates under" is corrected to read "employees' aggregate allocation or aggregate accrual rates under".

51. On page 47587, column 3, under § 1.401(a)(4)–9(b)(2)(v)(A), line 8, the language "DB/DC plan, each separately–" is corrected to read "DB/DC plan, each separately".

52. On page 47588, column 1, § 1.401(a)(4)–9(b)(2)(v)(B), line 14, the language "(government plan method) or (b)(6)" is corrected to read "(government plan method), or (b)(6)".

53. On page 47588, column 1, under § 1.401(a)(4)–9(b)(3)(i), line 7, the language "this purpose, non-core benefits, rights" is corrected to read "this purpose, non-core benefits, rights,".

54. On page 47589, column 2, under § 1.401(a)(4)–9(c)(6), in *Example 1.,* the tenth line in the column, the language "satisfies sections 401(a)(4) and section 410(b)" is corrected to read "satisfies sections 401(a)(4) and 410(b)".

55. On page 47589, column 2, under § 1.401(a)(4)–9(c)(6), fourth and fifth lines from the bottom of *Example 2.*, the language "each component plan satisfied section 401(a)(4) and section 410(b) as if it were a" is corrected to read "each component plan satisfied sections 401(a)(4) and 410(b) as if it were a".

56. On page 47589, column 2, under § 1.401(a)(4)–9(c)(6), in *Example 3.*, the twelfth line from the bottom of the column, the language "§ 1.401(a)(4)–3(b)(2)(vii), *Example 7*, Under" is corrected to read "§ 1.401(a)(4)–3(b)(2)(vii), *Example 7.* Under".

57. On page 47590, column 1, under § 1.401(a)(4)–10(b)(3)(i), the fifth line from the bottom of the paragraph, the language "(iv) of this section provide certain" is corrected to read "(v) of this section provide certain".

58. On page 47590, column 3, under § 1.401(a)(4)–10, paragraph (b)(3)(iii)(D) is correctly designated as paragraph (b)(3)(iv) and revised to read as follows:

"(iv) *Special section 410(b) test for former employees.* In determining whether a rate group (within the meaning of § 1.401(a)(4)–3(c) or § 1.401(a)(4)–8(c)(1)) or a component plan (within the meaning of § 1.401(a)(4)–9(c)) consisting of former employees satisfies section 410(b), the special rule in § 1.410(b)–2(c)(2)(ii) may be applied. For purposes of applying the 95-percent test of § 1.410(b)–2(c)(2)(ii)(A), the term "plan" means a plan as defined in § 1.401(a)(4)–12 and does not include a rate group or component plan.".

59. On page 47590, column 3, under § 1.401(a)(4)–10, paragraph (b)(3)(iv) is correctly designated as paragraph (b)(3)(v).

60. On page 47591, column 2, under § 1.401(a)(4)–10(b)(4)(iv), in *Example 2.*, line 4, the language "purposes of determining former employees' " is corrected to read "purposes of determining former employees' ".

61. On page 47592, column 1, under § 1.401(a)(4)–11(c)(1), line 15, the language "any plan provision that directly effects" is corrected to read "any plan provision that directly affects".

62. On page 47592, column 1, under § 1.401(a)(4)–11(c)(2), the third line from the bottom of the paragraph, the language "satisfy section 401(a)(4) when treated as" is corrected to read "satisfy this paragraph (c) when treated as".

63. On page 47594, column 1, under § 1.401(a)(4)–11(g)(6), in *Example 5.*, line 2, the language "defined contribution plan that covers all" is corrected to read "defined benefit plan that covers all".

64. On page 47597, column 3, § 1.401(a)(4)–12, in the definition of "Testing service," paragraph (4) *Time of determination*, line 7, the language "project method in § 1.401(a)(4)–" is corrected to read "projected method in § 1.401(a)(4)–".

65. On page 47599, column 1, under § 1.401(a)(4)–13(c)(7), paragraph (a) in *Example 1.*, line 15, the language "requirements of § 1.401(a)(4)–2(b)(2) and" is corrected to read "requirements of § 1.401(a)(4)–3(b)(2) and".

66. On page 47599, column 2, under § 1.401(a)(4)–13(c)(7), paragraph (c) in *Example 2.*, the last line in the paragraph, the language "$4,762, the greater of—" is corrected to read "$4,552, the greater of—".

67. On page 47599, column 2, under § 1.401(a)–13(c)(7), paragraph (c)(1) in *Example 2.*, line 1, the language "(1) $4,762, the sum of Employee C's accrued" is corrected to read "(1) $4,552, the sum of Employee C's accrued".

68. On page 47599, column 2, under § 1.401(a)(4)–13(c)(7), paragraph (c)(1) in *Example 2.*, the last line in the paragraph, the language "percent × $8,000 × 1 year), or $562)), or" is corrected to read "percent × $8,000 × 1 year), or $352)), or".

69. On page 47601, column 1, § 1.401(a)(4)–13(d)(7), paragraph (b) in *Example 3.*, line 4, the language "normal retirement age of 65. Employee A also" is corrected to read "normal retirement age of 25 years. Employee A also".

70. On page 47601, column 1, § 1.401(a)(4)–13(d)(7), paragraph (b) in *Example 3.*, last line in the paragraph, the language "percent × $10,000)) × 10/25))" is corrected to read "percent × $10,000)) × 10/25).".

71. On page 47601, column 3, § 1.401(a)(4)–13(e)(2)(i), first line in the column, the language "retirement, determine the actuarial" is corrected to read "retirement age, determine the actuarial".

72. On page 47602, column 2, under § 1.401(a)(4)–13(f)(3)(i), line 6, the language "fresh-start date, under § 1.410(a)(4)–" is corrected to read "fresh-start date, under § 1.401(a)(4)–".

73. On page 47602, column 3, under § 1.411(d)–4, paragraph (a)(2) of "A–1", second line from the top of the column, the language "defined in § 1.401(a)(4)–12(q), and" is corrected to read "defined in § 1.401(a)(4)–12, and".

**Dale D. Goode,**

*Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).*

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## DEPARTMENT OF DEFENSE

### Department of the Navy

### 32 CFR Part 750

### General Claims Provisions

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Final rule.

**SUMMARY:** This rule sets forth amended regulations pertaining to the Department of the Navy's claims program. This rule reflects changes to JAG Instruction 5800.7C, Chapter VIII of the Manual of the Judge Advocate General, and changes to JAG Instruction 5890.1, Administrative Processing and Consideration of Claims on Behalf of and Against the United States.

**EFFECTIVE DATE:** February 7, 1992.

**FOR FURTHER INFORMATION CONTACT:** Captain Milton D. Finch, JAGC, USN, Deputy Assistant Judge Advocate General (Claims and Tort Litigation), Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332–2400, (703) 325–9880.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority conferred under 5 U.S.C. 301; 10 U.S.C. 133, 939, 5013, and 5148; E.O. 11476; and 32 CFR 700.206 and 700.1202; the Judge Advocate General revises 32 CFR part 750. This revision reflects changes to JAG Instruction 5800.7C, Chapter VIII of the Manual of the Judge Advocate General, and changes to JAG Instruction 5890.1, Administrative Processing and Consideration of Claims on Behalf of and Against the United States. This part has been revised and shortened. It sets forth the responsibilities and procedures for the supervision and management of the Navy's claims program and the investigation of claims under the various Federal Claims Statutes. It also sets forth the procedures and responsibilities for the administrative processing and consideration of claims against the United States.

This revision was adopted on January 17, 1991. To the limited extent that this revision could be deemed to originate any requirements within the Department of the Navy, it has been determined that such requirements relate entirely to internal Naval management and personnel practices that can be administered more effectively without public participation in the rulemaking process. It has therefore been determined that invitation of public comment on this revision would be impracticable and unnecessary and is therefore not required under the provisions of 32 CFR 296 and 701. It has

also been determined that this final rule is not a "major rule" within the criteria specified in Executive Order 12291, and does not have substantial impact on the public.

**List of Subjects in 32 CFR Part 750**

Claims.

For the reasons set out in the preamble, title 32, part 750 of the Code of Federal Regulations is revised to read as follows:

## PART 750—GENERAL CLAIMS REGULATIONS

### Subpart A—General Provisions for Claims

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750.1 Scope of subpart A.
750.2 Investigations: In general.
750.3 Investigations: The report.
750.4 Claims: In general.
750.5 Claims: Proper claimants.
750.6 Claims: Presentment.
750.7 Claims: Action by receiving command.
750.8 Claims: Responsibility of adjudicating authority.
750.9 Claims: Payments.
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750.11 Claims: Denial.
750.12 Claims: Action when suit filed.
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### Subpart B—Federal Tort Claims Act

750.21 Scope of subpart B.
750.22 Exclusiveness of remedy.
750.23 Definitions.
750.24 Statutory/regulatory authority.
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750.27 Information and supporting documentation.
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### Subpart C—Military Claims Act

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750.42 Statutory authority.
750.43 Claims payable.
750.44 Claims not payable.
750.45 Filing claim.
750.46 Applicable law.
750.47 Measure of damages for property claims.
750.48 Measure of damages in injury or death cases.
750.49 Delegations of adjudicating authority.
750.50 Advance payments.
750.51 Final disposition.
750.52 Appeal.
750.53 Cross-servicing.
750.54 Payment of costs, settlements, and judgements related to certain medical or legal malpractice claims.
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### Subpart D—Claims Not Cognizable Under Any Other Provision of Law

750.61 Scope of subpart D.
750.62 Statutory authority.
750.63 Definitions.
750.64 Claim procedures.
750.65 Statute of limitations.
750.66 Officials with authority to settle.
750.67 Scope of liability.
750.68 Claims not payable.
750.69 Measure of damages.

**Authority:** 5 U.S.C. 301; 10 U.S.C. 939, 5013, and 5148; E.O. 11476, 3 CFR, 1969 Comp., p. 132; 32 CFR 700.206 and 700.1202.

### Subpart A—General Provisions for Claims

#### § 750.1 Scope of subpart A.

(a) *General.* (1) The Judge Advocate General is responsible for the administration and supervision of the resolution of claims arising under the Federal Tort Claims Act (subpart B of this part), the Military Claims Act (subpart C of this part), the Nonscope Claims Act (subpart D of this part), the Personnel Claims Act (part 751 of this chapter), the Foreign Claims Act, the International Agreements Claims Act pertaining to cost sharing of claims pursuant to international agreements, the Federal Claims Collection Act of 1966 (subpart A of part 757 of this chapter), the Medical Care Recovery Act (subpart B of part 757 of this chapter), and postal claims.

(2) The Deputy Assistant Judge Advocate General (Claims and Tort Litigation) is the functional manager of the Navy claims system established to evaluate, adjudicate, and provide litigation support for claims arising under the acts listed above and is responsible to the Judge Advocate General for the management of that system. The claims system consists of field activities delegated claims processing and adjudicating authority and the attorneys and support personnel assigned to the Claims and Tort Litigation Division of the Office of the Judge Advocate General. For economy of language, Naval Legal Service Offices and Naval Legal Service Office Detachments are referred to as Naval Legal Service Command Activities.

(3) Commanding officers of commands receiving claims are responsible for complying with the guidance on investigations in §§ 750.2 and 750.3 and the guidance on handling and forwarding claims found in § 750.5.

(b) This subpart A delineates general investigative and claims-processing requirements to be followed in the handling of all incidents and claims within the provisions of this part. Where the general provisions of this subpart A conflict with the specific provisions of any subsequent subpart of this part, the specific provisions govern.

#### § 750.2 Investigations: In general.

(a) *Conducting the investigation.* The command where the incident giving rise to the claim is alleged to have happened is responsible for conducting an investigation in accordance with this part.

(b) *Thorough investigation.* Every incident that may result in a claim against or in favor of the United States shall be promptly and thoroughly investigated under this part. Investigations convened for claims purposes are sufficiently complex that they should be performed with the assistance and under the supervision of a judge advocate or other attorney. Where the command has an attorney assigned, he shall be involved in every aspect of the proceedings. When an attorney is not assigned to the investigating command, consultation shall be sought from the appropriate Naval Legal Service Command activity.

(c) *Recovery barred.* Even when recovery may be barred by statute or case law, all deaths, serious injuries, and substantial losses to property that are likely to give rise to claims must be investigated while the evidence is available. Claims against persons in the naval service arising from the performance of their official duties shall be investigated as though they were claims against the United States. When an incident involves an actual or potential claim against the United States for property damage only and the total amount likely to be paid does not exceed $5,000.00, an abbreviated investigative report may be submitted. Where this monetary figure may be exceeded, but the circumstances indicate an abbreviated report may be adequate to preserve the facts and protect the Government's claims interests, approval to submit a limited investigative report may be sought from the nearest Naval Legal Service Command activity.

(d) *Developing the facts.* Any investigation convened for claims purposes must focus on developing the facts of the incident, i.e., the who, what, where, when, why, and how of the matter. Opinions on the possible liability of the United States under any of the claims statutes listed above shall not be expressed. Early and continuous consultation with claims attorneys at Naval Legal Service Command activities is essential to ensure the timely development of all necessary facts, the identification and preservation of

relevant evidence, and to void the need for supplemental inquiries.

(e) *Attorney work product.* (1) The convening order and the preliminary statement of an investigative report prepared to inquire into the facts of an incident giving or likely to give rise to a claim against the United States shall include the following:

This investigation has been convened and conducted, and this report prepared, in contemplation of claims adjudication and litigation and for the express purpose of assisting attorneys representing the interests of the United States.

(2) When an investigation is prepared by or at the direction of an attorney representing the Department of the Navy and is prepared in reasonable anticipation of litigation, it is exempt from mandatory disclosure under the Freedom of Information Act exemption (b)(5) and is normally privileged from discovery in litigation under the attorney work product privilege. 5 U.S.C. 552(b)(5). Unless an attorney prepares the report or personally directs its preparation, the investigation may not be privileged, even if it was prepared in reasonable anticipation of litigation.

(f) *Advance copy.* An advance copy of any investigation conducted because a claim has been, or is likely to be, submitted shall be forwarded to the Naval Legal Service Command activity claims office responsible for the area where the incident giving rise to the claim occurred.

**§ 750.3 Investigations: The report.**

(a) *Purpose.* The purpose of investigations into claims incidents is to gather all relevant information about the incident so adjudicating officers can either pay or deny the claim. The essential task of the investigating officer is to answer the questions of who, what, where, when, why and how? The Navy's best interests are served when the investigation is thorough and is performed in a timely manner so the claimant can be advised promptly of the action on the claim.

(b) *Duties of the investigating officer.* It is the investigating officer's responsibility:

(1) To interview all witnesses to the incident and prepare summaries of their comments. Obtaining signed statements of Government witnesses is not necessary. Summaries of the witnesses' remarks prepared by the investigating officer are quite sufficient and generally expedite the gathering of information. On the other hand, written signed statements should be obtained from the claimant, wherever possible;

(2) To inspect the property alleged to have been damaged by the action of Government personnel;

(3) To determine the nature, extent, and amount of any damage, and to obtain pertinent repair bills or estimates and medical, hospital, and associated bills necessary to permit an evaluation of the claimant's loss;

(4) To obtain maintenance records of the Navy motor vehicle, plane, or other piece of equipment involved in the claim;

(5) To reduce to writing and incorporate into an appropriate investigative report all pertinent statements, summaries, exhibits, and other evidence considered by the investigator in arriving at his conclusions; and,

(6) To furnish claim forms to any person expressing an interest in filing a claim and to advise such personnel where they should file their claim.

(c) *Content of the report.* The written report of investigation shall contain information answering the questions mentioned in § 750.3(a) and, depending on the nature of the incident, will include the following:

(1) Date, time, and exact place the accident or incident occurred, specifying the highway, street, or road;

(2) A concise but complete statement of the incident with reference to physical facts observed and any statements by the personnel involved;

(3) Names, grades, organizations, and addresses of military personnel and civilian witnesses;

(4) Opinions as to whether military or civilian employees involved in the incident were acting within the scope of their duties at the time;

(5) Description of the Government property involved in the incident and the nature of any damage it sustained; and,

(6) Descriptions of all private property involved.

(d) *Immediate report of certain events.* The Navy or Marine Corps activity most directly involved in the incident shall notify the Judge Advocate General and the appropriate adjudicating authority immediately by message, electronic mail, or telephone in any of the following circumstances:

(1) Claims or possible claims arising out of a major disaster or out of an incident giving rise to five or more possible death or serious injury claims.

(2) Upon filing of a claim that could result in litigation that would involve a new precedent or point of law.

(3) Claims or possible claims that involve or are likely to involve an agency other than the Department of the Navy.

(e) *Request for assistance.* When an incident occurs at a place where the naval service does not have an installation or a unit conveniently located for conducting an investigation, the commanding officer or officer in charge with responsibility for performing the investigation may request assistance from the commanding officer or officer in charge of any other organization of the Department of Defense. Likewise, if a commanding officer or officer in charge of any other organization of the Department of Defense requests such assistance from a naval commanding officer or officer in charge, the latter should normally comply. If a complete investigation is requested it will be performed in compliance with the regulations of the requested service. These investigations are normally conducted without reimbursement for per diem, mileage, or other expenses incurred by the investigating unit or installation.

(f) *Report of Motor Vehicle Accident, Standard Form 91. RCS OPNAV 5100–6.* The operator of any Government motor vehicle involved in an accident of any sort shall be responsible for making an immediate report on the Operator's Report of Motor Vehicle Accident, Standard Form 91. This operator's report shall be made even though the operator of the other vehicle, or any other person involved, states that no claim will be filed, or the only vehicles involved are Government owned. An accident shall be reported by the operator regardless of who was injured, what property was damaged, or who was responsible. The operator's report shall be referred to the investigating officer, who shall be responsible for examining it for completeness and accuracy and who shall file it for future reference or for attachment to any subsequent investigative report of the accident.

(g) *Priority of the investigation.* To ensure prompt investigation of every incident while witnesses are available and before damage has been repaired, the duties of an investigating officer shall ordinarily have priority over any other assignments he may have.

(h) *Contents of the report of investigation.* The report should include the following items in addition to the requirements in § 750.3(c):

(1) If pertinent to the investigation, the investigating officer should obtain a statement from claimant's employer showing claimant's occupation, wage or salary, and time lost from work as a result of the incident. In case of personal injury, the investigating officer should ask claimant to submit a written statement from the attending physician

setting forth the nature and extent of injury and treatment, the duration and extent of any disability, the prognosis, and the period of hospitalization or incapacity.

(2) A Privacy Act statement for each person who was asked to furnish personal information shall be provided. Social Security numbers of military personnel and civilian employees of the U.S. Government should be included in the report but should be obtained from available records, not from the individual.

(3) Names, addresses, and ages of all civilians or military personnel injured or killed; names of insurance companies; information on the nature and extent of injuries, degree of permanent disability, prognosis, period of hospitalization, name and address of attending physician and hospital, and amount of medical, hospital, and burial expenses actually incurred; occupation and wage or salary of civilians injured or killed; and names, addresses, ages, relationship, and extent of dependency of survivors of any such person fatally injured should be included.

(4) If straying animals are involved, a statement as to whether the jurisdiction has an "open range law" and, if so, reference to such statute.

(5) A statement as to whether any person involved violated any State or Federal statute, local ordinance, or installation regulation and, if so, in what respect. The statute, ordinance, or regulation should be set out in full.

(6) A statement on whether a police investigation was made. A copy of the police report of investigation should be included if available.

(7) A statement on whether arrests were made or charges preferred, and the result of any trial or hearing in civil or military courts.

(i) *Expert opinions.* In appropriate cases the opinion of an expert may be required to evaluate the extent of damage to a potential claimant's property. In such cases the investigating officer should consult Navy-employed experts, experts employed by other departments of the U.S. Government, or civilian experts to obtain a competent assessment of claimant's damages or otherwise to protect the Government's interest. Any cost involved with obtaining the opinion of an expert not employed by the Navy shall be borne by the command conducting the investigation. Any cost involved in obtaining the opinion of a Navy-employed expert shall be borne by the command to which the expert is attached. Medical experts shall be employed only after consultation with the Chief, Bureau of Medicine and Surgery.

(j) *Action by command initiating the investigation and subsequent reviewing authorities.* (1) The command initiating the investigation in accordance with § 750.3 or § 750.5 shall review the report of investigation. If additional investigation is required or omissions or other deficiencies are noted, the investigation should be promptly returned with an endorsement indicating that a supplemental investigative report will be submitted. If the original or supplemental report is in order, it shall be forwarded by endorsement, with any pertinent comments and recommendations. An advance copy of the investigation shall be forwarded to the Naval Legal Service Command activity having territorial responsibility for the area where the incident giving rise to the claim occurred as indicated in § 750.34(c)(2)(ii).

(2) A reviewing authority may direct that additional investigation be conducted, if considered necessary. The initial investigation should not be returned for such additional investigation, but should be forwarded by an endorsement indicating that the supplemental material will be submitted. The report shall be endorsed and forwarded to the next-level authority with appropriate recommendations including an assessment of the responsibility for the incident and a recommendation as to the disposition of any claim that may subsequently be filed. If a reviewing authority may be an adjudicating authority for a claim subsequently filed, one copy of the report shall be retained by such authority for at least 2 years after the incident.

(3) It is essential that each investigative report reflect that a good faith effort was made to comply with the Privacy Act of 1974 (5 U.S.C. 552a) as implemented by 32 CFR part 701, subpart F. Any indication of noncompliance shall be explained either in the preliminary statement or the forwarding endorsements and, when required, corrected. The adjudicating Naval Legal Service Command activity listed in § 750.34(c)(2)(ii) has the responsibility to ensure that remedial action is taken to rectify noncompliance indicated in the investigative report prior to forwarding the report to the Judge Advocate General.

**§ 750.4 Claims: In general.**

(a) *Claims against the United States.* Claims against the United States shall receive prompt and professional disposition. Every effort will be made to ensure an investigation is thoroughly and accurately completed, the claimant's allegations evaluated promptly, and where liability is established, a check issued as quickly as possible to prevent further harm to a meritorious claimant. Similarly, claims not payble will be processed promptly and the claimant advised of the reasons for the denial.

(b) *Claims in favor of the United States.* Potential claims in favor of the United States will be critically evaluated and, where appropriate, promptly asserted and aggressively pursued.

(c) *Assistance to Claimants.* Claimants or potential claimants who inquire about their rights or the procedures to be followed in the resolution of their claims will be referred to a claims officer. The officer will provide claim forms, advise where the forms should be filed, and inform the requester of the type of subtantiating information required. Claims officers may provide advice on the claims process but shall not provide advice or opinions about the merits or the wisdom of filing a particular claim. While claims officers have a responsiblity to provide general information about claims, they must consider 18 U.S.C. 205 which makes it a crime for an officer or employee of the United States to act as an agent or an attorney in the prosecution of any claim against the United States.

**§ 750.5 Claims: Proper claimants.**

(a) *Damage to property cases.* A claim for damage to, or destruction or loss of, property shall be presented by the owner of the property or a duly authorized agent or legal representative. "Owner" includes a bailee, lessee, or mortgagor, but does not include a mortgagee, conditional vendor, or other person having title for security purposes only.

(b) *Personal injury and death cases.* A claim for personal injury shall be presented by the person injured or a duly authorized agent or legal representative, or, in the case of death, by the properly appointed legal representative of the deceased's estate or survivor where authorized by State law.

(c) *Subrogation.* A subrogor and a subrogee may file claims jointly or separately. When separate claims are filed and each claim individually is within local adjudicating authority limits, they may be processed locally, even if the aggregate of such claims exceeds local monetary jurisdiction, if they do not exceed the sum for which approval of the Department of Justice is

required (currently, $100,000.00) under the Federal Tort Claims Act. Where they exceed this amount, they shall be referred to the Claims and Tort Litigation Division.

(d) *Limitation on transfers and assignment.* All transfers and assignments made of any claim upon the United States, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, are absolutely null and void unless they are made after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. 31 U.S.C. 203. This statutory provision does not apply to the assignment of a claim by operation of law, as in the case of a receiver or trustee in bankruptcy appointed for an individual, firm, or corporation, or the case of an administrator or executor of the estate of a person deceased, or an insurer subrogated to the rights of the insured.

**§ 750.6 Claims: Presentment.**

(a) *Written demand and Standard Form 95.* A claim shall be submitted by presenting a written statement with the amount of the claim expressed in a sum certain, and, as far as possible, describing the detailed facts and circumstances surrounding the incident from which the claim arose. The Claim for Damage or Injury, Standard Form 95, shall be used whenever practical for claims under the Federal Tort and Military Claims Acts. Claims under the Personnel Claims Act shall be submitted on DD Form 1842. The claim and all other papers requiring the signature of the claimant shall be signed by the claimant personally or by a duly authorized agent. If signed by an agent or legal representative, the claim shall indicate the title or capacity of the person signing and be accompanied by evidence of appointment. When more than one person has a claim arising from the same incident, each person shall file a claim separately. A subrogor and a subrogee may file a claim jointly or separately.

(b) *To whom submitted.* Claims under the Federal Tort and Military Claims Acts shall be submitted to the commanding officer of the Navy or Marine Corps activity involved, if known. Otherwise, they shall be submitted to the commanding officer of any Navy or Marine Corps activity, preferably the one nearest to where the accident occurred, the local Naval Legal Service Command activity, or to the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332–2400.

**§ 750.7 Claims: Action by receiving command.**

(a) *Record date of receipt.* The first command receiving a claim shall stamp or mark the date of recipt on the letter or claim form. The envelope in which the claim was received shall be preserved.

(b) *Determine the military activity involved.* The receiving command shall determine the Navy or Marine Corps activity most directly involved with the claim—usually the command where the incident is alleged to have occurred—and forward a copy of the claim to that activity. The original claim (and the transmittal letter, if a copy is forwarded to a more appropriate activity) should immediately be sent to the servicing Naval Legal Service Command activity claims office.

(c) *Initiate an investigation.* An investigation under this part shall be commenced immediately by the command most directly involved with the claim. Once the investigation has been completed, an advance copy shall be forwarded by the convening authority to the Naval Legal Service Command activity providing claims support. Waiting until endorsements have been obtained before providing a copy of the investigation to the cognizant claims adjudicating authority is neither required nor desirable. The facts of the incident must be made known to cognizant claims personnel as soon as possible.

**§ 750.8 Claims: Responsibility of the adjudicating authority.**

(a) *Reviewing prior actions.* The adjudicating authority determines whether an adequate investigation has been conducted, whether the initial receipt date is recorded on the face of the claim, and whether all holders of the investigation, if completed, are advised of the receipt of the claim.

(b) *Determining sufficiency of the claim.* The claim should be reviewed and a determination of its sufficiency made. If the claim is not sufficient as received, it shall be returned to the party who submitted it along with an explanation of the insufficiency. This does not constitute denial of the claim. The claim shall not be considered "presented" until it is received in proper form.

(c) *Adjudicating the claim.* (1) The adjudicating authority shall evaluate and either approve or disapprove all claims within its authority, except where the payment of multiple Federal Torts Claims Act claims arising from the same incident will exceed $100,000.00 in the aggregate and thereby require approval of the Department of Justice. In this latter instance, the claims and the investigative report shall be forwarded to the Judge Advocate General for action.

(2) The adjudicating authority shall evaluate and, where liability is established, attempt to settle claims for amounts within its adjudicating authority. Permission of higher authority to conduct settlement negotiations to effect such settlements is not necessary. Negotiation at settlement figures above the adjudicating authority's payment limits may be attempted if the claimant is informed that the final decision on the claim will be made at a higher level.

(3) If a claim cannot be approved, settled, compromised, or denied within the adjudicating authority limits established in this instruction, the claim shall be referred promptly to the Judge Advocate General. The following materials shall be forwarded with the claim:

(i) An official endorsement or letter of transmittal containing a recommendation on resolution of the claim.

(ii) A memorandum of law containing a review of applicable law, an evaluation of liability, and recommendation on the settlement value of the case. This memorandum should concentrate on the unusual aspects of applicable law, chronicle the attempts to resolve the claim at the local level, provide information about the availability of witnesses, and outline any other information material to a resolution of the claim, i.e. prior dealings with the claimant's attorney, local procedural rules, or peculiarities that may make trial difficult. The memorandum should not repeat information readily obtained from the investigative report and should be tailored to the complexity of the issues presented. An abbreviated memorandum should be submitted if the claim is statutorily barred because of the statute of limitations or Federal Employees' Compensation Act or otherwise barred because of the *Feres* doctrine.

(iii) The original investigative report and all allied papers.

(iv) The original claim filed by the claimant (and the envelope in which it arrived, if preserved). The adjudicating authority shall retain at least one copy of all papers forwarded to the Judge Advocate General under this section.

(d) *Preparing litigation reports.* A litigation report is prepared when a lawsuit is filed and a complaint received. The report is addressed to the Department of Justice official or the U.S. Attorney having cognizance of the matter. The report is a narrative

summary of the facts upon which the suit is based and has as enclosures the claims file and a memorandum of law on the issues presented.

(1) When the claim has been forwarded to the Judge Advocate General prior to the initiation of a suit, litigation reports originate in the Claims and Tort Litigation Division of the Office of the Judge Advocate General.

(2) When, however, the claim has not been forwarded and is still under the cognizance of the Naval Legal Service Command claims office, that command will ordinarily be required to prepare and forward the litigation report to the requesting organization. In this instance, the litigation report should be sent directly to the cognizant Department of Justice official or U.S. Attorney with a copy of the report and all enclosures to the Judge Advocate General.

**§ 750.9 Claims: Payments.**

Claims approved for payment shall be expeditiously forwarded to the disbursing office or the General Accounting Office depending on the claims act involved and the amount of the requested payment. Generally, payment of a Federal tort claim above $2,500.00 requires submission of the payment voucher to the General Accounting Office. All other field authorized payment vouchers are submitted directly to the servicing disbursing office for payment.

**§ 750.10 Claims: Settlement and release.**

(a) *Fully and partially approved claims.* When a claim is approved for payment in the amount claimed, no settlement agreement is necessary. When a federal tort, military, or non-scope claim is approved for payment in a lesser amount than that claimed, the claimant must indicate in writing a willingness to accept the offered amount in full settlement and final satisfaction of the claim. In the latter instance, no payment will be made until a signed settlement agreement has been received.

(b) *Release.* (1) Acceptance by the claimant of an award or settlement made by the Secretary of the Navy or designees, or the Attorney General or designees, is final upon acceptance by the claimant. Acceptance is a complete release by claimant of any claim against the United States by reason of the same subject manner. Claimant's acceptance of an advance payment does not have the same effect.

(2) The claimant's acceptance of an award or settlement made under the provisions governing the administrative settlement of Federal tort claims or the civil action provisions of 28 U.S.C. 1346(b) also constitutes a complete release of any claim against any employee of the Government whose act or omission gave rise to the claim.

**§ 750.11 Claims: Denial.**

A final denial of any claim within this chapter shall be in writing and sent to the claimant, his attorney, or legal representative by certified or registered mail with return receipt requested. The denial notification shall include a statement of the reason or reasons for the denial. The notification shall include a statement that the claimant may:

(a) If the claim is cognizable under the Federal Tort Claims Act, file suit in the appropriate United States District Court within 6 months of the date of the denial notification.

(b) If the claim is cognizable under the Military Claims Act, appeal in writing to the Secretary of the Navy within 30 days of the receipt of the denial notification. The notice of denial shall inform the claimant or his representative that suit is not possible under the Act.

**§ 750.12 Claims: Action when suit filed..**

(a) *Action required of any Navy official receiving notice of suit.* The commencement, under the civil action provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b)), of any action against the United States and involving the Navy, that comes to the attention of any official in connection with his official duties, shall be reported immediately to the commanding officer of the servicing Naval Legal Service Command activity who shall take any necessary action and provide prompt notification to the Judge Advocate General. The commencement of a civil action against an employee of the Navy for actions arising from the performance of official duties shall be reported in the same manner.

(b) *Steps upon commencement of civil action.* Upon receipt by the Judge Advocate General of notice from the Department of Justice or other source that a civil action involving the Navy has been initiated under the civil action provisions of the Federal Tort Claims Act, and there being no investigative report available at the headquarters, a request shall be made to the commanding officer of the appropriate Naval Legal Service Command activity for an investigative report into the incident. If there is not a completed investigation, the request shall be forwarded to the appropriate naval activity to convene and complete such a report. The commanding officer of the Naval Legal Service Command activity shall determine whether an administrative claim had been filed and, if available information indicates none had, advise the Office of the Judge Advocate General (Claims and Tort Litigation Division) immediately.

**§ 750.13 Claims: Single service responsibility.**

(a) The Department of Defense has assigned single-service responsibility for processing claims in foreign countries under the following acts. The service and country assignments are in DODDIR 5515.8 of 9 June 1990.[1]

(1) Foreign Claims Act (10 U.S.C. 2734);

(2) Military Claims Act (10 U.S.C. 2733);

(3) International Agreements Claims Act (10 U.S.C. 2734a and b), on the pro-rata cost sharing of claims pursuant to international agreement;

(4) NATO Status of Forces Agreement (4 UST 1792, TIAS 2846) and other similar agreements;

(5) Medical Care Recovery Act (42 U.S.C. 2651–2653) claims for reimbursement for medical care furnished by the United States;

(6) Nonscope Claims Act (10 U.S.C. 2737), claims not cognizable under any other provision of law;

(7) Federal Claims Collection Act of 1966 (31 U.S.C. 3701); the Act of June 1921 (31 U.S.C. 3702), claims and demands by the U.S. Government; and

(8) Public Law 87–212 (10 U.S.C. 2736), advance or emergency payments.

(b) Single service assignments for processing claims mentioned above are as follows:

(1) *Department of the Army*: Austria, Belgium, El Salvador, France, the Federal Republic of Germany, Grenada, Honduras, Korea, the Marshall Islands, and Switzerland and as the Receiving State Office in the United States under 10 U.S.C. 2734a and 2734b and the NATO Status of Forces Agreement, and other Status of Forces Agreements with countries not covered by the NATO agreement.

(2) *Department of the Navy*: Bahrain, Iceland, Israel, Italy, Portugal, and Tunisia.

(3) *Department of the Air Force:* Australia, Azores, Canada, Cyprus, Denmark, Greece, India, Japan, Luxembourg, Morocco, Nepal, Netherlands, Norway, Pakistan, Saudi Arabia, Spain, Turkey, the United Kingdom, Egypt, Oman, and claims involving, or generated by, the U.S. Central Command (CENTCOM) and the U.S. Special Operations Command

[1] Copies may be obtained if needed, from Commanding Officer, U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

(USSOC), that arise in countries not specifically assigned to the Departments of the Army and the Navy.

(c) *U.S. forces afloat cases under $2,500.00.* Notwithstanding the single service assignments above, the Navy may settle claims under $2,500.00 caused by personnel not acting within the scope of employment and arising in foreign ports visited by U.S. forces afloat and may, subject to the concurrence of the authorities of the receiving state concerned, process such claims.

**§§ 750.14–750.20 [Reserved]**

## Subpart B—Federal Tort Claims Act

**§ 750.21 Scope of subpart B.**

This subpart provides information regarding the administrative processing and consideration of claims against the United States under the FTCA. The FTCA is a limited waiver of sovereign immunity. Under the FTCA, an individual can seek money damages for personal injury, death, or property damage caused by the negligent or wrongful act or omission of a Federal employee acting within the scope of employment. The FTCA also provides for compensation for injuries caused by certain intentional, wrongful conduct. The liability of the United States is determined in accordance with the law of the State where the act or omission occured.

**§ 750.22 Exclusiveness of remedy.**

(a) The Federal Employees Liability Reform and Tort Compensation Act of 1988, Public Law 100–694 (amending 28 U.S.C. 2679(b) and 2679(d)), provides that the exclusive remedy for damage or loss of property, or personal injury or death arising from the negligent or wrongful acts or omissions of all Federal employees, acting within the scope of their employment, will be against the United States. This immunity from personal liability does not extend to allegations of constitutional torts, nor to allegations of violations of statutes specifically authorizing suits against individuals.

(b) Other statutory provisions create immunity from personal liability for specific categories of Federal employees whose conduct, within the scope of their employment, gives rise to claims against the Government. Department of Defense health care providers are specifically protected by 10 U.S.C. 1089, the Gonzalez Act. DOD attorneys are specifically protected by 10 U.S.C. 1054.

**§ 750.23 Definitions.**

(a) *Negligent conduct.* Generally, negligence is the failure to exercise that degree of care, skill, or diligence a reasonable person would exercise under similar circumstances. Negligent conduct can result from either an act or a failure to act. The law of the place where the conduct occurred will determine whether a cause of action lies against the Government. 28 U.S.C. 1346(b) and 2674.

(b) *Intentional torts.* Although any employee who commits an intentional tort is normally considered to be acting outside the scope of employment, the FTCA does allow claimants to seek compensation for injuries arising out of the intentional torts of assault, battery, false imprisonment, false arrest, abuse of process, and malicious prosecution, if committed by a Federal investigative or law enforcement officer. An "investigative or law enforcement officer" is any officer of the United States empowered by law to execute searches, to seize evidence, or to make arrests for violations of Federal law. 28 U.S.C. 2680(h).

(c) *Government employees*—(1) *General*. "Employee of the Government," defined at 28 U.S.C. 2671, includes officers or employees of any Federal agency, members of the U.S. military or naval forces, and persons acting on behalf of a Federal agency in an official capacity.

(2) *Government contractors* Government (also referred to as independent) contractors, are those individuals or businesses who enter into contracts with the United States to provide goods or services. Because the definition of "Federal agency," found at 28 U.S.C. 2671, specifically excludes "any contractor with the United States," the United States is generally not liable for the negligence of Government contractors. There are, however, three limited exceptions to the general rule, under which a cause of action against the United States has been found to exist in some jurisdictions. They are:

(i) Where the thing or service contracted for is deemed to be an "inherently dangerous activity";

(ii) where a nondelegable duty in the employer has been created by law; or,

(iii) where the employer retains control over certain aspects of the contract and fails to discharge that control in a reasonable manner.

(3) *Employees of nonappropriated-fund activities.* Nonappropriated-fund activities are entities established and operated for the benefit of military members and their dependents, and have been judicially determined to be "arms" of the Federal government. These entities operate from self-generated funds, rather than from funds appropriated by Congress. Examples include Navy and Marine Corps Exchanges, officer or enlisted clubs, and recreational services activities. A claim arising out of the act or omission of an employee of a nonappropriated-fund activity not located in a foreign country, acting within the scope of employment, is an act or omission committed by a Federal employee and will be handled in accordance with the FTCA.

(d) *Scope of employment.* "Scope of employment" is defined by the law of respondeat superior (master and servant) of the place where the act or omission occurred. Although 28 U.S.C. 2671 states that acting within the scope of employment means acting in the line of duty, the converse is not always true. For administrative purposes, a Government employee may be found "in the line of duty," yet not meet the criteria for a finding of "within the scope of employment" under the law of the place where the act or omission occurred.

**§ 750.24 Statutory/regulatory authority.**

The statutory provisions of the Federal Tort Claims Act (FTCA) are at 28 U.S.C. 1346(b), 2671–2672, and 2674–2680. The Attorney General of the United States has issued regulations on administrative claims filed under the FTCA at 28 CFR part 14. If the provisions of this section and the Attorney General's regulations conflict, the Attorney General's regulations prevail.

**§ 750.25 Scope of liability.**

(a) *Territorial limitations.* The FTCA does not apply to any claim arising in a foreign country. 28 U.S.C. 2680(k) and *Beattie* v. *United States*, 756 F.2d 91 (D.C. Cir. 1984).

(b) *Exclusions from liability.* Statutes and case law have established categories of exclusions from FTCA liability.

(1) *Statutory exclusions.* Section 2680 of Title 28 lists claims not cognizable under the FTCA. They include:

(i) Claims based on the exercise or performance of, or the failure to exercise or perform, a discretionary Government function;

(ii) Admiralty claims under 46 U.S.C. 741–752 or 781–790. Claims under the Death on the High Seas Act (46 U.S.C. 761), however, are cognizable under the FTCA. All admiralty claims will be referred to the Judge Advocate General for adjudication. Admiralty claims against the Navy shall be processed under part 752 of this Chapter;

(iii) Claims arising from intentional torts, except those referred to in § 750.23(b);

(iv) Claims arising from the combat activities of the military or naval forces, or the Coast Guard, during time of war.

(2) *Additional claims not payable.* Although not expressly statutorily excepted, the following types of claims shall not be paid under the FTCA:

(i) A claim for personal injury or death of a member of the armed forces of the United States incurred incident to military service or duty. Compare *United States* v. *Johnson*, 481 U.S. 681 (1987); *Feres* v. *United States*, 340 U.S. 135 (1950) with *Brooks* v. *United States*, 337 U.S. 49 (1949);

(ii) Any claim by military personnel or civilian employees of the Navy, paid from appropriated funds, for personal property damage occurring incident to service or Federal employment, cognizable under 31 U.S.C. 3721 and the applicable Personnel Claims Regulations, 32 CFR part 751;

(iii) Any claim by employees of nonappropriated-fund activities for personal property damage occurring incident to Federal employment. These claims will be processed as indicated in 32 CFR part 756;

(iv) Any claim for personal injury or death covered by the Federal Employees' Compensation Act (5 U.S.C. 8116c);

(v) Any claim for personal injury or death covered by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 905 and 5 U.S.C. 8171);

(vi) That portion of any claim for personal injury or property damage, caused by the negligence or fault of a Government contractor, to the extent such contractor may have assumed liability under the terms of the contract (see *United States* v. *Seckinger*, 397 U.S. 203 (1969) and § 750.23(c)(2);

(vii) Any claim against the Department of the Navy by another Federal agency. Property belonging to the Government is not owned by any one department of the Government. The Government does not reimburse itself for the loss of its own property except where specifically provided for by law; and

(viii) Any claim for damage to a vehicle rented pursuant to travel orders.

**§ 750.26 The administrative claim.**

(a) *Proper claimant.* See § 750.5 of this part.

(b) *Claim presented by agent or legal representative.* A claim filed by an agent or legal representative will be filed in the name of the claimant; be signed by the agent or legal representative; show the title or legal capacity of the person signing; and be accompanied by evidence of the individual's authority to file a claim on behalf of the claimant.

(c) *Proper claim.* A claim is a notice in writing to the appropriate Federal agency of an incident giving rise to Government liability under the FTCA. It must include a demand for money damages in a definite sum for property damage, personal injury, or death alleged to have occurred by reason of the incident. The Attorney General's regulations specify that the claim be filed on a Standard Form 95 or other written notification of the incident. If a letter or other written notification is used, it is essential that it set forth the same basic information required by Standard Form 95. Failure to do so may result in a determination that the administrative claim is incomplete. A suit may be dismissed on the ground of lack of subject matter jurisdiction based on claimant's failure to present a proper claim as required by 28 U.S.C. 2675(a).

(d) *Presentment.* A claim is deemed presented when received by the Navy in proper form. A claim against another agency, mistakenly addressed to or filed with the Navy shall be transferred to the appropriate agency, if ascertainable, or returned to the claimant. A claimant presenting identical claims with more than one agency should identify every agency to which the claim is submitted on every claim form presented. Claims officers shall coordinate with all other affected agencies and ensure a lead agency is designated. 28 CFR 14.2.

**§ 750.27 Information and supporting documentation.**

(a) *Proper documentation.* Depending on the type of claim, claimants may be required to submit information, as follows:

(1) *Death.* (i) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent;

(ii) Decedent's employment or occupation at time of death, including monthly or yearly earnings and the duration of last employment;

(iii) Full names, addresses, birth dates, relationship, and marital status of the decedent's survivors, including identification of survivors dependent for support upon decedent at the time of death;

(iv) Degree of support provided by decedent to each survivor at time of death;

(v) Decedent's general physical and mental condition before death;

(vi) Itemized bills for medical and burial expenses;

(vii) If damages for pain and suffering are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition during the interval between injury and death; and,

(viii) Any other evidence or information which may affect the liability of the United States.

(2) *Personal injury.* (i) A written report by attending physician or dentist on the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, any any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by any Federal agency. Upon written request, a copy of the report of the examining physician shall be provided;

(ii) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payments of such expenses;

(iii) A statement of expected expenses for future treatment;

(iv) If a claim is made for lost wages, a written statement from the employer itemizing actual time and wages lost;

(v) If a claim is made for lost self-employed income, documentary evidence showing the amount of earnings actually lost; and

(vi) Any other evidence or information which may affect the liability of the United States for the personal injury or the damages claimed.

(3) *Property damage.* (i) Proof of ownership;

(ii) A detailed statement of the amount claimed for each item of property;

(iii) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of repairs;

(iv) A statement listing date of purchase, purchase price, and salvage value where repair is not economical; and

(v) Any other evidence or information which may affect the liability of the United States for the property damage claimed.

(b) *Failure to submit necessary documentation.* If claimant fails to provide sufficient supporting documentation, claimant should be notified of the deficiency. If after notice of the deficiency, including reference to 28 CFR 14.4, the information is still not supplied, two follow-up requests should be sent by certified mail, return receipt requested. If after a reasonable period of time the information is still not provided, the appropriate adjudicating authority should deny the claim.

**§ 750.28 Amendment of the claim.**

A proper claim may be amended at any time prior to settlement, denial, or the filing of suit. An amendment must be submitted in writing and must be signed by the claimant or duly authorized agent or legal representative. No finally denied claim for which reconsideration has not been requested under § 750.31 may be amended.

**§ 750.29 Investigation and examination.**

Subpart A of this part requires an investigation for every incident that may result in a claim against or in favor of the United States. Where a previously unanticipated claim is filed against the Government and an investigation has not already been conducted, the appropriate claims officer shall immediately request an investigation. See subpart A of this part for specific action required by an adjudicating authority.

**§ 750.30 Denial of the claim.**

Final denial of an administrative claim shall be in writing and shall be sent to the claimant, his duly authorized agent or legal representative by certified or registered mail, with return receipt requested. The notification of final denial shall include the reasons for the denial. The notification shall include a statement informing the claimant of his right to file suit in the appropriate Federal district court not later than 6 months after the date of the mailing of the notification. 28 CFR 14.9(a).

**§ 750.31 Reconsideration.**

(a) *Request.* Prior to the commencement of suit and prior to the expiration of the 6-month period for filing suit, a claimant or his duly authorized agent or legal representative may present a request for reconsideration to the authority who denied the claim. The request shall be in writing and shall state the reasons for the requested reconsideration. A request for reconsideration is presented on the date it is received by the DON. 28 CFR 14.9(b).

(b) *Proper basis.* A request for reconsideration shall set forth claimant's reasons for the request, and shall include any supplemental supporting evidence or information. Any writing communicating a desire for reconsideration that reasonably appears to have been presented solely for the purpose of extending the statutory period for filing suit, shall not be treated as a request for reconsideration. Claimant or claimant's authorized representative shall be notified promptly that the writing is not considered a proper request for reconsideration.

(c) *Effect of presentment of request.* The presentment of a proper request for reconsideration starts a new 6-month period for the DON to act on the request to reconsider. The claimant may not file suit until the expiration of the new 6-month period, or until after the date of mailing of the final denial of the request. Final denial of a request for reconsideration shall be accomplished in the manner prescribed in § 750.30. 28 CFR 14.9(b).

**§ 750.32 Suits under the Federal Tort Claims Act (FTCA).**

(a) *Venue.* Venue is proper only in the judicial district where the plaintiff resides or where the act or omission complained of occurred. 28 U.S.C. 1402.

(b) *Jury trial.* There is no right to trial by jury in suits brought under the FTCA. 28 U.S.C. 2402.

(c) *Settlement.* The Attorney General of the United States, or designee, may arbitrate, compromise, or settle any action filed under the FTCA. 28 U.S.C. 2677.

(d) *Litigation support*—(1) *Who provides.* The adjudicating authority holding a claim at the time suit is filed shall be responsible for providing necessary assistance to the Department of Justice official or U.S. Attorney responsible for defending the Government's interests.

(2) *Litigation report.* A litigation report, including a legal memorandum emphasizing anticipated issues during litigation, shall be furnished to the appropriate Department of Justice official or U.S. Attorney.

(3) *Pretrial discovery.* Complete and timely responses to discovery requests are vital to the effective defense of tort litigation. Subject to existing personnel and resources available, appropriate assistance shall be provided. The Judge Advocate General should be notified promptly when special problems are encountered in providing the requested assistance.

(4) *Preservation of evidence.* Tort litigation is often accomplished over an extended period of time. Every effort shall be made to preserve files, documents, and other tangible evidence that may bear on litigation. Destruction of such evidence, even in accordance with routine operating procedures, undermines defense of a case.

**§ 750.33 Damages.**

(a) *Generally.* The measure of damages is determined by the law of the place where the act or omission occurred. When there is a conflict between local and applicable Federal law, the latter governs. 28 U.S.C. 1346(b).

(b) *Limitations on liability.* The United States is not liable for interest prior to judgment or for punitive damages. In a death case, if the place where the act or omission complained of occurred provides for only punitive damages, the United States will be liable in lieu thereof, for actual or compensatory damages. 28 U.S.C. 2674.

(c) *Setoff.* The United States is not obligated to pay twice for the same injury. Claimants under the FTCA may have received Government benefits or services as the result of the alleged tort. The cost of these services or benefits shall be considered in arriving at any award of damages. For example, the cost of medical or hospital services furnished at Government expense, including CHAMPUS payments, shall be considered. Additionally, benefits or services received under the Veterans Act (38 U.S.C. 101–800) must be considered. *Brooks* v. *United States,* 337 U.S. 49 (1949).

(d) *Suit.* Any damage award in a suit brought under the FTCA is limited to the amount claimed administratively unless based on newly discovered evidence. 28 U.S.C. 2675(b). Plaintiff must prove the increased demand is based on facts not reasonably discoverable at the time of the presentment of the claim or on intervening facts relating to the amount of the claim.

**§ 750.34 Settlement and Payment.**

(a) *Settlement agreement*—(1) *When required.* A settlement agreement, signed by the claimant, must be received prior to payment in every case in which the claim is either:

(i) Settled for less than the full amount claimed, or

(ii) The claim was not presented on a Standard Form 95.

(2) *Contents.* Every settlement agreement must contain language indicating payment is in full and final settlement of the applicable claim. Each settlement agreement shall contain language indicating acceptance of the settlement amount by the claimant, or his agent or legal representative, shall be final and conclusive on the claimant, or his agent or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any employee of the Government whose conduct gave rise to the claim, by reason of the same subject matter. 28 CFR 14.10(b). In cases where partial payment will benefit both claimant and the Government, such as payment for property damage to an automobile, the

settlement agreement shall be tailored to reflect the terms of the partial settlement. All settlement agreements shall contain a recitation of the applicable statutory limitation of attorneys fees. 28 U.S.C. 2678.

(b) *DON role in settlement negotiations involving the U.S. Attorney or DOJ.* Agency concurrence is generally sought by the Department of Justice or U.S. Attorney's office prior to settlement of suits involving the DON. Requests for concurrence in settlement proposals shall be referred to the appropriate DON adjudicating authority with primary responsibility for monitoring the claim. Adjudicating authorities shall consult with the Judge Advocate General concerning proposed settlements beyond their adjudicating authority.

(c) *Payment of the claim*—(1) *Statutory authority.* Pursuant to 28 U.S.C. 2672 and in accordance with 28 CFR 14.6(a), the Secretary of the Navy or designee, acting on behalf of the United States, may compromise or settle any claim filed against the Navy under the FTCA, provided any award, compromise, or settlement by the Navy in excess of $100,000.00 may be effected only with the prior written approval of the Attorney General or designee. Title 28 CFR 14.6 requires consultation with the Department of Justice prior to compromise or settlement of a claim in any amount when:

(i) A new precedent or a new point of law is involved;

(ii) A question of policy is or may be involved;

(iii) The United States is or may be entitled to indemnity or contribution from a third party and the agency is unable to adjust the third party claim;

(iv) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed $100,000.00; or

(v) The DON is informed or is otherwise aware that the United States or an employee, agent, or cost-plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

(2) *Specific delegation and designation.*—(i) *Payment authority.*

| Delegated and designated authority | Federal Tort Claims Act |
|---|---|
| Judge Advocate General | Unlimited. |
| Deputy Judge Advocate General | Unlimited. |
| Assistant Judge Advocate General (General Law). | Unlimited. |
| Deputy Assistant Judge Advocate General (Claims and Tort Litigation) and Deputy Division Director. | $100,000.00. |
| Head, Federal Tort Claims Branch, Claims and Tort Division, OJAG. | $50,000.00. |
| Commanding Officers of Naval Legal Service Offices; Officers in Charge of Naval Legal Service Office Detachments when Specifically Designated by Cognizant Commanding Officers of Naval Legal Service Offices. | $25,000.00. |

Any payment of over $100,000.00 must be approved by the Department of Justice. In addition, the authority to deny Federal Tort Claims is double the Federal Tort Claims Act approval authority shown above. The Judge Advocate General, the Deputy Judge Advocate General, the Assistant Judge Advocate General (General Law), and the Deputy Assistant Judge Advocate General (Claims and Tort Litigation) may deny Federal Tort Claims in any amount.

(ii) *Territorial responsibility.*

| Responsible command | Territory |
|---|---|
| NAVLEGSVCOFF Newport | Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, and Connecticut. |
| NAVLEGSVCOFF Philadelphia | Pennsylvania, New Jersey, Ohio, and New York. |
| NAVLEGSVCOFF Washington, DC. | Maryland, the District of Columbia, and Northern Virginia area (zip 220–223). |
| NAVLEGSVCOFF Norfolk | Virginia (less Northern Virginia area—zip 220–223), and West Virginia, North Carolina (counties of Currituck, Camden, Pasquotonk, Gates, Perquimans, Chowan, Dare, Tyrrell, Washington, Hyde, Beaufort, Pamlico, Craven, Jones, Carteret, and Onslow only), Bermuda, Iceland, Greenland, Azores, The Caribbean, The Republics of Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, and Panama, Belize, Colombia, Venezuela, Guyana, French Guiana, Surinam, Brazil, Bolivia, Paraguay, Uruguay, Argentina, and all Atlantic and Arctic Ocean areas and islands not otherwise assigned. |
| NAVLEGSVCOFF Charleston | North Carolina (less counties of Currituck, Camden, Pasquotonk, Gates, Perquimans, Chowan, Dare, Tyrrell, Washington, Hyde, Beaufort, Pamlico, Craven, Jones, Carteret, Onslow), and Georgia (less Counties of Charlton, Camden, and Glynn). |
| NAVLEGSVCOFF Jacksonville | That portion of Florida east of the western boundaries of Gadsen, Liberty, and Franklin Counties and Georgia (counties of Charlton, Camden, and Glynn). |
| NAVLEGSVCOFF Pensacola | Florida [Pensacola/Panama City area (zip 324–325)], Alabama, Louisiana and Mississippi (that portion south of Washington, Humphreys, Holmes, Attala, Winston, and Noxubee Counties, and that portion of the Gulf of Mexico East of longitude 90 W). |
| NAVLEGSVCOFF Memphis | Missouri, Tennessee, Kentucky, Arkansas, and that portion of Mississippi north of the southern boundaries of Washington, Humphreys, Holmes, Attala, Winston, and Noxubee Counties. |
| NAVLEGSVCOFF Great Lakes | North Dakota, South Dakota, Nebraska, Minnesota, Michigan, Iowa, Wisconsin, Illinois, and Indiana. |
| NAVLEGSVCOFF Corpus Christi. | Texas. |
| NAVLEGSVCOFF San Diego | California (Imperial County, San Diego County, and that area included in Marine Corps Base, Camp Pendleton extending into Orange County, only), that portion of Mexico including and West of the States of Chihuahua, Durango, Nayarit, Jalisoc, and Colima, Pacific Ocean areas and islands South of Latitude 45N and East of Longitude 135W, Ecuador, Peru, Chile, Arizona, New Mexico, Oklahoma, and Nevada (Clark County only). |
| NAVLEGSVCOFF Long Beach | That portion of California in Kern, Santa Barbara, Ventura, Los Angeles and Orange Counties (excluding Marine Corps Base, Camp Pendleton), Riverside, San Bernadino, and the China Lake Naval Weapons Station Center. |
| NAVLEGSVCOFF San Francisco. | Northern California (Counties of San Luis Obispo, Kings, Tulare, Inyo, and all counties North thereof), Colorado, Nevada (less Clark County), Utah, and Kansas. |
| NAVLEGSVCOFF Puget Sound | Washington, Oregon, Idaho, Montanta, Wyoming, and Alaska. |
| NAVLEGSVCOFF Pearl Harbor | Hawaii, including Midway and Pacific Island possessions serviced from Hawaii. |
| NAVLEGSVCOFF Mayport | Claims involving commands located at Naval Station, Mayport, Florida. |
| NAVLEGSVCOFF Guam | Guam, The Trust Territory of The Pacific Islands, The Republic of The Marshall Island, The Federated States of Micronesia and The Commonwealth of The Northern Marianas. |
| NAVLEGSVCOFF Yokosuka | Japan, Okinawa, Korea, that portion of the Eurasian Continent North of latitude 30N and East of longitude 60E, and those Pacific and Arctic Ocean areas and islands North of latitude 30N that are East of longitude 60E and West of longitude 170w. |
| NAVLEGSVCOFF Naples | Europe, the African Continent (excluding that portion thereof assigned to NLSO Subic Bay), the Eurasian Continent (excluding that portion thereof assigned to NLSO Yokosuka and NLSO Subic Bay), and the Mediterranean. |
| NAVLEGSVCOFF Subic Bay | Philippines, Hong Kong, Singapore, Diego Garcia, and unless otherwise specified, all Pacific and Indian Ocean areas and islands located between longitude 135E and longitude 15E; Ethiopia, Somalia, Kenya, Tanzania, Mozambique, Swaziland, Lesotho, and South Africa; that portion of the Eurasian Continent South of latitude 30N and East of longitude 60E. |

(3) *Funding.* Claims approved for $2,500.00 or less are paid from DON appropriations. Claims approved in excess of $2,500.00 are paid from the judgment fund and must be forwarded to the United States General Accounting Office (GAO) for payment. 28 CFR 14.10(a). Claims arising out of the operation of nonappropriated-fund activities and approved for payment shall be forwarded to the appropriate nonappropriated-fund activity for payment.

**§ 750.35 Attorney's fees.**

Attorney's fees are limited to 20 percent of any compromise or settlement of an administrative claim, and are limited to 25 percent of any judgment rendered in favor of a plaintiff, or of any settlement accomplished after suit is filed. These amounts are to be paid out of the amount awarded and not in addition to the award. 28 U.S.C. 2678.

**§ 750.36 Time limitations.**

(a) *Administrative claim.* Every claim filed against the United States under the FTCA must be presented in writing within 2 years after the claim accrues. 28 U.S.C. 2401(b). Federal law determines the date of accrual. A claim accrues when the claimant discovers or reasonably should have discovered the existence of the act giving rise to the claim. In computing the statutory time period, the day of the incident is excluded and the day the claim was presented included.

(b) *Amendments.* Upon timely filing of an amendment to a pending claim, the DON shall have 6 months to make a final disposition of the claim as amended, and the claimant's option to file suit under 28 U.S.C. 2675(a) shall not accrue until 6 months after the presentment of an amendment. 28 CFR 14.2(c).

(c) *Suits.* A civil action is barred unless suit is filed against the United States not later than 6 months after the date of mailing of notice of final denial of the claim. 28 U.S.C. 2401(b). The failure of the DON to make final disposition of a claim within 6 months after it is presented shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim. 28 U.S.C. 2675(a).

**§§ 750.37–750.40 [Reserved]**

## Subpart C—Military Claims Act

**§ 750.41 Scope of subpart C.**

This section prescribes the substantive bases and special procedural requirements for the settlement of claims against the United States for death, personal injury, or damage, loss, or destruction of property:

(a) *Caused by military personnel or civilian employees of the Department of the Navy (DON) (hereinafter DON personnel).* For the purposes of this section, DON personnel include all military personnel of the Navy and Marine Corps, volunteer workers, and others serving as employees of the DON with or without compensation, and members of the National Oceanic and Atmospheric Administration or of the Public Health Service when serving with the DON. DON personnel does not include DON contractors or their employees.

(b) *Incident to noncombat activities of the DON.* Claims for personal injury or death of a member of the Armed Forces or Coast Guard, or civilian officer or employee of the U.S. Government whose injury or death is incident to service, however, are not payable.

(c) *Territorial limitation.* There is no geographical limitation on the application of the MCA, but if a claim arising in a foreign country is cognizable under the Foreign Claims Act (10 U.S.C. 2734), the claim shall be processed under that statute. See 10 U.S.C. 2733(b)(2).

(d) *Suit.* The MCA authorizes the administrative settlement and payment of certain claims. The United States has not consented to be sued.

**§ 750.42 Statutory authority.**

10 U.S.C. 2733, as amended, commonly referred to as the Military Claims Act (MCA).

**§ 750.43 Claims payable.**

(a) *General.* Unless otherwise prescribed, a claim for personal injury, death, or damage or loss of real or personal property is payable under this provision when:

(1) Caused by an act or omission determined to be negligent, wrongful, or otherwise involving fault of DON personnel acting within the scope of their employment; or

(2) Incident to noncombat activities of the DON. A claim may be settled under this provision if it arises from authorized activities essentially military in nature, having little parallel in civilian pursuits, and in which the U.S. Government has historically assumed a broad liability, even if not shown to have been caused by any particular act or omission by DON personnel while acting within the scope of their employment. Examples include practice firing of missiles and weapons, sonic booms, training and field exercises, and maneuvers that include operation of aircraft and vehicles, use and occupancy of real estate, and movement of combat or other vehicles designed especially for military use. Activities incident to combat, whether or not in time of war, and use of DON personnel during civil disturbances are excluded.

(b) *Specific claims payable.* Claims payable by the DON under § 750.43(a) (1) and (2) shall include, but not be limited to:

(1) *Registered or insured mail.* Claims for damage to, loss, or destruction, even if by criminal acts, of registered or insured mail while in the possession of DON authorities are payable under the MCA. This provision is an exception to the general requirement that compensable damage, loss, or destruction of personal property be caused by DON personnel while acting within the scope of their employment or otherwise incident to noncombat activities of the DON. The maximum award to a claimant under this section is limited to that to which the claimant would be entitled from the Postal Service under the registry or insurance fee paid. The award shall not exceed the cost of the item to the claimant regardless of the fees paid. Claimant may be reimbursed for the postage and registry or insurance fees.

(2) *Property bailed to the DON.* Claims for damage to or loss of personal property bailed to the DON, under an express or implied agreement are payable under the MCA, even though legally enforceable against the U.S. Government as contract claims, unless by express agreement the bailor has assumed the risk of damage, loss, or destruction. Claims filed under this paragraph may, if in the best interest of the U.S. Government, be referred to and processed by the Office of the General Counsel, DON, as contract claims.

(3) *Real property.* Claims for damage to real property incident to the use and occupancy by the DON, whether under an express or implied lease or otherwise, are payable under the MCA even though legally enforceable against the DON as contract claims. Claims filed under this paragraph may, if in the best interest of the U.S. Government, be referred to and processed by the Office of the General Counsel, DON, as contract claims.

(4) *Property of U.S. military personnel.* Claims of U.S. military personnel for property lost, damaged, or destroyed under conditions in § 750.43(a) (1) and (2) occurring on a military installation, not payable under the Military Personnel and Civilian Employees' Claims Act, are payable under the MCA.

(5) *Health care and Legal Assistance Providers.* Claims arising from the personal liability of DON health care and legal assistance personnel for costs, settlements, or judgments for negligent acts or omissions while acting within the scope of assigned duties or employment are payable under the MCA. See § 750.54.

**§ 750.44 Claims not payable.**

(a) Any claim for damage, loss, destruction, injury, or death which was proximately caused, in whole or in part, by any negligence or wrongful act on the part of the claimant, or his agent or employee, unless the law of the place where the act or omission complained of occurred would permit recovery from a private individual under like circumstances, and then only to the extent permitted by the law.

(b) Any claim resulting from action by the enemy or resulting directly or indirectly from any act by armed forces engaged in combat.

(c) Any claim for reimbursement of medical, hospital, or burial expenses to the extent already paid by the U.S. Government.

(d) Any claim cognizable under:

(1) Military Personnel and Civilian Employees' Claims Act, as amended. 31 U.S.C. 3721.

(2) Foreign Claims Act. 10 U.S.C. 2734.

(3) 10 U.S.C. 7622, relating to admiralty claims. See part 752 of this Chapter.

(4) Federal Tort Claims Act. 28 U.S.C. 2671, 2672, and 2674–2680.

(5) International Agreements Claims Act. 10 U.S.C. 2734a and 2734b.

(6) Federal Employees' Compensation Act. 5 U.S.C. 8101–8150.

(7) Longshore and Harbor Workers' Compensation Act. 33 U.S.C. 901–950.

(e) Any claim for damage to or loss or destruction of real or personal property founded in written contract [except as provided in § 750.43(b) (2) and (3)].

(f) Any claim for rent of real or personal property [except as provided in § 750.43(b) (2) and (3)].

(g) Any claim involving infringement of patents.

(h) Any claim for damage, loss, or destruction of mail prior to delivery by the Postal Service to authorized DON personnel or occurring due to the fault of, or while in the hands of, bonded personnel.

(i) Any claim by a national, or corporation controlled by a national, of a country in armed conflict with the United States, or an ally of such country, unless the claimant is determined to be friendly to the United States.

(j) Any claim for personal injury or death of a member of the Armed Forces or civilian employee incident to his service. 10 U.S.C. 2733(b)(3).

(k) Any claim for damage to or loss of bailed property when bailor specifically assumes such risk.

(l) Any claim for taking private real property by a continuing trespass or by technical trespass such as overflights of aircraft.

(m) Any claim based solely on compassionate grounds.

**§ 750.45 Filing claim.**

(a) *Who may file.* Under the MCA, specifically, the following are proper claimants:

(1) U.S. citizens and inhabitants.

(2) U.S. military personnel and civilian employees, except not for personal injury or death incident to service.

(3) Persons in foreign countries who are not inhabitants.

(4) States and their political subdivisions (including agencies).

(5) Prisoners of war for personal property, but not personal injury.

(6) Subrogees, to the extent they paid the claim.

(b) *Who may not file.* (1) Inhabitants of foreign nations for loss or injury occurring in the country they inhabit.

(2) U.S. Government agencies and departments.

(c) *When to file/statute of limitations.* Claims against the DON must be presented in writing within 2 years after they accrue. In computing the 2 year period, the day the claim accrues is excluded and the day the claim is presented is included. If the incident occurs in time of war or armed conflict, however, or if war or armed conflict intervenes within 2 years after its occurrence, an MCA claim, on good cause shown, may be presented within 2 years after the war or armed conflict is terminated. For the purposes of the MCA, the date of termination of the war or armed conflict is the date established by concurrent resolution of Congress or by the President. See 10 U.S.C. 2733(b)(1).

(d) *Where to file.* The claim shall be submitted by the claimant to the commanding officer of the naval activity involved, if it is known. Otherwise, it shall be submitted to the commanding officer of any naval activity, preferably the one within which, or nearest to which, the incident occurred, or to the Judge Advocate General of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

(e) *Claim form.* A claim is correct in form if it constitutes written notification of an incident, signed by the claimant or a duly authorized agent or legal representative, with a claim for money damages in a sum certain. A Standard Form 95 is preferred. A claim should be substantiated as discussed in section 750.27 of this part. A claim must be substantiated as required by this Part in order to be paid. See 10 U.S.C. 2733(b)(5).

(f) *Amendment of claim.* A proper claim may be amended by the claimant at any time prior to final denial or payment of the claim. An amendment shall be submitted in writing and signed by the claimant or a duly authorized agent or legal representative.

(g) *Payment.* Claims approved for payment shall be forwarded to such disbursing officer as may be designated by the Comptroller of the Navy for payment from appropriations designated for that purpose. If the Secretary of the Navy considers that a claim in excess of $100,000.00 is meritorious and would otherwise be covered by 10 U.S.C. 2733 and § 750.43, he may make a partial payment of $100,000.00 and refer the excess to the General Accounting Office for payment from appropriations provided therefore.

**§ 750.46 Applicable law.**

(a) *Claims arising within the United States, Territories, Commonwealth, and Possessions.* The law of the place where the act or omission occurred will be applied in determining liability and the effect of contributory or comparative negligence on claimant's right of recovery.

(b) *Claims within foreign countries.* (1) Where the claim is for personal injury, death, or damage to or loss or destruction of real or personal property caused by an act or omission determined to be negligent, wrongful, or otherwise involving fault of DON personnel acting within the scope of their employment, liability of the United States will be assessed under general principles of tort law common to the majority of American jurisdictions.

(2) Apply the law of the foreign country governing the legal effect of contributory or comparative negligence by the claimant to determine the relative merits of the claim. If there is no foreign law on contributory or comparative negligence, apply traditional rules of contributory negligence. Apply foreign rules and regulations on operation of motor vehicles (rules of the road) to the extent those rules are not specifically superseded or preempted by U.S. Armed Forces traffic regulations.

(c) *Clarification of terms.* The principles of absolute liability and punitive damages do not apply to claims under the MCA. Federal law determines the meaning and construction of the MCA.

**§ 750.47 Measure of damages for property claims.**

Determine the measure of damages in property claims arising in the United States or its territories, commonwealth, or possessions under the law of the place where the incident occurred. Determine the measure of damages in property claims arising overseas under general principles of American tort law, stated as follows:

(a) If the property has been or can be economically repaired, the measure of damages shall be the actual or estimated net cost of the repairs necessary to substantially restore the property to the condition that existed immediately prior to the incident. Damages shall not exceed the value of the property immediately prior to the incident less the value thereof immediately after the incident. To determine the actual or estimated net cost of repairs, the value of any salvaged parts or materials and the amount of any net appreciation in value effected through the repair shall be deducted from the actual or estimated gross cost of repairs. The amount of any net depreciation in the value of the property shall be added to such gross cost of repairs, if such adjustments are sufficiently substantial in amount to warrant consideration. Estimates of the cost of repairs shall be based upon the lower or lowest of two or more competitive bids, or upon statements or estimates by one or more competent and disinterested persons, preferably reputable dealers or officials familiar with the type of property damaged, lost, or destroyed.

(b) If the property cannot be economically repaired, the measure of damages shall be the value of the property immediately prior to the incident less the value immediately after the incident. Estimates of value shall be made, if possible, by one or more competent and disinterested persons, preferably reputable dealers or officials familiar with the type of property damaged, lost, or destroyed.

(c) Loss of use of damaged property which is economically repairable may, if claimed, be included as an additional element of damage to the extent of the reasonable expense actually incurred for appropriate substitute property, for such period reasonably necessary for repairs, as long as idle property of the claimant was not employed as a substitute. When substitute property is not obtainable, other competent evidence such as rental value, if not speculative or remote, may be considered. When substitute property is reasonably available but not obtained and used by the claimant, loss of use is normally not payable.

**§ 750.48 Measure of damages in injury or death cases.**

(a) Where an injury or death arises within the United States or its territories, commonwealth, or possessions, determine the measure of damages under the law of the location where the injury arises.

(b) Where an injury or death arises in a foreign country and is otherwise cognizable and meritorious under this provision, damages will be determined in accordance with general principles of American tort law. The following is provided as guidance.

(1) *Measure of Damages for Overseas Personal Injury Claims.* Allowable compensation includes reasonable medical and hospital expenses necessarily incurred, compensation for lost earnings and services, diminution of earning capacity, anticipated medical expenses, physical disfigurement, and pain and suffering.

(2) *Wrongful Death Claims Arising in Foreign Countries.* (i) Allowable compensation includes that in paragraph (b)(1) of this section, burial expenses, loss of support and services, loss of companionship, comfort, society, protection, and consortium, and loss of training, guidance, education, and nurturing, as applicable.

(ii) The claim may be presented by or on behalf of the decedent's spouse, parent, child, or dependent relative. Claims may be consolidated for joint presentation by a representative of some or all of the beneficiaries or may be filed by a proper beneficiary individually.

**§ 750.49 Delegations of adjudicating authority.**

(a) *Settlement Authority.* (1) The Secretary of the Navy may settle claims in any amount. The Secretary may pay the first $100,000.00 and report the excess to the Comptroller General for payment under 31 U.S.C. 1304. *See* 10 U.S.C. 2733(d).

(2) The Judge Advocate General has delegated authority to settle claims for $100,000.00 or less.

(3) The Deputy Judge Advocate General, the Assistant Judge Advocate General (General Law), and the Deputy Assistant Judge Advocate General (Claims and Tort Litigation) have delegated authority to settle claims for $25,000.00 or less.

(4) Naval Legal Service Office commanding officers and the Officer in Charge, U.S. Sending State Office for Italy have delegated authority to settle claims for $15,000.00 or less.

(5) Officers in charge of Naval Legal Service Office Detachments, when specifically designated by cognizant commanding officers of Naval Legal Service Offices; and the Claims Officer at the U.S. Naval Station, Panama Canal have delegated authority to settle claims for $10,000.00 or less.

(6) Overseas commands with a Judge Advocate General's Corps officer or a judge advocate of the Marine Corps attached, have delegated authority to settle claims for $5,000.00 or less.

(b) *Denial Authority.* (1) The Secretary of the Navy may deny a claim in any amount.

(2) The Judge Advocate General, the Deputy Judge Advocate General, the Assistant Judge Advocate General (General Law), and the Deputy Assistant Judge Advocate General (Claims and Tort Litigation) have delegated authority to deny claims in any amount.

(3) All other adjudicating authorities have delegated authority to deny claims only to the amount of their settlement authority.

(c) *Appellate Authority.* Adjudicating authorities have the same authority as delegated in paragraph b above to act upon appeals. No appellate authority below the Secretary of the Navy may deny an appeal of a claim it had previously denied.

**§ 750.50 Advance Payments.**

(a) *Scope.* This paragraph applies exclusively to the payment of amounts not to exceed $100,000.00 under 10 U.S.C. 2736 in advance of submission of a claim.

(b) *Statutory authority.* Title 10 U.S.C. 2736 authorizes the Secretary of the Navy or designee to pay an amount not in excess of $100,000.00 in advance of the submission of a claim to or for any person, or the legal representative of any person, who was injured or killed, or whose property was damaged or lost, as the result of an accident for which allowance of a claim is authorized by law. Payment under this law is limited to that which would be payable under the MCA (10 U.S.C. 2733). Payment of an amount under this law is not an admission by the United States of liability for the accident concerned. Any amount so paid shall be deducted from any amount that may be allowed under any other provision of law to the person or his legal representative for injury, death, damage, or loss attributable to the accident concerned.

(c) *Officials with Authority to make Advance Payments.* (1) The Secretary of the Navy has authority to make advance payments up to $100,000.00

(2) The Judge Advocate General has delegated authority to make advance payments up to $100,000.00.

(3) The Deputy Assistant Judge Advocate General (Claims and Tort Litigation) has delegated authority to make advance payments up to $25,000.00.

(4) Naval Legal Service Office commanding officers and the Officer in Charge, U.S. Sending State Office for Italy have delegated authority to make advance payments up to $5,000.00.

(5) Officers in Charge of Naval Legal Service Office Detachments, when specifically designated by cognizant Commanding Officers of Naval Legal Service Offices; and the Staff Judge Advocate at the U.S. Naval Station, Panama Canal have delegated authority to make advance payments up to $3,000.00.

(6) Overseas commands with a Judge Advocate General's Corps officer or a judge advocate of the Marine Corps attached, have delegated authority to make advance payments up to $3,000.00.

(d) *Conditions for Advance Payments.* Prior to making an advance payment under 10 U.S.C. 2736, the adjudicating authority shall ascertain that:

(1) The injury, death, damage, or loss would be payable under the MCA (10 U.S.C. 2733);

(2) The payee, insofar as can be determined, would be a proper claimant, or is the spouse or next of kin of a proper claimant who is incapacitated;

(3) The provable damages are estimated to exceed the amount to be paid;

(4) There exists an immediate need of the person who suffered the injury, damage, or loss, or of his family, or of the family of a person who was killed, for food, clothing, shelter, medical, or burial expenses, or other necessities, and other resources for such expenses are not reasonably available;

(5) The prospective payee has signed a statement that it is understood that payment is not an admission by the Navy or the United States of liability for the accident concerned, and that the amount paid is not a gratuity but shall constitute an advance against and shall be deducted from any amount that may be allowed under any other provision of law to the person or his legal representative for injury, death, damage, or loss attributable to the accident concerned; and

(6) No payment under 10 U.S.C. 2736 may be made if the accident occurred in a foreign country in which the NATO Status of Forces Agreement (4 U.S.T. 1792, TIAS 2846) or other similar agreement is in effect and the injury, death, damage, or loss

(i) Was caused by a member or employee of the DON acting within the scope of employment or

(ii) Occurred "incident to noncombat activities" of the DON as defined in § 750.43.

**§ 750.51 Final disposition.**

(a) *Claimant to be notified.* The adjudicating authority shall notify the claimant, in writing, of the action taken on the claim.

(b) *Final denial.* A final denial, in whole or in part, of any MCA claim shall be in writing and sent to the claimant, or his attorney or legal representative, by certified or registered mail, return receipt requested. The notification of denial shall include a statement of the reason or reasons for denial and that the claimant may appeal. The notification shall also inform the claimant:

(1) The title of the appellate authority who will act on the appeal and that the appeal will be addressed to the adjudicating authority who last acted on the claim.

(2) No form is prescribed for the appeal, but the grounds for appeal should be set forth fully.

(3) The appeal must be submitted within 30 days of receipt by the claimant of notice of action on the claim.

**§ 750.52 Appeal.**

(a) A claim which is disapproved in whole or in part may be appealed by the claimant at any time within 30 days after receipt of notification of disapproval. An appeal shall be in writing and state the grounds relied upon. An appeal is not an adversary proceeding and a hearing is not authorized; however, the claimant may obtain and submit any additional evidence or written argument for consideration by the appellate authority.

(b) Upon receipt, the adjudicating authority examines the appeal, determines whether the appeal complies with this regulation, and reviews the claims investigative file to ensure it is complete. The claim, with the complete investigative file and a memorandum of law, will be forwarded to the appellate authority for action. If the evidence in the file, including information submitted by the claimant with the appeal, indicates the appeal should be approved, the adjudicating authority may treat the appeal as a request for reconsideration.

(c) Processing of the appeal may be delayed pending further efforts by the adjudicating authority to settle the claim. Where the adjudicating authority does not reach a final agreement on an appealed claim, it shall send the entire claim file to the next higher settlement authority, who is the appellate authority for that claim.

(d) The appellate authority shall notify the claimant in writing of the determination on appeal; that such determination constitutes the final administrative action on the claim; and there is no right to sue under the MCA.

**§ 750.53 Cross-servicing.**

(a) See § 750.13 or information about single-service claims responsibility under DODDIR 5515.8 of 9 June 1990.

(b) *Claims Settlement Procedures.* Where a single service has been assigned a country or area claims responsibility, that service will settle claims cognizable under the MCA under the regulations of that service. The forwarding command shall afford any assistance necessary to the appropriate service in the investigation and adjudication of such claims.

**§ 750.54 Payment of costs, settlements, and judgments related to certain medical or legal malpractice claims.**

(a) *General.* Requests for reimbursement/indemnification of costs, settlements, and judgments cognizable under 10 U.S.C. 1089(f) [for personal injury or death caused by any physician, dentist, nurse, pharmacist, paramedic, or other supporting personnel (including medical and dental technicians, nurse assistants, and therapists)] or 10 U.S.C. 1054(f) (for damages for injury or loss of property caused by any attorney, paralegal, or other member of a legal staff) while acting as DON personnel will be paid if:

(1) The alleged negligent or wrongful actions or omissions arose in connection with either providing health care functions or legal services and within the scope of employment; and

(2) Such personnel furnish prompt notification and delivery of all process served or received, and other documents, information, and assistance as requested; and cooperate in defending the action on the merits.

(b) *Requests for Indemnification.* All requests for indemnification for personal liability of DON personnel for acts or omissions arising out of assigned duties shall be forwarded to the Judge Advocate General for action.

**§ 750.55 Attorney's fees.**

Attorney's fees not in excess of 20 percent of any settlement may be allowed. Attorney's fees so determined are to be paid out of the amount awarded and not in addition to the award. These fee limitations shall be incorporated in any settlement agreement secured from a claimant.

§§ 750.56—750.60 [Reserved]

## Subpart D—Claims Not Cognizable Under Any Other Provision of Law

### § 750.61 Scope of subpart D.

This section provides information on payment of claims against the United States, not payable under any other statute, caused by the act or omission, negligent, wrongful, or otherwise involving fault, of Department of the Navy (DON) military and civilian personnel (hereinafter DON personnel) acting outside the scope of their employment.

### § 750.62 Statutory authority.

Section 2737 of title 10, United States Code, provides authority for the administrative settlement in an amount not to exceed $1,000.00 of any claim against the United States not cognizable under any other provision of law for damage, loss, or destruction of property or for personal injury or death caused by military personnel or a civilian official or employee of a military department incident to the use of a vehicle of the United States at any place, or any other property of the United States on a Government installation. There is no right to sue. There are no territorial limitations and the Act has worldwide application.

### § 750.63 Definitions.

(a) *Civilian official or employee.* Any civilian employee of the DON paid from appropriated funds at the time of the incident.

(b) *Vehicle.* Includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land. See 1 U.S.C. 4.

(c) *Government installation.* Any Federal facility having fixed boundaries and owned or controlled by the U.S. Government. It includes both military bases and nonmilitary installations.

### § 750.64 Claim procedures.

(a) The general provisions of subpart A of this part shall apply in determining what is a proper claim, who is a proper claimant, and how a claim is to be investigated and processed under 10 U.S.C. 2737 and this section.

(b) A claim is presented when the DON receives from a claimant or the claimant's duly authorized agent, written notification of a nonscope claim incident accompanied by a demand for money damages in a sum certain.

(c) A claimant may amend a claim at any time prior to final action. Amendments will be submitted in writing and signed by the claimant or the claimant's duly authorized agent.

(d) Claims submitted under the provisions of the Federal Tort Claims Act (FTCA) or Military Claims Act (MCA) shall be considered automatically for an award under this section when payment would otherwise be barred because the DON personnel were not in the scope of their employment at the time of the incident. If a tender of payment under this section is not accepted by the claimant in full satisfaction of the claim, no award will be made, and the claim will be denied pursuant to the rules applicable to the statute under which it was submitted.

(e) Damages caused by latent defects of ordinary, commercial type, Government equipment that were not payable under the MCA, Foreign Claims Act, or FTCA are payable under this section.

(f) Nonscope claims for damages caused by local national DON employees overseas are also payable under this section if the injury was caused by the use of Government equipment.

(g) Payment may not be made on a nonscope claim unless the claimant accepts the amount offered in full satisfaction of the claim and signs a settlement agreement.

(h) Payment for nonscope claims adjudicated by field commands will be affected through their local disbursing office by use of funds obtained from the Judge Advocate General.

(i) Claims submitted solely under 10 U.S.C. 2737 shall be promptly considered. If a nonscope claim is denied, the claimant shall be informed of reasons in writing and advised he may appeal in writing to the Secretary of the Navy (Judge Advocate General) provided the appeal is received within 30 days of the notice of denial. The provisions of § 750.51(b) of subpart C also apply to denials of nonscope claims.

### § 750.65 Statute of limitations.

(a) A claim must be presented in writing within 2 years after it accrues. It accrues at the time the claimant discovers, or in the exercise of reasonable care should have discovered, the existence of the act or omission for which the claim is filed.

(b) In computing time to determine whether the period of limitation has expired, exclude the incident date and include the date the claim was presented.

### § 750.66 Officials with authority to settle.

Judge Advocate General; Deputy Judge Advocate General; Assistant Judge Advocate General (General Law); Deputy Assistant Judge Advocate General (Claims and Tort Litigation Division); Head, Federal Tort Claims Branch (Claims and Tort Litigation Division); Head, Military Claims Branch (Claims and Tort Litigation Division), and commanding officers of Naval Legal Service Offices may settle a nonscope claim.

### § 750.67 Scope of liability.

(a) Subject to the exceptions in § 750.68 of specific claims not payable, the United States shall not pay more than $1,000.00 for a claim against the United States, not cognizable under any other provision of law, except Article 139, UCMJ.

(b) Article 139, UCMJ, 10 U.S.C. 939, is not preemptive. The prohibition in 10 U.S.C. 2737 on paying claims "not cognizable under any other provisions of law" applies only to law authorizing claims against the United States. Article 139 authorizes claims against servicemembers. See part 755 of this chapter.

### § 750.68 Claims not payable.

(a) A claim for damage, loss, or destruction of property or the personal injury or death caused wholly or partly by a negligent or wrongful act of the claimant or his agent or employee.

(b) A claim, or any part thereof, that is legally recoverable by the claimant under an indemnifying law or indemnity contract.

(c) A subrogated claim.

### § 750.69 Measure of damages.

Generally, the measure-of-damage provisions under the MCA are used to determine the extent of recovery for nonscope claims. Compensation is computed in accordance with §§ 750.47 and 750.48 of subpart C, except damages for personal injury or death under this section shall not be for more than the cost of reasonable medical, hospital, and burial expenses actually incurred and not otherwise furnished or paid for by the United States.

Dated: January 30, 1992.

**Wayne T. Baucino,**

*Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.*

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## 32 CFR Part 756

## Nonappropriated-Fund Claims Regulations

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Final rule.

**SUMMARY:** This rule sets forth amended regulations pertaining to the Department of the Navy's nonappropriated-fund claims program. This rule reflects changes to JAG Instruction 5890.1, Administrative Processing and Consideration of Claims on Behalf of and Against the United States. This rule simplifies the Department of the Navy's processing of nonappropriated-fund claims.

**EFFECTIVE DATE:** February 7, 1992.

**FOR FURTHER INFORMATION CONTACT:** Captain Milton D. Finch, JAGC, USN, Deputy Assistant Judge Advocate General (Claims and Tort Litigation), Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332–2400, (703) 325–9880.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority conferred under 5 U.S.C. 301; 10 U.S.C. 133, 939, 5013, and 5148; E.O. 11476; and 32 CFR Parts 700.206 and 700.1202; the Judge Advocate General revises 32 CFR part 756. This revision reflects changes to JAG Instruction 5890.1, Administrative Processing and Consideration of Claims on Behalf of and Against the United States. This part has been revised and shortened. It sets forth the responsibilities and procedures for the supervision and management of the Navy's nonappropriated-fund claims program and the investigation of nonappropriated-fund claims under the various Federal Claims Statutes. It also sets forth the procedures and responsibilities for the administrative processing and consideration of nonappropriated-fund claims against the United States.

This revision was adopted on January 17, 1991. To the limited extent that this revision could be deemed to originate any requirements within the Department of the Navy, it has been determined that such requirements relate entirely to internal Naval management and personnel practices that can be administered more effectively without public participation in the rule-making process. It has therefore been determined that invitation of public comment on this revision would be impracticable and unnecessary and is therefore not required under the provisions of 32 CFR parts 296 and 701. It has also been determined that this final rule is not a "major rule" within the criteria specified in Executive Order 12291, and does not have substantial impact on the public.

**Lists of Subjects in 32 CFR Part 756**

Claims.

For the reasons set out in the preamble, title 32, part 756 of the Code of Federal Regulations is revised to read as follows:

## Part 756—NONAPPROPRIATED-FUND CLAIMS REGULATIONS

Sec.

756.1 Scope.
756.2 Definitions.
756.3 Notification.
756.4 Responsibility.
756.5 Investigation.
756.6 Negotiation.
756.7 Payment.
756.8 Denial.
756.9 Claims by employees.

**Authority:** 5 U.S.C. 301; 10 U.S.C. 939, 5013, and 5148; E.O. 11476 (3 CFR, 1969 Comp., p. 132); 32 CFR 700.206 and 700.1202.

### § 756.1 Scope.

This part explains how to settle claims for and against the United States for property damage, personal injury, or death arising out of the operation of nonappropriated-fund instrumentalities.

### § 756.2 Definitions.

(a) *Nonappropriated-fund instrumentality (NAFI).* An instrumentality of the Federal Government established to generate and administer nonappropriated-funds for programs and services contributing to the mental and physical well-being of Department of Defense personnel and their dependents. A NAFI is not incorporated under the laws of any State and enjoys the privileges and immunities of the Federal Government.

(b) *Nonappropriated-funds.* Funds generated through the use and patronage of NAFI's, not including funds appropriated by Congress.

(c) *Employees of NAFI.* Civilian personnel employed by NAFI's whose salaries are paid from nonappropriated-funds. Also, military personnel working part-time at NAFI's when compensated from nonappropriated-funds.

### § 756.3 Notification.

(a) Some NAFI's, such as flying clubs, carry private commercial insurance to protect them from claims for property damage and personal injury attributable to their operations. The Commandant of the Marine Corps, the Chief of Naval Personnel, and the Commander, Naval Supply Systems Command determine whether NAFI's within their cognizance shall carry liability insurance or become self-insurers, in whole or in part.

(b) The Marine Corps requires mandatory participation in the Morale, Welfare and Recreation (MWR) Composite Insurance Program by the following operations: MWR operations and retail services, food and hospitality, recreation; and special NAFI activities including flying clubs, rod and gun clubs, Interservice Rifle Fund, Marine Corps Marathon and Dependent Cafeteria Fund. The following organizations may also participate in the MWR Composite Insurance Program, if desired: Child welfare centers, billeting funds, chapel funds, and civilian welfare funds.

(c) When the operations of NAFI's result in property damage or personal injury, the insurance carrier, if any, should be given immediate written notification. Notification should not be postponed until a claim is filed. When the activity is self-insured, the self-insurance fund shall be notified of the potential liability by the activity.

### § 756.4 Responsibility.

The primary responsibility for the negotiation and settlement of claims resulting from nonappropriated-fund activities is normally with the NAFI and its insurer. NAFI's, however, are Federal agencies within the meaning of the Federal Tort Claims Act if charged with an essential function of the Department of the Navy and if the degree of control and supervision by the Navy is more than casual or perfunctory. Compare *United States* v. *Holcombe,* 277 F.2d 143 (4th Cir. 1960) and *Scott* v. *United States,* 226 F. Supp. 846, (D. Ga. 1963). Consequently, to the extent sovereign immunity is waived by the Federal Tort Claims Act, 28 U.S.C. 1346(b), 2671–2672, 2674–2680, the United States remains ultimately liable for payment of NAFI claims.

### § 756.5 Investigation.

Claims arising out of the operation of NAFI's, in and outside the United States, shall be investigated in accordance with the procedures for investigating similar claims against appropriated fund activities in order to protect the residual liability of the United States. All claims should be submitted to the command having cognizance over the NAFI involved.

### § 756.6 Negotiation.

(a) *General.* Claims from NAFI's should be processed primarily through NAFI claims procedures, using as guidelines the regulations and statutes applicable to similar appropriated fund activity claims.

(b) *When the NAFI is insured.* When a NAFI is insured, the insurer or the contracted third-party claims administrator (TPA) will normally conduct negotiations with claimants. The appropriate naval adjudicating authority as shown in 32 CFR 750.34(c)(2)(ii) has the responsibility of monitoring the negotiations conducted

by the insurer or TPA. Monitoring is normally limited to ascertaining someone has been assigned to negotiate, to obtain periodic status reports, and to close files on settled claims. Any dissatisfaction with the insurer's or TPA's handling of the negotiations should be referred directly to the Judge Advocate General for appropriate action. Under special circumstances, even when there is an insurer or TPA, the appropriate naval adjudicating authority may conduct negotiations, provided the command involved and the insurer agree to it. When an appropriate settlement is negotiated by the Navy, the recommended award will be forwarded to the insurer or TPA for payment.

(c) *When the NAFI is not insured.* When there is no private, commercial insurer and the NAFI has made no independent arrangements for negotiations, the appropriate Navy adjudicating authority is responsible for conducting negotiations. When an appropriate settlement is negotiated by the Navy, the recommended award will be forwarded to the NAFI for payment from nonappropriated-funds.

**§ 756.7 Payment.**

(a) *Claims that can be settled for less than $1000.00.* A claim not covered by insurance (or not paid by the insurer), that can be settled for $1000.00 or less, may be adjudicated by the commanding officer of the activity concerned or designee. The claim shall be paid out of funds available to the commanding officer.

(b) *Claims that cannot be settled for less than $1000.00.* A claim negotiated by the Navy, not covered by insurance, that cannot be settled for less than $1000.00, shall be forwarded to the appropriate nonappropriated-fund headquarters command for payment from its nonappropriated-funds.

(c) *When payment is possible under another statute.* In some cases neither the NAFI nor its insurer may be legally responsible. In those instances, when there is no negligence, and payment is authorized under some other statute, such as the Foreign Claims Act, 10 U.S.C. 2734–2736, the claim may be considered for payment from appropriated funds or may be referred to the Judge Advocate General for appropriate action.

(d) *Other claims.* A NAFI's private insurance policy is usually not available to cover losses which result from some act or omission of a mere participant in a nonappropriated-fund activity. In the event the NAFI declines to pay the claim, the file shall be forwarded to the Judge Advocate General for determination.

**§ 756.8 Denial.**

Claims resulting from nonappropriated-fund activities may be denied only by the appropriate naval adjudicating authority. Such a denial is necessary to begin the 6-month limitation on filing suit against the United States for claims filed under the Federal Tort Claims Act. Denial of a claim shall be in writing and in accordance with subparts A or B of part 750 of this chapter, as appropriate. The appropriate naval adjudicating authority should not deny claims which have initially been processed and negotiated by a nonappropriated-fund activity, its insurer or TPA until the activity or its insurer has clearly stated in writing that it does not intend to pay the claim and has elected to defend in court.

**§ 756.9 Claims by employees.**

(a) *Personal injury or death of citizens or permanent residents of the United States employed anywhere, or foreign nationals employed within the United States.* Compensation is provided by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901–950) for employees of NAFI's who have suffered injury or death arising out of and in the course of their employment (5 U.S.C. 8171). That Act is the exclusive basis for Government liability for injuries or deaths that are covered (5 U.S.C. 8173). A claim should first be made under that Act if there is a substantial possibility the injury or death is covered.

(b) *Personal injury or death of foreign nationals employed outside of the continental United States.* Employees who are not citizens or permanent residents, and who are employed outside the continental United States, are protected by private insurance of the NAFI or by other arrangements (5 U.S.C. 8172). When a nonappropriated-fund activity has neglected to obtain insurance coverage or to make other arrangements, the matter shall be processed as a Foreign Claims Act or a Military Claims Act claim if appropriate, and any award will be paid from nonappropriated-funds.

Dated: January 30, 1992.

**Wayne T. Baucino,**

*Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison.*

[FR Doc. 92–2979 Filed 2–6–92; 8:45 am]

BILLING CODE 3810–AE–M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[NC 45–2–5404; FRL–4100–8]

### Approval and Promulgation of Western North Carolina Local Implementation Plan: Approval of Revisions to the Particulate Matter and Reduced Sulfur Emissions From Pulp and Paper Mills Regulation

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

**ACTION:** Final rule.

**SUMMARY:** EPA today is approving revisions to the Western North Carolina Local Implementation Plan (LIP), to include Particulate Matter and Reduced Sulfur Emissions from Pulp and Paper Mills (Regulation 1–144). This regulation is at least as stringent as Control of Emissions from Pulp and Paper Mills, regulation 2D.0508, and Total Reduced Sulfur from Kraft Paper Mills, regulation 2D.0528, of the North Carolina State Implementation Plan (SIP), which were EPA approved on December 15, 1987 and December 12, 1988, respectively. Approval of the North Carolina LIPs was published in the **Federal Register** on May 2, 1991, at 56 FR 20140. The aforementioned LIP regulation was not acted upon in that Notice because it addresses requirements in section 111(d) of the Clean Air Act, as amended. Western North Carolina has been authorized by the North Carolina Environmental Management Commission (EMC) to run an independent and comprehensive air pollution program within its jurisdiction.

**DATES:** This action will be effective April 7, 1992 unless notice is received within 30 days that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

**ADDRESSES:** Copies of the material relevant to this action may be examined during normal business hours at the following locations:

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

Air Quality Section, Division of Environmental Management,
North Carolina Department of Natural Resources and Community Development,
Archdale Building,
512 North Salisbury Street,
Raleigh, North Carolina 27611.

Western North Carolina Regional Air Pollution Control Agency, Buncombe County Courthouse, Asheville, North Carolina 28801–3569.

**FOR FURTHER INFORMATION CONTACT:** Leslie Cox of the EPA, Region IV, Air Programs Branch at 404–347–2864 (FTS–257–2864) and at the above address.

**SUPPLEMENTARY INFORMATION:** Western North Carolina is one of the State's four federally-funded air pollution control agencies. Western North Carolina has been authorized by the North Carolina Environmental Management Commission (EMC) to run an independent and comprehensive air pollution program within its jurisdiction. Western North Carolina is responsible for adopting and enforcing its own regulations, as well as for issuing source permits. The regulations adopted by the local program are required (by State Law) to be comparable and consistent with those adopted by the State Agency.

On June 14, 1990, the North Carolina EMC submitted regulations for Western North Carolina as part of the North Carolina SIP to EPA for review and approval. Approval of the Local Implementation Plan (LIP) was published in the **Federal Register** on May 2, 1991, at 56 FR 20140. At that time, no action was taken on Regulation 1–144 (Particulate Matter and Reduced Sulfur Emissions from Pulp and Paper Mills) for Western North Carolina since the regulation was not required under section 110 of the Clean Air Act but under section 111(d).

To be approved, all local regulations must be at least as stringent as the State Regulations. All of the emission limits in Regulation 1–144 are identical to the State with the exception of one, which is more stringent than the State's Rule. Therefore, Western North Carolina's Regulation 1–144 satisfies this requirement.

On May 17, 1991, Western North Carolina requested that EPA approve their Regulation 1–144 because one source subject to this regulation, Champion Paper, falls under their jurisdiction. Today, EPA is approving Regulations 1–144, except 1–144 (f) and (g), for the Western North Carolina portion of the SIP. Sections (f) and (g) are not being acted upon because they contain outdated deadlines for emission control devices and compliance shcedules.

**Final Action**

EPA is approving Regulation 1–144, except 1–144 (f) and (g), for the Western North Carolina portion of the SIP. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective April 7, 1992. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announding a proposal of the action and establishing a comment period.

The Agency has reviewed this request for revision of the federally-approved State Implementation Plan for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Under section 301(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 7, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Tables 2 and 3 SIP revisions (54 FR 222) from the requirements of section 3 of Executive Order 12291 for two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request. Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to the State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in light of specific technical economic and environmental factors and in relation to relevant statutory and regulatory requirements.

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

**List of Subjects in 40 CFR Part 62**

Administrative practice and procedure, Air pollution control, Paper and paper products industry, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 28, 1992.

**Patrick M. Tobin,**

*Acting, Regional Administrator.*

For the reasons set out in the preamble, 40 CFR part 62 is amended as follows:

**PART 62—[AMENDED]**

1. The authority citation for part 62 is revised to read as follows:

**Authority:** 42 U.S.C. 7413 and 7601.

**Subpart II—North Carolina**

2. Section 62.8350 is amended by adding paragraph (b)(7) to read as follows:

**§ 62.8350 Identification of plan.**

* * * * *

(b) * * *

(7) Regulation 1–144, Particulate Matter and Reduced Sulfur Emissions from Pulp and Paper Mills, except 1–144(f) and (g) for the Western North Carolina portion of the North Carolina SIP submitted on June 14, 1990.

* * * * *

3. Section 62.8353 is amended by revising paragraph (c) to read as follows:

**§ 62.8353 Identification of sources.**

* * * * *

(c) Champion International in Canton,

* * * * *

[FR Doc. 92–2921 Filed 2–6–92; 8:45 am]

BILLING CODE 6560–50–M

**40 CFR Part 271**

**[FRL–4100–6]**

## State of Florida; Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency.

**ACTION:** Immediate final rule.

**SUMMARY:** Florida has applied for final authorization of revisions to its hazardous waste program for rules promulgated between July 1, 1987 and June 30, 1988, otherwise known as Non-HSWA Cluster IV, under the Resource

Conservation and Recovery Act (RCRA). The requirements contained in this revision application are in Supplementary Information, section B of this document. The Environmental Protection Agency (EPA) has reviewed Florida's application and has made a decision, subject to public review and comment, that Florida's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Florida's hazardous waste program revisions. Florida's application for program revision is available for public review and comment.

**DATES:** Final Authorization for Florida shall be effective April 7, 1992 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule.

All comments on Florida's program revision application must be received by the close of business March 9, 1992.

**ADDRESSES:** Copies of Florida's program revision application are available during the hours 8 a.m. to 5 p.m. at the following addresses for inspection and copying: Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400, Phone: 904–488–0300; U.S. EPA Region IV, Library, 345 Courtland Street NE., Atlanta, Georgia 30365, Phone: 404–347–4216, Priscilla Pride, Librarian.

Written comments should be sent to Narindar Kumar, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. EPA, 345 Courtland Street NE, Atlanta, Georgia 30365.

**FOR FURTHER INFORMATION CONTACT:** Narindar Kumar, Phone: 404–347–2234.

**SUPPLEMENTARY INFORMATION:**

## A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–266, 268, 124, and 270.

## B. State of Florida

Florida initially received final authorization for its base RCRA program on February 12, 1985 (50 FR 3908, January 29, 1985). Florida has received authorization for revisions to its program through Non-HSWA Cluster II. Florida received authorization for Radioactive Mixed Waste on February 12, 1991. Today, Florida is seeking approval of its program revision for Non-HSWA Cluster IV in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Florida's application, and has made an immediate final decision that Florida's hazardous waste program revision satisfies all the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to the State of Florida. The public may submit written comments on EPA's immediate final decision up until March 9, 1992. Copies of Florida's application for program revision are available for inspection and copying at the locations indicated in the **"ADDRESSES"** section of this notice.

Florida has adopted the following **Federal Registers** in Non-HSWA Cluster IV by reference:

| CHKLST | FR Date & Page Number | Description |
|---|---|---|
| 40 | 7/9/87 52 FR 25942. | List (Phase I) of Hazardous Constituents for Ground Water Monitoring. |
| 41 | 7/10/87 52 FR 26012. | Identification & Listing of Hazardous Waste. |
| 43 | 11/18/87 52 FR 44314. | Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee. |
| 45 | 12/10/87 52 FR 46946. | Hazardous Waste Misc. Units. |

The State of Florida has demonstrated and certified that its authority to regulate the revised program set forth in Non-HSWA Cluster IV as specified at section 403.72 Florida Statutes (FS), Rule 17.730.030 Florida Administrative Code (FAC), 403.704, and .721 FS, 17.730.180 FAC, 120.53, 403.061, 403.722 FS, 17–730.900 FAC, 403.724 FS, 17–730.020, 17–730.220, and 17–730.240 FAC as amended August 13, 1990, is equivalent to federal requirements of the RCRA at 40 CFR part 264 appendix IX, 270, 261, 264, 260, 265, 270, and sections 1006, 2002, 3001, 3004 and 3005 of RCRA. 17–730.180 (5) & (6) (FAC) imposes additional ground water monitoring requirements which make Florida's rules more stringent than found at 40 CFR part 264.98, and 264.99, and 270.14.

On the effective date of final authorization, Florida will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the Federal program. EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Florida is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

## C. Decision

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

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

### *Compliance With Executive Order 12291*

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

### *Certification Under the Regulatory Flexibility Act*

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this

authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Florida's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

**List of Subjects in 40 CFR Part 271**

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

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

Dated: January 28, 1992.

**Patrick M. Tobin,**

*Acting Regional Administrator.*

[FR Doc. 92-2920 Filed 2-6-92; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

**[CC Docket No. 91-64; FCC 91-398]**

### Long Distance Carriers

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** On March 25, 1991, this Commission released a Notice of Proposed Rulemaking (NPRM), 6 FCC Rcd 1689 (1991), 56 FR 13101, March 29, 1991, to consider revising the procedures used by interexchange carriers. This action adopts a rule designed to provide additional protection to consumers from unauthorized switching of their long distance service.

**EFFECTIVE DATE:** April 7, 1992.

**FOR FURTHER INFORMATION CONTACT:** Jane Gross, tel: 202-632-6917.

**SUPPLEMENTARY INFORMATION:** On December 12, 1991, the Commission adopted an Order in CC Docket No. 91-64 revising the procedures which interexchange carriers must use to verify customer orders for changes in their long distance service. This document sets forth the Rules governing verification of submission of orders, for long distance service obtained through telemarketing.

**Paperwork Reduction Act**

The revisions contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found not to impose new or modified information collection and/or recordkeeping, labeling, disclosure or record retention requirements and will not increase burden hours imposed on the public.

Accordingly, *It Is Ordered* That pursuant to authority contained in sections 4(i) and 201-204 of the Communications Act, 47 U.S.C. /SS 4(i) and 201-204, all interexchange carriers shall put into effect the modifications described herein.

*It Is Further Ordered* That the provisions of this Order will be effective sixty (60) days after **Federal Register** publication.

**List of Subjects for 47 CFR Part 64**

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

**Donna R. Searcy,**

*Secretary.*

**Amendment to the Commission's Rules**

47 CFR part 64 is amended as follows:

1. The authority citation for part 64 is revised to read as follows:

**Authority:** Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201-4, 218, 48 Stat. 1070-71, as amended, 1077; 47 U.S.C. 201-4, 218, unless otherwise noted.

2. Part 64 is amended by adding subpart K to read as follows:

### Subpart K—Changing Long Distance Service

**§ 64.1100 Verification of orders for long distance service generated by telemarketing.**

No IXC shall submit to a LEC a primary interexchange carrier (PIC) change order generated by telemarketing unless and until the order has first been confirmed in accordance with the following procedures:

(a) The IXC has obtained the customer's written authorization to submit the order that explains what occurs when a PIC is changed and confirms:

(1) The customer's billing name and address and each telephone number to be covered by the PIC change order;

(2) The decision to change the PIC to the IXC; and

(3) The customer's understanding of the PIC change fee; or

(b) The IXC has obtained the customer's electronic authorization, placed from the telephone number(s) on which the PIC is to be changed, to submit the order that confirms the information described in paragraph (a) of this section to confirm the authorization. IXCs electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism, that records the required information regarding the PIC change, including automatically recording the originating ANI; or

(c) An appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative has obtained the customer's oral authorization to submit the PIC change order that confirms and includes appropriate verification data (e.g., the customer's date of birth or social security number); or

(d) Within three business days of the customer's request for a PIC change, the IXC must send each new customer an information package by first class mail containing at least the following information concerning the requested change:

(1) The information is being sent to confirm a telemarketing order placed by the customer within the previous week;

(2) The name of the customer's current IXC;

(3) The name of the newly requested IXC;

(4) A description of any terms, conditions, or charges that will be incurred;

(5) The name of the person ordering the change;

(6) The name, address, and telephone number of both the customer and the soliciting IXC;

(7) A postpaid postcard which the customer can use to deny, cancel or confirm a service order;

(8) A clear statement that if the customer does not return the postcard the customer's long distance service will be switched within 14 days after the date the information package was mailed to [name of soliciting carrier];

(9) The name, address, and telephone number of a contact point at the Commission for consumer complaints; and

(10) IXCs must wait 14 days after the form is mailed to customers before submitting their PIC change orders to LECs. If customers have cancelled their orders during the waiting period, IXCs,

of course, cannot submit the customer's orders to LECs.

[FR Doc. 92-2938 Filed 2-6-92; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF DEFENSE

### 48 CFR Parts 211 and 252

### Defense Federal Acquisition Regulation Supplement; Contracting for Commercial Items

**AGENCY:** Department of Defense (DoD).

**ACTION:** Interim rule.

**SUMMARY:** This notice makes technical corrections in the interim rule published as part 211 of the 1991 edition of the Defense Federal Acquisition Regulation Supplement (DFARS). It revises all of the references to the 1988 edition of DFARS to update them to the 1991 edition and it makes other minor technical corrections.

**EFFECTIVE DATE:** December 31, 1991.

**FOR FURTHER INFORMATION CONTACT:** Lou Gaudio, Acquisition Reform, OUSD(A)DP, Pentagon, Washington, DC 20301-3000. Telephone (703) 693-5638. Telefax (703) 697-9845.

List of Subjects in 48 CFR Parts 211 and 252

Government procurement.

Claudia L. Naugle,

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR parts 211 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 211 and 252 continues to read as follows

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD FAR Supplement 201.301.

## PART 211—ACQUISITION AND DISTRIBUTION OF COMMERCIAL PRODUCTS

**211.7003-1 [Amended]**

2. Section 211.7003-1 is amended in paragraph (b)(4) by revising the reference "217.73" to read "217.72."

3. Section 211.7004-1 is amended by revising the reference in paragraph (1)(3)(ii) to read "217.7404-3" in lieu of "217.7503(b)(3)"; and by revising paragraphs (p)(2) introductory text and (p)(2)(i) through (p)(2)(iii) to read as follows:

**211.7004-1 Precedence of Part 211**

* * * * *

(p) * * *

(2) Subparagraphs (p)(2)(i) through (p)(2)(iii) identify the FAR and DFARS clauses that implement provisions of law or Executive Order that may apply to subcontractors and suppliers under certain conditions or monetary thresholds:

(i) All contracts with subcontractors and suppliers:

FAR 52.203-12 Limitation on payments to Influence Certain Federal Transactions.
FAR 52.222-22 Previous Contracts and Compliance Reports.
FAR 52.222-26 Equal Opportunity.
FAR 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans.
FAR 52.222-36 Affirmative Action for Handicapped Workers.
FAR 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era.
FAR 52.225-12 Notice of Restrictions on Contracting with Sanctioned Persons.
FAR 52.225-13 Restrictions on Contracting with Sanctioned Persons.
252.223-7004 Notice of Radioactive Materials.
252.225-7001 Buy American Act and Balance of Payments Program.
252.225-7007 Trade Agreements Act.

(ii) Only contracts with subcontractors:

FAR 52.220-4 Labor Surplus Area Subcontracting Program.
FAR 52.222-25 Affirmative Action Compliance.
FAR 52.223-1 Clear Air and Water Certification.
FAR 52.223-2 Clean Air and Water.
FAR 52.225-10 Duty-Free Entry
FAR 52.225-11 Certain Communist Areas.
FAR 52.222-21 Certification of Nonsegregated Facilities.
252.211-7011 Audit of Contract Modifications-Commercial Items.
252.247-7023 Transportation of Supplies by Sea.

(iii) Only first tier subcontracts:

FAR 52.209-6 Protecting Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.
FAR 52.215-1 Examination of Records by Comptroller General.
FAR 52.219-8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.
FAR 52.219-9 Small Business and Small Disadvantaged Business Subcontracting Plan.
252.203-7001 Special Prohibition on Employment.
252.219-7003 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts).

* * * * *

**211.7004-6 [Amended]**

4. Section 211.7004-6 is amended in paragraph (a)(3) by removing the words "and 220."

5. Section 211.7005 is revised to read as follows:

**211.7005 Contract clauses.**

(a) The contracting officer shall insert the following required clauses in Section I of all solicitations and contracts awarded under this Subpart:

(1) FAR 52.203-1 Officials Not to Benefit.
(2) FAR 52.203-3 Gratuities.
(3) FAR 52.203-6 Restriction on Subcontractor Sales to the Government.
(4) FAR 52.203-7 Anti-Kickback Procedures.
(5) FAR 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity.
(6) FAR 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.
(7) FAR 52.219-8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.
(8) FAR 52.219-13 Utilization of Women-Owned Small Businesses.
(9) FAR 52.222-26 Equal Opportunity.
(10) FAR 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans.
(11) FAR 52.222-36 Affirmative Action for Handicapped Workers.
(12) FAR 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era.
(13) FAR 52.223-6 Drug-Free Workplace.
(14) FAR 52.225-13 Restrictions on Contracting with Sanctioned Persons.
(15) FAR 52.229-3 Federal, State, and Local Taxes.
(16) FAR 52.232-23 Assignment of Claims.
(17) FAR 52.233-1 Disputes.
(18) 252.203-7000 Statutory Prohibitions on Compensation to Former Department of Defense Employees.
(19) 252.203-7001 Special Prohibition on Employment.
(20) 252.211-7000 Termination—Commercial Items.
(21) 252.211-7001 Invoice and Payment—Commercial Items.

(22) 252.211–7002 Changes—Commercial Items.
(23) 252.211–7003 Patents and Copyright Indemnification—Commercial Items.
(24) 252.211–7004 Inspection and Acceptance—Commercial Items.
(25) 252.211–7005 Reserved.
(26) 252.211–7006 Title and Risk of Loss—Commercial Items.
(27) 252.211–7010 Price Reduction for Defective Cost or Pricing Data—Contract Modifications—Commercial Items.
(28) 252.211–7011 Audit of Contract Modifications—Commercial Items.
(29) 252.211–7015 Technical Data and Computer Software—Commercial Items.
(30) 252.211–7021 Clauses to be Included in Contracts with Subcontractors and Suppliers—Commercial Items.
(31) 252.225–7012 Preference for Certain Domestic Commodities.
(32) 252.243–7001 Pricing of Contract Modifications.
(33) 252.247–7023 Transportation of Supplies by Sea.

(b) The contracting officer shall insert the following clauses in Section I of solicitations and contracts awarded under this Subpart as applicable. The prescriptions for the FAR and DFARS clauses other than DFARS part 211 clauses are identified in FAR part 52 and DFARS part 252. The prescriptions for DFARS part 211 clauses are contained in 211.7004–1.

(1) FAR 52.203–5 Covenant Against Contingent Fees.
(2) FAR 52.203–9 Requirement for Certificate of Procurement Integrity—Modification.
(3) FAR 52.203–12 Limitations on Payments to Influence Certain Federal Transactions.
(4) FAR 52.215–1 Examination of Records by Comptroller General.
(5) FAR 52.215–33 Order of Precedence.
(6) FAR 52.216–18 Ordering.
(7) FAR 52.216–19 Delivery Order Limitation.
(8) FAR 52.216–20 Definite Quantity.
(9) FAR 52.216–21 Requirements.
(10) FAR 52.216–22 Indefinite Quantity.
(11) FAR 52.219–6 Notice of Total Small Business Set-Aside.
(12) FAR 52.219–9 Small Business and Small Disadvantaged Business Subcontracting Plan.
(13) FAR 52.219–16 Liquidated Damages-Small Business Subcontracting Plan.
(14) FAR 52.220–3 Utilization of Labor Surplus Area Concerns.
(15) FAR 52.220–4 Labor Surplus Area Subcontracting Program.
(16) FAR 52.222–1 Notice of the Government of Labor Disputes.
(17) FAR 52.222–3 Convict Labor.
(18) FAR 52.222–20 Walsh Healy Public Contracts Act.
(19) FAR 52.222–28 Equal Opportunity Preaward Clearance of Subcontract.
(20) FAR 52.223–2 Clean Air and Water.
(21) FAR 52.225–10 Duty-Free Entry.
(22) FAR 52.225–11 Certain Communist Areas.
(23) FAR 52.232–17 Interest.
(24) FAR 52.232–28 Electronic Funds Transfer Payment Methods.
(25) FAR 52.242–10 F.o.b. Origin-Government Bills of Lading or Prepaid Postage.
(26) FAR 52.246–17 Warranty of Supplies of a Non-Complex Nature.
(27) FAR 52.246–18 Warranty of Supplies of a Complex Nature.
(28) FAR 52.246–19 Warranty of Systems and Equipment under Performance Specifications or Design Criteria.
(29) FAR 52.247–1 Commercial Bill of Lading Notations.
(30) FAR 52.247–29 F.o.b. Origin.
(31) FAR 52.247–34 F.o.b. Destination.
(32) 252.205–7000 Provision of Information to Cooperative Agreement Holders.
(33) 252.206–7000 Domestic Source Restriction.
(34) 252.211–7016 Technical Data and Computer Software—Withholding of Payment—Commercial Items.
(35) 252.211–7017 Certification of Technical Data and Computer Software Conformity—Commercial Items.
(36) 252.219–7001 Notice of Partial Small Business Set-Aside with Preferential Consideration for Small Disadvantaged Business Concerns.
(37) 252.219–7002 Notice of Small Disadvantaged Business Set-Aside.
(38) 252.219–7003 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts).
(39) 252.219–7005 Incentive for Subcontracting with Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities, and Minority Institutions.
(40) 252.219–7006 Notice of Evaluation Preference for Small Disadvantaged Business Concerns.
(41) 252.223–7000 Hazardous Material Identification and Material Safety Data.
(42) 252.223–7004 Notice of Radioactive Materials.
(43) 252.225–7001 Buy American Act and Balance of Payments Program.
(44) 252.225–7002 Qualifying Country Sources as Subcontractors.
(45) 252.225–7007 Trade Agreements Act.
(46) 252.225–7014 Preference for Domestic Specialty Metals.
(47) 252.225–7015 Preference for Domestic Hand or Measuring Tools.
(48) 252.225–7016 Restriction on Acquisition of Foreign Machine Tools.
(49) 252.225–7017 Restriction on Acquisition of Foreign Valves.
(50) 252.225–7027 Limitation on Sales Commissions and Fees.
(51) 252.225–7028 Exclusionary Policies and Practices of Foreign Governments.
(52) 252.233–7000 Certification of Claims and Requests for Adjustment or Relief.
(53) 252.242–7002 Submission of Commercial Freight Bills for Audit.
(54) 252.247–7024 Notification of Transportation of Supplies by Sea.

(c) The contracting officer shall insert the following representations and certifications in section K of solicitations as applicable. The prescriptions for the following FAR and DFARS representations and certifications other than DFARS part 211 representations and certifications are identified in FAR part 52 and DFARS part 252. The prescriptions for DFARS part 211 representations and certifications are contained in 211.7004–6(a) and 211.7003–2(d).

(1) FAR 52.203–4 Contingent Fee Representation and Agreement.
(2) FAR 52.203–8 Requirement for Certificate of Procurement Integrity.
(3) FAR 52.203–11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.
(4) FAR 52.204–3 Taxpayer Identification.
(5) FAR 52.209–5 Certification Regarding Debarment, Suspension, Proposed Debarment and Other Responsibility Matters.
(6) FAR 52.222–19 Walsh-Healy Public Contracts Act Representation.
(7) FAR 52.222–21 Certification of Nonsegregated Facilities.
(8) FAR 52.222–22 Previous Contracts and Compliance Reports.
(9) FAR 52.222–25 Affirmative Action Compliance.
(10) FAR 52.223–1 Clear Air and Water Certification.
(11) FAR 52.223–5 Certification Regarding A Drug-Free Workplace.
(12) FAR 52.225–12 Notice of Restrictions on Contracting with Sanctioned Persons.

(13) 252.209–7001 Disclosure of Ownership or Control by a Foreign Government that Supports Terrorism.
(14) 252.211–7012 Certifications—Commerical Items—Competitive Acquisitions.
(15) 252.211–7013 New Material—Commercial Items.
(16) 252.211–7020 Business Type Certification—Commercial Items.
(17) 252.225–7000 Buy American Act—Balance of Payments Program Certificate.
(18) 252.225–7006 Buy American Act—Trade Agreements Act—Balance of Payments Program Certificate.
(19) 252.247–7022 Representation of Extent of Transportation by Sea.

(d) The contracting officer shall insert the following instructions, conditions or notices in section L of solicitations as applicable. The prescriptions for the following FAR and DFARS provisions other than FAR 52.215–9, FAR 52.215–12, FAR 52.215–13, FAR 52.215–14, FAR 52.216–1 and DFARS part 211 provisions are identified in FAR part 52 and DFARS part 252. The prescriptions for FAR 52.215–9, FAR 52.215–12, FAR 52.215–13, FAR 52.215–14, FAR 52.216–1 and DFARS part 211 provisions are contained in 211.7004–6(b).

(1) FAR 52.204–4 Contractor Establishment Code.
(2) FAR 52.214–21 Descriptive Literature.
(3) FAR 52.214–23 Late Submissions, Modifications, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.
(4) FAR 52.214–25 Step Two of Two-Step Sealed Bidding.
(5) FAR 52.214–33 Late Submissions, Modifications and Withdrawals of Technical Proposals Under Two Step-Sealed Bidding (Overseas).
(6) FAR 52.215–8 Acknowledgement of Amendments to Solicitations.
(7) FAR 52.215–9 Submissions of Offers.
(8) FAR 52.215–12 Restriction on Disclosure and Use of Data.
(9) FAR 52.215–13 Preparation of Offers.
(10) FAR 52.215–14 Explanation to Prospective Offerors.
(11) FAR 52.216–1 Type of Contract.
(12) FAR 52.222–24 Preaward On-Site Equal Opportunity Compliance Review.
(13) 252.211–7007 Telegraphic Submission of Offers—Commercial Items.
(14) 252.211–7008 Facsimile Submission of Offers—Commercial Items.
(15) 252.211–7009 General Solicitation Information and Definitions—Commercial Items.
(16) 252.211–7014 Contract Award—Commercial Items.
(17) 252.211–7018 Late Submissions, Modifications and Withdrawals of Offers—Commercial Items.
(18) 252.211–7019 Late Submissions, Modifications and Withdrawals of Offers—Commercial Items-(Overseas).
(19) 252.225–7013 Domestic Wool Preference.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 252.211–7021 [Amended]

6. Section 252.211–7021 is amended by revising in paragraph (b)(1) the reference "252.223–7005" to read "252.223–7004"; by revising the reference "252.225–7006 Buy American Act—Trade Agreement Act and the Balance of Payments Program" to read "252.225–7007 Trade Agreements Act"; and by removing the references "252.225–7015 United States Products Certification (Military Assistance Program)." and "252.225–7016 United States Products (Military Assistance Program)."

7. Section 252.211–7021 is amended by revising in paragraph (b)(2) the reference "252.247–7203" to read "252.247–7023".

8. Section 252.211–7021 is amended by revising in paragraph (b)(3) the reference "252.219–7000" to read "252.219.7003."

[FR Doc. 92–2963 Filed 2–6–92; 8:45 am]
BILLING CODE 3810–01–M

# Proposed Rules

Federal Register
Vol. 57, No. 26
Friday, February 7, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 170 and 171

**RIN 3150-AE13**

### Limited Revision of Fee Schedules; Correction

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule: correction.

**SUMMARY:** This document presents corrections to a proposed rule which was published January 9, 1992 (57 FR 847). This action is necessary to correct inadvertent errors in the percentage figures presented in a table and other minor typographical errors.

**DATES:** The comment period for the proposed rule expires February 10, 1992. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure only that comments received on or before this date will be considered. Because the Commission needs to incorporate the results of the proposed rule in developing the FY 1992 annual fees, including those reduced fees for small entities, requests for extensions of the comment period will not be granted.

**ADDRESSES:** Submit written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, 20852, between 7:45 am and 4:15 pm Federal workdays. (Telephone 301–504–1966).

Copies of comments received may be examined at the NRC Public Document Room at 2120 L Street, NW., Washington, DC 20555 in the lower level of the Gelman Building.

The agency workpapers that support the proposed changes to 10 CFR parts 170 and 171 are available in the Public Document Room at 2120 L Street, NW., Washington DC 20555 in the lower level of the Gelman Building.

**FOR FURTHER INFORMATION CONTACT:**

C. James Holloway, Jr., Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–4301.

**SUPPLEMENTARY INFORMATION:** On January 9, 1992 (57 FR 847), the NRC published a proposed rule that would make two limited amendments to its regulations governing the assessment of license and annual fees. The Regulatory Flexibility Analysis which was presented as appendix A to this document contains errors which must be corrected to eliminate the potential for misunderstanding. Accordingly the January 9, 1992 proposed rule, which was the subject of FR Doc. 92–506, is corrected as follows:

1. In the third column of page 851, in the tenth line of the first paragraph under the heading "I. Background," the word "request" should read "requires."

2. In the second column of page 853, the seventh line of the first paragraph under the heading "IV. Maximum Fee" should read "that should be charged to a small entity."

3. In the second column of page 853, in the tenth line of the first paragraph under the heading "IV. Maximum Fee," the word "to" should read "10."

4. In table which appears in the second column of page 854, the percent of total entry for the population range "20,000–24,999" which reads "10" should read "9."

5. In table which appears in the second column of page 854, the percent of total entry for the population range "25,000–50,000" which reads "26" should read "33."

Dated at Bethesda, Maryland, this 3d day of February, 1992.

For the Nuclear Regulatory Commission.

**Donnie H. Grimsley,**

*Director, Division of Freedom of Information and Publications Services, Office of Administration.*

[FR Doc. 92–3000 Filed 2–6–92; 8:45 am]

BILLING CODE 7590-01-M

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### 14 CFR Chapters I–III

### 23 CFR Chapters I–III

### 33 CFR Chapters I and IV

### 46 CFR Chapters I–III

### 48 CFR Chapter 12

### 49 CFR Subtitle A and Chapters I–VI

**[Notice 92–1]**

### Regulatory Review

**AGENCY:** Department of Transportation.

**ACTION:** Request for comments.

**SUMMARY:** In response to the President's announcement of a federal regulatory review, this notice requests public comments on which Departmental regulations substantially impede economic growth, may no longer be necessary, are unnecessarily burdensome, or impose needless costs or red tape.

**DATES:** Comments should be received no later than March 2, 1992. Because of the short time provided to complete the review, we would appreciate comments being filed earlier, if possible.

**ADDRESSES:** Comments should be submitted to the docket section of the relevant modal administration, attention "Regulatory Review Docket." Multiple copies would be appreciated, but are not required.

The addresses of the docket sections are as follows:

*Federal Aviation Administration,* Rules Docket (AGC–10), Docket No. 26768, Office of Chief Counsel, 800 Independence Avenue SW., room 915G, Washington, DC 20591

*Federal Highway Administration,* Docket Room, Docket 92–12, 400 7th Street SW., room 4232 Washington, DC 20590

*Federal Railroad Administration,* Docket Clerk, Docket RSS 1–92–1, 400 Seventh Street SW., room 8201, Washington, DC 20950

*Federal Transit Administration,* Docket Clerk, Docket 92A, 400 Seventh Street SW., room 9316, Washington, DC 20590

*Maritime Administration,* Docket Clerk, Docket R–141, 400 Seventh Street SW., room 7300, Washington, DC 20590

*National Highway Traffic Safety Administration,* Docket Clerk, Docket 92–04, Notice 1, 400 Seventh Street SW., room 5109, Washington, DC 20590

*Office of the Secretary,* U.S. Department of Transportation, Documentary Services Division, Docket Section, Docket 47978, 400 Seventh Street SW., room 4107 Washington, DC 20590

*Research and Special Programs Administration,* Docket Branch, Docket RR–1, 400 Seventh Street SW., room 8421, Washington, DC 20590

*Saint Lawrence Seaway Development Corporation,* 400 Seventh Street SW., room 5424, Washington, DC 20590, Attn: Marc Owen, Chief Counsel

*United States Coast Guard,* Marine Safety Council, Docket 92–005, 2100 Second Street SW., room 3406, Washington, DC 20593

**FOR FURTHER INFORMATION CONTACT:** Neil R. Eisner, Assistant General Counsel, Regulation and Enforcement, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590; (202) 366–4723.

**SUPPLEMENTARY INFORMATION:** In the State of the Union address of January 28, 1992, President Bush announced a 90-day moratorium and review of regulations. In a memorandum to certain Department and agency heads that discussed the initiative in more detail, the President noted, "[a] major part of this undertaking must be to weed out unnecessary and burdensome government regulations, which impose needless costs on consumers and substantially impede economic growth." The President ordered the Department to work with the public, other interested agencies, the Office of Information and Regulatory Affairs in the Office of Management and Budget and the Council on Competitiveness to (i) identify each of the "agency's regulations and programs that impose a substantial cost on the economy and (ii) determine whether each such regulation or program adheres to the following standards:

(a) The expected benefits to society of any regulation should clearly outweigh the expected costs it imposes on society.

(b) Regulations should be fashioned to maximize net benefits to society.

(c) To the maximum extent possible, regulatory agencies should set performance standards instead of prescriptive command-and-control requirements, thereby allowing the regulated community to achieve regulatory goals at the lowest possible cost."

(d) Regulations should incorporate market mechanisms to the maximum extent possible.

(e) Regulations should provide clarity and certainty to the regulated community and should be designed to avoid needless litigation."

As required by the memorandum, the Department will propose any necessary administrative changes (including repeal, where appropriate) to bring DOT regulations and programs into conformity with the standards. At the end of the review period, the Department will submit a written report to the President listing recommended regulatory changes and the potential savings to the economy of those changes, including an estimate of the number of jobs that will be created. In addition, the Department will prepare a report summarizing regulatory programs that are left unchanged with an explanation of how the programs are consistent with the regulatory standards set forth above.

This notice solicits public comment on the Department's regulatory programs. In particular, we would appreciate commenters identifying regulations that substantially impede economic growth, may no longer be necessary, are unnecessarily burdensome, or impose needless costs or red tape. In some cases, important innovations, technologies, or new markets may have taken place or have been created since the rules were issued. In addition, we would appreciate help in identifying areas in which there are overlapping, duplicative, inconsistent or conflicting requirements with other Federal agencies, as well as in the Department's own programs.

Issued in Washington on February 4, 1992.

**James B. Busey,**

*Acting Secretary.*

[FR Doc. 92–3057 Filed 2–5–92; 11:06 am]

**BILLING CODE 4910–62–M**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**RIN 1018–AB80**

### Endangered and Threatened Wildlife and Plants; Notice of Intent Concerning Manatee Protection Areas in Lake Woodruff National Wildlife Refuge, Florida

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent.

**SUMMARY:** The Service gives notice that regulations to establish manatee protection areas in Lake Woodruff National Wildlife Refuge, Volusia County, Florida, will be promulgated under the authority of the Endangered Species Act of 1973, as amended, should existing State protection be reduced or removed. The Service would regulate waterborne activities within these protection areas. Regulations may include excluding motorized vessels from the refuge, imposing slow speed zones, limiting boat size or horsepower, limiting boat densities, or a combination of methods. The effect of these regulatory measures would most likely be comparable to protection afforded by the current State rule.

**DATES:** Comments from all interested parties must be received by March 23, 1991.

**ADDRESSES:** Comments and materials should be sent to U.S. Fish and Wildlife Service, Jacksonville Field Office, 3100 University Blvd. South, Suite 120, Jacksonville, Florida 32216.

**FOR FURTHER INFORMATION CONTACT:** Robert O. Turner, at above address (904/791–2580, FTS 946–2580).

**SUPPLEMENTARY INFORMATION:**

#### Background

Many manatees are known to move through the waters of Lake Woodruff NWR. Most of them belong to a sub-population of Florida manatees (*Trichechus manatus*) called the Blue Springs population because it winters in Blue Springs State Park on the St. Johns River. The movements and habits of the Blue Springs manatees have been studied intensively in recent years. In that time, their numbers have grown from 11 animals in 1970 to over 60 in 1991. This increase is partly the result of recruitment from other areas, and partly due to reproduction by the original animals.

Because refuge waters are darkly colored, turbid, and contain abundant vegetation, tending to conceal manatees, manatee use of the refuge can only be reliably determined by aerial surveys and radio-tracking. Studies conducted by John Bengtson in 1979 and 1980 (Bengtson 1981) and the Service's Sirenia Research Project in Gainesville, Florida in 1981 and 1983 (FWS unpublished data) documented the importance of waterways within Lake Woodruff NWR as important manatee habitat, particularly for the Blue Springs population. Specifically, they demonstrate that: (1) The Blue Springs

population spends a great deal of time in refuge waterways, particularly during warm weather months, and (2) the tributaries of Lake Woodruff NWR, including the area from the Norris Dead River through the Ziegler Dead River, are particularly high-use areas.

Both Florida Department of Natural Resources (DNR) and Service experts agree that the greatest threat to the survival of manatees statewide is high speed boat traffic. Reducing boat-related mortality is a Priority 1 action in the revised Florida Manatee Recovery Plan. In Volusia County, where Blue Springs and Lake Woodruff NWR are located, the number of registered boats has increased 78 percent in the last 10 years and the number of manatees killed by boats in the county in the last five years is 2½ times the number killed in the previous five-year period. Because the waters of Lake Woodruff NWR are under the jurisdiction of the State of Florida, the Service's position has been that the Florida Department of Natural Resources was the most appropriate agency to develop manatee protection measures.

In 1989, Florida's Governor and Cabinet directed DNR to work with Volusia and 12 other key counties to implement measures to reduce boat-related manatee injuries and deaths. Counties were required to submit their initial recommendations for site-specific speed zones to DNR.

Volusia County began submitting proposed speed zones to DNR for review in December 1989. In March 1991, however, a Blue Springs manatee, a winter resident for a number of years, was killed by a boat on Lake Woodruff NWR. In addition, at least four manatees have been killed by boats within a few miles of the refuge. Because these deaths represent a significant percentage of the Blue Springs population, the Governor and Cabinet responded by imposing emergency speed limits on portions of the St. Johns River and its tributaries near Blue Springs (including the waters of Lake Woodruff NWR) to take effect on March 26, 1991 and to last for 90 days, during which time a permanent protection plan would be prepared by Volusia County. The tributaries within Lake Woodruff NWR became slow speed zones (5–7 mph). The locations of these slow speed zones were chosen by DNR primarily from recommendations made by the Service's Sirenia Research Project, the facility that has conducted most of the research on the Blue Springs manatees. These slow speed zones are also consistent with the Marine Mammal Commission's Preliminary Assessment of Habitat Protection Need for the West Indian Manatees on the East Coast of Florida and Georgia (Marine Mammal Commission 1988).

As the period of emergency speed limits neared its end, Volusia County submitted another draft protection plan to DNR. DNR concluded that the county proposal would provide inadequate protection for manatees in several locations. One area of disagreement was the allowance of relatively high speeds (30 mph) in the tributaries of Lake Woodruff NWR. Both DNR and the Service felt this speed limit would afford inadequate protection in a high-use manatee area. Subsequently, on June 25, 1991, one day after the emergency measures expired and over the objections of Volusia County's task force, the Governor and Cabinet adopted as a rule DNR's more restrictive recommendations. The State protection plan limits speeds in Lake Woodruff tributaries, as in the emergency measures, to 5–7 mph.

A citizen's group in the Lake Woodruff area has challenged the State rule. The group believes that the slow speed zones in backwater areas of the St. Johns River within Lake Woodruff NWR are impacting local businesses and that manatee mortality data do not support the speed zones adopted by the State. An injunction against the State rule could leave Volusia County, and Lake Woodruff NWR in particular, without manatee protection for the first time since emergency measures were implemented in March 1991.

The Service believes strongly that unless high speed boating is eliminated in the narrow backwaters of Lake Woodruff NWR, there will be additional, and avoidable, boat-related manatee injuries and mortalities. While boat-related mortality on the refuge is not high now, the growing number of boats and manatees using the area increases the potential for collisions. The Service chooses not to wait until there are more deaths before protective action is taken.

The current action by the Service is to provide public notice that a contingency plan is being prepared to assure continued and effective protection of manatees within the refuge. Under the authority of 50 CFR part 17 subpart J (Authority), the plan will delineate manatee protection areas within certain portions of the refuge. Protection areas will be put into effect should implementation of the State rule be delayed or weakened, or if manatee protection within the refuge is otherwise inadequate. If the State rule is challenged and this contingency plan is implemented, proposed regulations will be published in the **Federal Register** to establish manatee protection areas and will include the following information:

(1) The locations and descriptions of areas to be protected,

(2) Whether each area is to be a manatee "sanctuary" or a "refuge",

(3) If an area is to be a manatee sanctuary, the regulation shall state that all waterborne activities, including boating, fishing, and swimming, would be prohibited.

(H) If an area is to be a manatee refuge, the regulation shall state which, if any, waterborne activities are prohibited, and it shall state the applicable restrictions, if any, on permitted waterborne activities. Within a refuge the Service might limit the number of watercraft allowed in the area, restrict the area to non-motorized boats or to boats of a certain size or horsepower, create site-specific slow speed zones in areas such as the tributaries of Lake Woodruff, or implement a combination of alternatives.

There are also provisions within the Authority for the emergency establishment of manatee protection areas when the Director determines there is substantial evidence that there is eminent danger of a taking of one or more manatees, and that such establishment is necessary to prevent such taking.

## Authority

The authority to establish manatee protection areas is provided by the Endangered Species Act of 1973, as amended (16 U.S.C. 1533 *et seq.*, and the Marine Mammal Protection Act (16 U.S.C. 1361–1407).

## Public Comments Solicited

The Service intends that any final action resulting from the proposed rule will be as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this matter are hereby solicited. Comments particularly are sought concerning the need for additional regulations and alternatives that would alleviate risks to manatees from waterborne activities within Lake Woodruff National Wildlife Refuge.

Any proposed rule will take into consideration all comments and any additional information received by the Service.

## References Cited

Bengtson, J. L. 1981. Ecology of manatees *(Trichechus manatus)* in the St. Johns River, Florida. Ph.D. Thesis, Univ. Minnesota, Minneapolis. 126 pp.

Fish and Wildlife Service. Unpublished data. National Ecology Center, Gainesville, Fl.

Marine Mammal Commission. 1988. Preliminary assessment of habitat protection needs for West Indian manatees on the east coast of Florida and Georgia. Report of the Marine Mammal Commission in Consultation with its Committee of Scientific Advisors on Marine Mammals. Washington, DC.

### Author

The primary author of this proposed rule is Robert O. Turner, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216.

### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: January 30, 1992.

**Richard N. Smith,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 92–2954 Filed 2–6–92; 8:45 am]

BILLING CODE 4310–55–M

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**50 CFR Part 17**

**RIN 1018–AB56**

## Endangered and Threatened Wildlife and Plants; Notice of Public Hearings on Proposed Endangered Status for the Coastal California Gnatcatcher

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; notice of public hearings.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service), under the Endangered Species Act of 1973, as amended (Act), gives notice that two public hearings will be held on the proposed endangered status for the coastal California gnatcatcher (*Polioptila californica californica*). The hearings will allow all interested parties to submit oral or written comments on the proposal.

**DATES:** Two public hearings will be held, each from 1 to 4 p.m. and from 6 to 8 p.m. Hearings will be held on Tuesday, February 25, 1992, in Anaheim, California, and on Thursday, February 27, 1992, in San Diego, California.

Comments from all interested parties must be reached by March 16, 1992.

**ADDRESSES:** The hearing on Tuesday, February 25, 1992, will be held at the Hyatt Regency Alicante, 100 Plaza Alicante at Harbor and Chatman, Garden Grove (Anaheim), California. The Thursday, February 27, 1992, hearing will be held at the San Diego Convention Center, 111 West Harbor Drive, San Diego, California.

Written comments and materials may be submitted at the hearing or may be sent directly to Mr. Jeffrey Opdycke, Field Supervisor, U.S. Fish and Wildlife Service, Southern California Field Office, 24000 Avila Road, Laguna Niguel, California 92656. Comments and materials received will be available for public inspection during normal business hours by appointment, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Opdycke, Field Supervisor, at the address listed above (Telephone: 714/643–4270 or FTS 796–4270).

**SUPPLEMENTARY INFORMATION:**

### Background

The coastal California gnatcatcher (*Polioptila californica californica*) is a small, insectivorous songbird that occurs in several distinctive subassociations of the coastal sage scrub plant community in southern California and northwestern Baja California, Mexico. This subspecies has experienced a significant population decline in the United States that has been attributed largely to widespread destruction of its habitat. The coastal California gnatcatcher is vulnerable throughout its range because of habitat loss and fragmentation occurring in conjunction with urban and agricultural development. This subspecies is also vulnerable to a variety of predators.

On September 17, 1991, the Service published in the **Federal Register** a proposed rule to list the coastal California gnatcatcher as endangered (56 FR 47053). Subsection 4(b)(5)(E) of the Act requires that a public hearing be held if it is requested within 45 days of publication of a proposed rule.

Because of the level of interest in this endangered species listing action, and in anticipation of the hearing requests on this proposal, the Service has scheduled public hearings at the following locations:

Tuesday, February 25, 1992: Hyatt Regency Alicante, 100 Plaza Alicante at Harbor and Chatman, Garden Grove (Anaheim), California (1 to 4 p.m. and 6 to 8 p.m.)

Thursday, February 27, 1992: San Diego Convention Center, 111 West Harbor Drive, San Diego, California (1 to 4 p.m. and 6 to 8 p.m.)

Those parties wishing to make statements for the record should bring a copy of their statements to present to the Service at the start of the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitaion. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. Written comments will be given the same weight as oral comments. Written comments may be submitted at the hearing or mailed to the address given in the **ADDRESSES** section of this notice. The comment period closes on March 16, 1992.

### Author

The primary author of this notice is Ms. Leslie Propp, U.S. Fish and Wildlife Service, Fish and Wildlife Enhancement, Eastside Federal Complex, 911 NE. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–6131 or FTS 429–6131).

### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.).

### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: January 31, 1992.

**William E. Martin,**

*Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.*

[FR Doc. 92–2977 Filed 2–6–92; 8:45 am]

BILLING CODE 4310–55–M

# Notices

Federal Register
Vol. 57, No. 26
Friday, February 7, 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

### World Bank; Grants and Cooperative Agreement Awards

**AGENCY:** Office of International Cooperation and Development (OICD), USDA.

**ACTION:** Notice of intent

**ACTIVITY:** OICD intends to award a Grant to The World Bank to provide partial funding support for the project entitled "Frameworks for Action in Agricultural Research."

**AUTHORITY:** Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99–198).

OICD anticipates the availability of funds in fiscal year 1992 (FY92) to support The World Bank Special Program for African Agricultural Research. The purpose of this specific project to be funded is to speed up the slow rate of technology generation and transfer in agriculture through a set of national and regional activities in Africa, related to institution-building, substantive research issues and regional collaborative mechanisms.

Based on the above, this is not a formal request for application. An estimated $30,000 will be available in FY92 as partial project support. Information on proposed Grant #59–319R–2–002 may be obtained from: USDA/OICD/Administrative Services, Washington, DC 20250–4300.

Dated: February 4, 1992.

**Nancy J. Croft,**

*Contracting Officer.*

[FR Doc. 92–2994 Filed 2–6–92; 8:45 am]

BILLING CODE 3410-DP-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Final Approval of Amendment No. 3 to the Washington Coastal Zone Management Program

**AGENCY:** National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management, Commerce.

**ACTION:** Approval of Amendment to the State of Washington Coastal Zone Management Program.

**LOCATION:** County of Grays Harbor, cities of Aberdeen, Cosmopolis, Hoquiam, Ocean Shores and Westport.

**SUMMARY:** The Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA) received a request from the State of Washington to incorporate the Grays Harbor Estuary Management Plan (GHEMP) into the federally-approved Washington Coastal Zone Management Program. The State's request was made pursuant to section 306(e) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1455(e), and the regulations implementing the CZMA at 15 C.F.R. part 923, subpart I. The GHEMP, a comprehensive land and water use program, amends the County of Grays Harbor, and the cities of Aberdeen, Cosmopolis, Hoquiam, Ocean Shores and Westport Shoreline Master Programs.

Notice is hereby given that the Director of OCRM has reviewed the amendment request and has made a determination that the Washington Coastal Zone Management Program as amended by the GHEMP will still constitute an approvable program and that the procedural requirements of section 306(d) of the CZMA have been met.

OCRM prepared an environmental impact statement for the proposed amendment. In accordance with the provisions of section 102(2)(C) of NEPA, on May 29, 1987, OCRM distributed the program EIS to Federal agencies and other interested parties. The comment period ended July 13, 1987. All comments received have been responded to and the Final Findings of Approvability have been approved by the Director of OCRM. The Federal consistency provisions of section 307 of the CZMA, 16 U.S.C. 1456, shall apply to the GHEMP on the date of approval.

**FOR FURTHER INFORMATION CONTACT:** James P. Burgess, Acting Regional Manager, Pacific Region, Office of Ocean and Coastal Resource Management, 1825 Connecticut Avenue, NW., Washington, DC 20235. 202/606–4158.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.

Dated: January 31, 1992.

**John J. Carey,**

*Acting Assistant Administrator for Ocean Services and Coastal Zone Management.*

[FR Doc. 92–2972 Filed 2–6–92; 8:45 am]

BILLING CODE 3510-22-M

### North Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Pacific Northwest Crab Industry Advisory Committee (PNCIAC) will reconvene its January 29, 1992, meeting on February 19, 1992. The meeting will be held in room 2039, in Building 4 of the Alaska Fisheries Science Center, Seattle, WA. The meeting will begin at 8:30 a.m.

The PNCIAC will consider the following agenda items:

(1) Review an Alaska Department of Fish and Game (ADF&G) pot limit proposal for Bering Sea/Aleutian Islands crab fisheries. This issue will be considered at the March 1992 Board of Fisheries meeting. Representatives from ADF&G will present preliminary information. (2) Receive and review industry proposals for the March 1993 Board of Fisheries shellfish meeting. Individuals interested in submitting proposals to the Board of Fisheries and requesting review by the PNCIAC are encouraged to prepare their proposals

prior to the February 19 PNCIAC meeting. PNCIAC will develop proposal recommendations for the Board of Fisheries meeting. The deadline for submission of proposals is April 20, 1992. (3) Discuss other business.

For more information contact Brent Paine, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809; or contact Richard White, PNCIAC Chairman, P.O. Box 97019, Redmond, WA 98073; telephone: (206) 881–8181.

Dated: February 3, 1992.

**David S. Crestin,**

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

[FR Doc. 92–2969 Filed 2–6–92; 8:45 am]

BILLING CODE 3510–22–M

## Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council (Council) has established an Ad Hoc Committee (AHC) to consider an allocation plan for Pacific whiting in 1992. On January 17, 1992, the National Marine Fisheries Service rejected the Council's proposed allocation among catcher-processors, mothership-processors, and shore-based processors. The AHC, which is composed of members from each segment of the affected industry, will meet on February 10, 1992, beginning at 10 a.m. The AHC will attempt to develop a recommendation for Council consideration at its meeting March 10–13 in Seattle, Washington. The AHC plans to hold this meeting in the Yakima Room at the Columbia River Red Lion, 1401 North Hayden Island Drive, Portland, OR.

For more information contact John Coon, Staff Officer (salmon), Pacific Fishery Management Council, suite 420, 2000 SW First Avenue, Portland, OR 97201; telephone: (503) 326–6352.

Dated: February 3, 1992.

**David S. Crestin,**

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

[FR Doc. 92–2970 Filed 2–6–92; 8:45 am]

BILLING CODE 3510–22–M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Termination of the Export Visa Arrangement for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Socialist Federal Republic of Yugoslavia; Correction

February 3, 1992.

In the second column of the notice published in the **Federal Register** on January 9, 1992 (57 FR 884), third paragraph under **SUPPLEMENTARY INFORMATION:**, line 6; and the letter to the Commissioner of Customs, second paragraph, line 4, delete the phrase "and exported from Yugoslavia on and after March 5, 1992."

**Auggie D. Tantillo,**

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 92–2981 Filed 2–6–92; 8:45 am]

BILLING CODE 3510–DR–F

## COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

### Procurement List; Proposed Additions

**AGENCY:** Committee for Purchase From the Blind and Other Severely Handicapped.

**ACTION:** Proposed addition to procurement list.

**SUMMARY:** The Committee has received a proposal to add to the Procurement List a commodity to be furnished by a nonprofit agency employing persons with severe disabilities.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** March 9, 1992.

**ADDRESSES:** Committee for Purchase From the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman, (703) 557–1145.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action. If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity listed below from a nonprofit agency employing individuals with severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will furnish the commodity to the Government.

2. The action will not have a severe economic impact on a current contractor for the commodity because it has not been procured previously.

3. The action will result in authorizing a small entity to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodity to the Procurement List:

Dressing, First Aid, Field Training
6510–01–336–6192

**Beverly L. Milkman,**

*Executive Director.*

[FR Doc. 92–3015 Filed 2–6–92; 8:45 am]

BILLING CODE 6820–33–M

## DEPARTMENT OF DEFENSE

### Public Information Collection Requirement Submitted to OMB for Review

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Title, Applicable Form, and Applicable OMB Control Number:* Defense FAR Supplement, Part 204, Administrative Matters, and the clauses at 252.204; OMB Control Number 0704–0225.

*Type of Request:* Revision.

*Average Burden Hours/Minutes Per Response:* 15 minutes.

*Responses per Respondent:* 1.

*Number of Respondents:* 86,000.

*Annual Burden Hours:* 21,500.

*Annual Responses:* 86,000.

*Needs and Uses:* Defense FAR Supplement part 204 and the clause at 252.204–7001 requires contractors to provide their name, address, affiliation and socioeconomic

information to the Government. This information is used to (1) identify items in the Federal Catalog System and MILSCAP and (2) to assist in determining which businesses are eligible for preferential treatment under government programs keyed to small, disadvantaged or women-owned businesses.

*Affect Public:* Businesses or other for-profit and Small Businesses or organizations.

*Frequency:* On Occasion.

*Respondents Obligation:* Required to obtain or retain a benefit.

*Desk Officer:* Mr. Peter Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DOD, room 3235, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: February 4, 1992.

**L. M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 92–3001 Filed 2–6–92; 8:45 am]

BILLING CODE 3810–01–M

## Public Information Collection Requirement Submitted to OMB for Review

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Title, Applicable Form, and Applicable OMB Control Number:* Request for Family Member Educational Information; AF Form 1466A.

*Type of Request:* New collection.

*Average Burden Hours/Minutes per Response:* 15 Minutes.

*Responses per Respondent:* 1.

*Number of Respondents:* 48,300.

*Annual Burden Hours:* 12,075.

*Annual Responses:* 48,300.

*Needs and Uses:* This form is used to obtain family information needed to evaluate and document the need of military family member for special medical and educational services. Information is collected prior to new assignments. Data is needed to ensure proper medical and educational needs are available at new assignment. Failure to respond could preclude processing assignment.

*Affected Public:* Individuals or households, state or local governments, federal agencies or employees.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*OMB Desk Officer:* Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearch, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: February 4, 1992.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 92–3002 Filed 2–6–92; 8:45 am]

BILLING CODE 3810–01–M

## Department of the Navy

## CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Long Range Planning Task Force will meet March 9, 1992 from 11 a.m. to 12 p.m., in the CNO's Conference Room, Pentagon 4E630, Washington, DC. All sessions will be closed to the public.

The purpose of this meeting is to review maritime issues as they impact national security policy and requirements. The entire agenda of the meeting will include deliberations on Navy roles in future scenarios and comprises the final report to the CNO. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268 Phone (703 756-1205.

Dated: January 29, 1992.

**Wayne T. Baucino,**

*Lieutenant, JAGC, U.S.Naval Reserve, Alternate Federal Register Liaison Officer.*

[FR Doc. 92–2980 Filed 2–6–92; 8:45 am]

BILLING CODE 3810–AE–F

## DEPARTMENT OF EDUCATION

## Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

**DATES:** Interested persons are invited to submit comments on or before March 9, 1992.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Wallace R. McPherson, Jr., Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** Wallace R. McPherson (202) 708–5174.

**SUPPLEMENTARY INFORMATION:** Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Office of Information Resources Management, publishes this

notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Wallace R. McPherson, Jr. at the address specified above.

Dated: February 3, 1992.

**Wallace R. McPherson, Jr.,**

*Acting Director, Office of Information Resources Management.*

**Office of Postsecondary Education**

*Type of Review:* Extension.
*Title:* Loan Transfer.
*Frequency:* On Occasion.
*Affected Public:* State or local governments; Businesses or other for-profit; Non-profit institutions.
*Reporting Burden:*
*Responses:* 200.
*Burden Hours:* 200.
*Recordkeeping Burden:*
*Recordkeepers:* 0.
*Burden Hours:* 0.
*Abstract:* The Department collects this information to determine which lender may receive benefits payable under the Federal Insured Student Loan Progam. This information is used by lenders to report FILS loans that have been sold or transferred from one lender to the other.

**Office of Postsecondary Education**

*Type of Review:* Reinstatement.
*Title:* Performance Report for the Student Literacy Corps Program.
*Frequency:* Annually.
*Affected Public:* Non-profit institutions.
*Reporting Burden:*
*Responses:* 300.
*Burden Hours:* 1800.
*Recordkeeping Burden:*
*Recordkeepers:* 0.
*Burden Hours:* 0.
*Abstract:* Grantees who participate in the Student Literacy Corps Program submit this report to the Department. The Department uses the information to assess the accomplishment of project goals and objectives, and to aid in effective program management.

**Office of Postsecondary Education**

*Type of Review:* Extension.
*Title:* Application to participate in the Paul Douglas Teacher Scholarship Program.
*Frequency:* On Occasion.
*Affected Public:* State or local governments.
*Reporting Burden:*
*Responses:* 11.
*Burden Hours:* 45.
*Recordkeeping Burden:*
*Recordkeepers:* 0.
*Burden Hours:* 0.
*Abstract:* The Paul Douglas Teacher Scholarship Program uses Federal funds to provide college scholarships to outstanding high school students to enable them to pursue teaching careers at the elementary or secondary school levels. The Department uses this information for program management.

**Office of Postsecondary Education**

*Type of Review:* Revision.
*Title:* New and Continuation Application for Grants under the School, College and University Partnerships Program.
*Frequency:* Annually.
*Affected Public:* State or local governments, Non-profit institutions.
*Reporting Burden:*
*Responses:* 175.
*Burden Hours:* 3,500.
*Recordkeeping Burden:*
*Recordkeepers:* 0.
Burden Hours: 0.
*Abstract:* This application form is needed to collect the necessary information for noncompeting continuations in FY 1992 and subsequent years and to conduct a competition for new grants in FY 1994.

**Office of Postsecondary Education**

*Type of Review:* Revision.
*Title:* Fiscal Operations Report and Application to Participate in the Perkins Loan, Supplemental Educational Opportunity Grant, and College Work-Study Programs.
*Frequency:* Annually.
*Affected Public:* State or local governments, Businesses or other for profit, Non-profit institutions.
*Reporting Burden:*
*Responses:* 5100.
*Burden Hours:* 93,700.80.
*Recordkeeping Burden:*
*Recordkeepers:* 5100.
*Burden Hours:* 408.
*Abstract:* Under the Higher Education Act of 1965, as amended, institutions are required to apply for, and subsequently report on an annual basis, the expenditures for the Perkins Loan, the Supplemental Educational Opportunity Grant, and the College Work Study Programs. The Department will use the information collected on the reports and applications to assess the effectiveness and accountability of the programs and to make awards.

**Office of Postsecondary Education**

*Type of Review:* Reinstatement.
*Title:* Performance Report for Title VI National Resource Centers Program.
*Frequency:* Annually.
*Affected Public:* Non-profit institutions.
*Reporting Burden:*
*Responses:* 127.
*Burden Hours:* 572.
*Recordkeeping Burden:*
*Recordkeepers:* 0
*Burden Hours:* 0.
*Abstract:* Institutions that have participated in the National Resource Centers Program are to submit the report to the Department. The Department will use the information to assess the accomplishments of project goals and effective program management.

**Office of Elementary and Secondary Education**

*Type of Review:* Reinstatement.
*Title:* Follow Through Program Final Report Form.
*Frequency:* Final.
*Affected Public:* State or local government.
*Reporting Burden:*
*Responses:* 40.
*Burden Hours:* 800.
*Recordkeeping Burden:*
*Recordkeepers:* 0
*Burden Hours:* 0.
*Abstract:* This form is needed to report project accomplishments and student achievements over a 3-year period. The Department will use the information to assess the impact of the program and for future planning.

**Office of Elementary and Secondary Education**

*Type of Review:* Extension..
*Title:* State Annual Report (Chapter 2 Federal, State and Local Partnership for Educational Improvement).
*Frequency:* Annually.
*Affected Public:* State or local government.
*Reporting Burden:*
*Responses:* 16,052.
*Burden Hours:* 49,040.
*Recordkeeping Burden:*
*Recordkeepers:* 0
*Burden Hours:* 0.
*Abstract:* The local education agencies (LEAs) are required to report annually to the state education agency (SEA) on the use of funds. The SEAs submit data to the Secretary on the use of Chapter 2 funds. The Department will

use this information to report to Congress on the effectiveness of the program.

**Office of Management**

*Type of Review:* Extension.
*Title:* Family Educational Rights and Privacy Information Collection.
*Frequency:* On occasion.
*Affected Public:* State or Local Government.
*Reporting Burden:*
*Responses:* 28,075.
*Burden Hours:* 7,018.75.
*Recordkeeping Burden:*
*Recordkeepers:* 0
*Burden Hours:* 0.
*Abstract:* Regulations require school districts and postsecondary institutions to provide disclosure or notification to parents and students of their rights and to keep a record of parties who have access to the student's records.

**Office of Educational Research and Improvement**

*Type of Review:* Revision.
*Title:* Application for Educational Research and Development Center Program.
*Frequency:* Quarterly—Final Report.
*Affected Public:* Non-profit institutions.
*Reporting Burden:*
*Responses:* 30.
*Burden Hours:* 3600.
*Recordkeeping Burden:*
*Recordkeepers:* 0
*Burden Hours:* 0.
*Abstract:* This form will be used by institutions of higher education or by interstate agencies to conduct educational research and development to submit applications for an award.

[FR Doc. 92-2968 Filed 2-6-92; 8:45 am]
BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Invention Available for License

**AGENCY:** Office of the Director, PETC, Department of Energy.

**ACTION:** Notice of invention available for license; correction.

**SUMMARY:** On December 3, 1991, the Department of Energy issued a notice of invention available for license entitled "Fine Coal Cleaning via Micro-Mag Process" at 56 FR 61416. The U.S. PATENT No. was inadvertently printed as U.S. PATENT No. 5,022,891. The correct PATENT No. is U.S. PATENT No. 5,022,892.

**FOR FURTHER INFORMATION CONTACT:** Curtis W. McBride, Chief Counsel, Pittsburgh Energy Technology Center, U.S. Department of Energy, P.O. Box 10940, Pittsburgh, Pennsylvania 15236-0940; telephone (412) 892-6161.

**Sun W. Chun,**
*Director.*

[FR Doc. 91-3003 Filed 2-6-92; 8:45 am]
BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL-4100-7]**

### Agency Information Collection Activities Under OMB Review

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

**DATES:** Comments must be submitted on or before March 9, 1992.

**FOR FURTHER INFORMATION OR FOR COPIES OF THIS ICR CONTACT:** Donald Brady, Chief, Watershed Management Section at EPA, (202) 260-5368.

**SUPPLEMENTARY INFORMATION:**

**Office of Water**

*Title:* Surface Water Toxics Control Program and Water Quality Planning and Management Program—303(d) Requirements (ICR # 1560.02.)

*Abstract:* ICR 1560.02 describes the information requirements to be imposed on States by the Water Quality Planning and Management Program Rule under section 303(d) of the Clean Water Act (CWA). The hours imposed on the States by these requirements were included in ICR 1560.01, which has already been approved by OMB.

Under Section 303(d) of the CWA, States must provide information on Total Maximum Daily Loads (TMDLs) of pollutant discharges for waterbodies not meeting water quality standards. The Water Quality Planning and Management Rule requires that this information be included with the States' biennial submissions of their National Water Quality Inventory reports to EPA.

Specifically, the States must carry out three activities. First, they must identify those impaired waterbodies that require the development of Total Maximum Daily Loads. Second, the States must rank the waters in terms of need for TMDLs and must target particular waterbodies for the establishment of a TMDL within each two-year period. Third, the States must allow for public comment and review during the identification and ranking of the waterbodies. If sufficient interest exists, States must propose public meetings to hear comments.

*Burden Statement:* The average burden imposed by the Surface Water Toxics Control Program and Water Quality Planning and Management Program Rule under section 303(d) is 395 hours per response. This total includes time for searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

*Respondents:* States and Territories.
*Estimated No. of Respondents:* 58.
*Estimated Total Annual Burden on Respondents:* 7620 hours.
*Frequency of Collection:* Biennial.

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: January 31, 1992.

**Paul Lapsley,**
*Director, Regulatory Management Division.*

[FR Doc. 92-2973 Filed 2-6-92; 8:45 am]
BILLING CODE 6560-50-M

**[FRL-4102-4]**

### Agency Information Collection Activities Under OMB Review

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 9, 1992.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at EPA, (202) 260–2740.

**SUPPLEMENTARY INFORMATION:**

**Office of Air and Radiation**

*Title:* Gasoline Volatility Enforcement (EPA ICR #1367.03; OMB #2060–178). This ICR requests renewal of the existing clearance.

*Abstract:* The Environmental Protection Agency's gasoline volatility regulations provide for a one pound per square inch allowance above the otherwise applicable standard for ethanol blends. This information collection request seeks approval for the requirement that facilities handling ethanol blends label invoices with the ethanol content; the required label identifies gasoline products that contain ethanol and thereby qualify for the allowance. Changes in the regulations since the last clearance eliminated the recordkeeping requirement, which accounted for over 75% of this collection's burden. The labelling requirement now provides purchasers of ethanol blends with the information necessary to manage their own compliance with the volatility regulations and to defend themselves from Agency actions on violations which they did not cause.

*Burden Statement:* The public reporting burden for this collection of information is estimated to average 4 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and labelling the invoices.

*Respondents:* entities that produce or handle ethanol blends.

*Estimated Number of Respondents:* 8920.

*Estimated Total Annual Burden on Respondents:* 35,680 hours.

*Frequency of Collection:* as needed.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: January 31, 1992.

**Paul Lapsley,**

*Director, Regulatory Management Division.*

[FR Doc. 92–3018 Filed 2–6–92; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4102–3]

**Environmental Impact Statements and Regulations; Availability of EPA Comments**

Availability of EPA comments prepared January 20, 1992 Through January 24, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1991 (56 FR 14096).

**Draft EISs**

*ERP No. D–COE–K36104–CA Rating EC2,* Sacramento River Flood Control System, Flood Protection, Phases II–V from Red Bluff to Collinsville, Implementation, CA.

*Summary:* EPA expressed environmental concerns regarding potential impacts to wetlands, fish and wildlife habitats, water and air quality. EPA urged the Corps to select flood protection methods that minimize damage to the natural environment and provide mitigation for unavoidable adverse impacts. EPA recommended that the Corps consider preparing tiered EISs rather than environmental assessments for future site-specific flood control work due to the large size of the areas proposed for work.

*ERP No. D–FHW–F40318–MN Rating E02,* US 14 Construction, Owatonna to Kasson, Funding and Section 404 Permit, Dodge and Steele Counties, MN.

*Summary:* EPA finds the prairie and wetlands mitigation plans insufficient and the spoil disposal from the rechannelization of Dodge Center Creek in need of addressing.

*ERP No. D–FHW–F40319–WI Rating EC2,* WI–TH–29 (Ringle-Shawano) Corridor Project, Improvement, Linking I–94 and Minneapolis/St. Paul to Green Bay/Fox River Valley, Land Acquisition and Section 404 Permit, Marathon and Shawano Counties, WI.

*Summary:* EPA finds insufficient information was provided for the assessment of additional alternatives and for the mitigation of woodlands impacts.

*ERP No. D–NPS–K61121–NV Rating LO1,* Great Basin National Park General Management and Development Concept Plans, Implementation, White Pine County, NV.

*Summary:* EPA requested additional discussion in the FEIS on efforts to protect wetlands and riparian areas from grazing and roadbuilding.

**Final EISs**

*ERP No. F–AFS–K61110–CA,* Merced and South Fork Merced Wild and Scenic Rivers Management Plan, Implementation, Sierra and Stanislaus National Forests and Yosemite National Park, Mariposa and Madara Counties, CA.

*Summary:* Review of the Final EIS was not deemed necessary.

*ERP No. F–AFS–K67010–CA,* Gillibrand Soledad Canyon Mining Operations Management Plan, Implementation, Angeles National Forest, Los Angeles County, CA.

*Summary:* Review of the Final EIS was not deemed necessary.

*ERP No. F–AFS–L61188–WA,* Lower White Salmon River Wild and Scenic River Management Plan, Columbia River Gorge National Scenic Area Wild and Scenic River System, Implementation, Klickitat County, WA.

*Summary:* EPA had no objections to the preferred alternative as described in the final EIS.

*ERP No. F–AFS–L61189–WA,* Lower Klickitat River Wild and Scenic River Management Plan, National Wild and Scenic Rivers System, Implementation, Columbia River Gorge National Scenic Area, Klickitat County, WA.

*Summary:* EPA had no objections to the preferred alternative as described in the final EIS.

*ERP No. F–COE–E32066–00,* Savannah Harbor Comprehensive Study and Harbor Deepening, Updated and New Information, Implementation, Chatham County, GA and Jasper County, SC.

*Summary:* EPA's concerns about the project have been satisfactorily addressed by closure of the new and removal of the tide gate from operation.

*ERP No. FS–COE–E34010–MS,* Arkabutla, Enid, Grenda and Sardis Lake, Operation and Maintenance, Update Information, Channel Restoration on the Tallatchie River and Yalobusha River, MS.

*Summary:* EPA remains concerned regarding the effectiveness of the proposed flood control measures together with their impacts on the adjacent wetlands in the subject stream reaches. Mitigation for unavoidable environmental damages is being considered, but has not been finalized.

Dated: February 4, 1992.

**Richard E. Sanderson,**

*Director, Office of Federal Activities.*

[FR Doc. 92–3020 Filed 2–6–92; 8:45 am]

BILLING CODE 6560–50–M

[ER-FRL-4102-2]

## Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5073 or (202) 260–5075. Availability of Environmental Impact Statements Filed January 27, 1992 Through January 31, 1992 Pursuant to 40 CFR 1506.9.

*EIS No. 920031,* Final EIS, CDB, NY, City of Rochester School No. 25 and School No. 36 Replacement, CDBG, Rochester, Monroe County, NY, Due: March 9, 1992, Contact: Larry Stid (716) 428–6924.

*EIS No. 920032,* Draft EIS, COE, CA, San Rafael Canal Flood Control/Marin County Shoreline Study, Implementation, City of San Rafael, Marin County, CA, Due: March 23, 1992, Contact: Scott Miner (415) 744–3039.

*EIS No. 920033,* Final EIS, COE, PA, Lower Monongahela River Navigation System, Locks and Dam Nos. 2, 3, and 4 Improvements, Funding, Allegheny, Washington, and Westmoreland Counties, PA, Due: March 9, 1992, Contact: Paul Kolesar (412) 644–6844.

*EIS No. 920034,* Final EIS, AFS, AK, Kensington Venture Underground Gold Mine Project, Development, Construction and Operation, Operating Plan Approval, NPDES, Section 10 and 404 Permits, Tongass National Forest, Sherman Creek, City of Juneau, AK, Due: March 23, 1992, Contact: Roger Birk (907) 747–6671.

*EIS No. 920035,* Draft EIS, UAF, CT, ME, NH, NJ, MA, VT, NY, PA, Aircraft Conversions at the Bradley Air National Guard (ANG) Base, 103rd Tactical Fighter Group, Bradley International Airport, CT and Barnes Air National Guard (ANG) Base, MA, Change in Utilization of Military Training Airspace in the Northeastern U.S., Due: March 23, 1992, Contact: Harry Knudson (301) 981–8143.

*EIS No. 920036,* Draft EIS, BOP, TX, Jefferson County Federal Correctional Complex, Construction and Operation, City of Beaumont, Jefferson County, TX, Due: March 23, 1992, Contact: Patricia K. Sledge (202) 514–6470.

### Amended Notices

*EIS No. 910431,* Draft EIS, AFS, OH, Wayne National Forest, Amendment 7 Land and Resource Management Plan, Oil and Gas Leasing, Implementation, Application for Permit Drilling, section 404 Permit, Several Counties, OH, Due: March 4, 1992, Contact: Regis E. Terney (812) 275–5987.

Published FR—2–7–92—Review period extended.

Dated: February 4, 1992.

**Richard E. Sanderson,**

*Director, Office of Federal Activities.*

[FR Doc. 92–3019 Filed 2–6–92; 8:45 am]

BILLING CODE 6560–50–M

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[FRL-4102-1]

## Science Advisory Board Closed Meeting

Under Public Law 92–463, notice is hereby given that a meeting of an ad-hoc Subcommittee of the Science Advisory Board will be held in Washington, DC on March 2–3, 1992 to determine the recipients of the Agency's 1991 Scientific and Technological Achievement Cash Awards. These awards are established to give honor and recognition to EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, and who have published their results in peer reviewed journals.

Pursuant to section 10(d) of the U.S.C. appendix 1 and 5 U.S.C. 522(c), I hereby determine that this meeting is concerned with information exempt from disclosure, and that the public interest requires that this meeting be closed.

In selecting the recipients for the awards, and in determining the actual cash amount of each award, the Agency requires full and frank advice from the Science Advisory Board. This advice will involve professional judgements on those employees whose published research results are deserving of a cash award as well as those that are not. Discussion of such a personal nature, where disclosure would constitute an unwarranted invasion of personal privacy, are exempted under section 10(d) of title 5, U.S. Code, appendix 1. In accordance with the provisions of the Federal Advisory Committee Act, minutes of the meeting will be kept for Agency and Congressional review.

The Science Advisory Board shall be responsible for maintaining records of the meeting, and for providing an annual report setting forth a summary of the meeting consistent with the policy of U.S.C. appendix 1, section 10(d).

Dated: January 30, 1992.

**William K. Reilly,**

*Administrator.*

[FR Doc. 92–3021 Filed 2–6–92; 8:45 am]

BILLING CODE 6560–50–M

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[OPPTS-51786; FRL 4048-5]

## Certain Chemicals; Premanufacture Notices

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

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 20 such PMNs and provides a summary of each.

**DATES:** Close of review periods:

P 92–399, 92–400, 92–401, 92–402, 92–403, April 8, 1992.

P 92–448, 92–449, April 22, 1992.

P 92–450, 92–451, 92–452, April 25, 1992.

P 92–453, 92–454, 92–455, 92–456, 92–457, 92–458, 92–459, 92–460, 92–462, 92–463, April 26, 1992.

Written comments by:

P 92–399, 92–400, 92–401, 92–402, 92–403, March 9, 1992.

P 92–448, 92–449, March 23, 1992.

P 92–450, 92–451, 92–452, March 26, 1992.

P 92–453, 92–454, 92–455, 92–456, 92–457, 92–458, 92–459, 92–460, 92–462, 92–463, March 27, 1992.

**ADDRESSES:** Written comments, identified by the document control number "(OPPTS–51786)" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. L–100, Washington, DC, 20460, (202) 260–3532.

**FOR FURTHER INFORMATION CONTACT:** David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–545, 401 M St., SW., Washington, DC 20460 (202) 554–1404, TDD (202) 554–0551.

**SUPPLEMENTARY INFORMATION:** The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE–G004 at the above address between 8 a.m. and noon

and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

**P 92-399**

*Manufacturer.* Research Seeds, Inc. On February 21, 1991, Research Seeds, Inc. (St. Joseph, Missouri), a commercial inoculant production and seed coating company, signed an Agreement of Purchase and Sale with BioTechnica International, Inc., (Cambridge, Mass) thereby transferring the entire *Rhizobium* and *Bradyyrhizobium* genetic engineering program from BioTechnica to Research Seeds. This technology has been the subject of several field trials described in Pre-Manufacturing Notices submitted by BioTechnica to EPA beginning in February 6, 1987 thru May 18, 1990 (*Rhizobium meliloti* PMNs P87-568, P87-570, P88-1116, P88-1118, P88-1120, P89-280, and P90-339, and *Bradyrizobium japonicum* PMNs P88-1275, P88-1277, P89-340, and P89-341.

*Chemical.* (G) Two *Rizobium meliloti* RCR2011 (SU47) strains modified to contain antibiotic resistance markers and added permease function and three *R. meliloti* PC strains modified to contain antibiotic resistance markers and genes to enhance nitrogen-fixing ability, one strain additionally modified to contain added permease function. Enhanced cassettes introduced into the receipients were constructed using recombinant, intergeneric genetic material.

*Use/Production.* (G) Proposal for 5 small-scale field testing trials (during 1992) of genetically modified strains to identify those which produce significantly higher alfalfa yields compared to the unmodified parental strains. The testing sites will be located on University of Wisconsin Agricultural Research Station property in the towns of Marshfield, Hancock, Arlington, and Lancaster.

*Test Data.* Data from greenhouse studies indicated the dry weight yields of alfalfa plants treated with one of the PMN strains increased 112 percent over yields of plants treated with the unmodified parental strains.

*Exposure. Human*: A maximum of 6 people will be involved in production and field application. *Environmental*: Modified strains are expected to survive in soil at a level below that of initialapplication.

*Environmental Release/Disposal: Release*: minimal aerial dissemination at seeding; no horizontal dissemination; limited vertical dispersal. 100 grams of inoculant will be applied as a humus seed coating (alfalfa seeds coated with humus that has been inoculated with the modified or parental strains (1 x 10 10 cells per gram of humus)), thereby minimizing potential for dispersal during application. Each field test will be conducted on 0.14 acres using individual treatment plots of 3 feet by 14 feet within a test area of 33 feet by 14 feet. Equipment will be disinfected prior to removal from field sites.

**P 92-400**

*Manufacturer.* Research Seeds, Inc. On February 21, 1991, Research Seeds, Inc. (St. Joseph, Missouri), a commercial inoculant production and seed coating company, signed an Agreement of Purchase and Sale with BioTechnica International, Inc., (Cambridge, Mass) thereby transferring the entire *Rhizobium* and *Bradyyrhizobium* genetic engineering program from BioTechnica to Research Seeds. This technology has been the subject of several field trials described in Pre-Manufacturing Notices submitted by BioTechnica to EPA beginning in February 6, 1987 thru May 18, 1990 (*Rhizobium meliloti* PMNs P87-568, P87-570, P88-1116, P88-1118, P88-1120, P89-280, and P90-339, and *Bradyrizobium japonicum* PMNs P88-1275, P88-1277, P89-340, and P89-341.

*Chemical.* (G) Two *Rizobium meliloti* RCR2011 (SU47) strains modified to contain antibiotic resistance markers and added permease function and three *R. meliloti* PC strains modified to contain antibiotic resistance markers and genes to enhance nitrogen-fixing ability, one strain additionally modified to contain added permease function. Enhanced cassettes introduced into the receipients were constructed using recombinant, intergeneric genetic material.

*Use/Production.* (G) Proposal for 5 small-scale field testing trials (during 1992) of genetically modified strains to identify those which produce significantly higher alfalfa yields compared to the unmodified parental strains. The testing sites will be located on University of Wisconsin Agricultural Research Station property in the towns of Marshfield, Hancock, Arlington, and Lancaster.

*Test Data.* Data from greenhouse studies indicated the dry weight yields of alfalfa plants treated with one of the PMN strains increased 112 percent over yields of plants treated with the unmodified parental strains.

*Exposure. Human*: A maximum of 6 people will be involved in production and field application. *Environmental*: Modified strains are expected to survive in soil at a level below that of initialapplication.

*Environmental Release/Disposal: Release*: minimal aerial dissemination at seeding; no horizontal dissemination; limited vertical dispersal. 100 grams of inoculant will be applied as a humus seed coating (alfalfa seeds coated with humus that has been inoculated with the modified or parental strains (1 x 10 10 cells per gram of humus)), thereby minimizing potential for dispersal during application. Each field test will be conducted on 0.14 acres using individual treatment plots of 3 feet by 14 feet within a test area of 33 feet by 14 feet. Equipment will be disinfected prior to removal from field sites.

**P 92-401**

*Manufacturer.* Research Seeds, Inc. On February 21, 1991, Research Seeds, Inc. (St. Joseph, Missouri), a commercial inoculant production and seed coating company, signed an Agreement of Purchase and Sale with BioTechnica International, Inc., (Cambridge, Mass) thereby transferring the entire *Rhizobium* and *Bradyyrhizobium* genetic engineering program from BioTechnica to Research Seeds. This technology has been the subject of several field trials described in Pre-Manufacturing Notices submitted by BioTechnica to EPA beginning in February 6, 1987 thru May 18, 1990 (*Rhizobium meliloti* PMNs P87-568, P87-570, P88-1116, P88-1118, P88-1120, P89-280, and P90-339, and *Bradyrizobium japonicum* PMNs P88-1275, P88-1277, P89-340, and P89-341.

*Chemical.* (G) Two *Rizobium meliloti* RCR2011 (SU47) strains modified to contain antibiotic resistance markers and added permease function and three *R. meliloti* PC strains modified to contain antibiotic resistance markers and genes to enhance nitrogen-fixing ability, one strain additionally modified to contain added permease function. Enhanced cassettes introduced into the receipients were constructed using recombinant, intergeneric genetic material.

*Use/Production.* (G) Proposal for 5 small-scale field testing trials (during 1992) of genetically modified strains to identify those which produce significantly higher alfalfa yields compared to the unmodified parental strains. The testing sites will be located on University of Wisconsin Agricultural Research Station property in the towns of Marshfield, Hancock, Arlington, and Lancaster.

*Test Data.* Data from greenhouse studies indicated the dry weight yields of alfalfa plants treated with one of the PMN strains increased 112 percent over yields of plants treated with the unmodified parental strains.

*Exposure. Human*: A maximum of 6 people will be involved in production and field application. *Environmental*: Modified strains are expected to survive in soil at a level below that of initialapplication.

*Environmental Release/Disposal: Release*: minimal aerial dissemination at seeding; no horizontal dissemination; limited vertical dispersal. 100 grams of inoculant will be applied as a humus seed coating (alfalfa seeds coated with humus that has been inoculated with the modified or parental strains (1 x 10 10 cells per gram of humus)), thereby minimizing potential for dispersal during application. Each field test will be conducted on 0.14 acres using individual treatment plots of 3 feet by 14 feet within a test area of 33 feet by 14 feet. Equipment will be disinfected prior to removal from field sites.

**P 92-402**

*Manufacturer.* Research Seeds, Inc. On February 21, 1991, Research Seeds, Inc. (St. Joseph, Missouri), a commercial inoculant production and seed coating company, signed an Agreement of Purchase and Sale with BioTechnica International, Inc., (Cambridge, Mass) thereby transferring the entire *Rhizobium* and *Bradyyrhizobium* genetic engineering program from BioTechnica to Research Seeds. This technology has been the subject of several field trials described in Pre-Manufacturing Notices submitted by BioTechnica to EPA beginning in February 6, 1987 thru May 18, 1990 (*Rhizobium meliloti* PMNs P87-568, P87-570, P88-1116, P88-1118, P88-1120, P89-280, and P90-339, and *Bradyrizobium japonicum* PMNs P88-1275, P88-1277, P89-340, and P89-341.

*Chemical.* (G) Two *Rizobium meliloti* RCR2011 (SU47) strains modified to contain antibiotic resistance markers and added permease function and three *R. meliloti* PC strains modified to contain antibiotic resistance markers and genes to enhance nitrogen-fixing ability, one strain additionally modified to contain added permease function. Enhanced cassettes introduced into the receipients were constructed using recombinant, intergeneric genetic material.

*Use/Production.* (G) Proposal for 5 small-scale field testing trials (during 1992) of genetically modified strains to identify those which produce significantly higher alfalfa yields compared to the unmodified parental strains. The testing sites will be located on University of Wisconsin Agricultural Research Station property in the towns of Marshfield, Hancock, Arlington, and Lancaster.

*Test Data.* Data from greenhouse studies indicated the dry weight yields of alfalfa plants treated with one of the PMN strains increased 112 percent over yields of plants treated with the unmodified parental strains.

*Exposure. Human*: A maximum of 6 people will be involved in production and field application. *Environmental*: Modified strains are expected to survive in soil at a level below that of initialapplication.

*Environmental Release/Disposal: Release*: minimal aerial dissemination at seeding; no horizontal dissemination; limited vertical dispersal. 100 grams of inoculant will be applied as a humus seed coating (alfalfa seeds coated with humus that has been inoculated with the modified or parental strains (1 x 10 10 cells per gram of humus)), thereby minimizing potential for dispersal during application. Each field test will be conducted on 0.14 acres using individual treatment plots of 3 feet by 14 feet within a test area of 33 feet by 14 feet. Equipment will be disinfected prior to removal from field sites.

**P 92-403**

*Manufacturer.* Research Seeds, Inc. On February 21, 1991, Research Seeds, Inc. (St. Joseph, Missouri), a commercial inoculant production and seed coating company, signed an Agreement of Purchase and Sale with BioTechnica International, Inc., (Cambridge, Mass) thereby transferring the entire *Rhizobium* and *Bradyyrhizobium* genetic engineering program from BioTechnica to Research Seeds. This technology has been the subject of several field trials described in Pre-Manufacturing Notices submitted by BioTechnica to EPA beginning in February 6, 1987 thru May 18, 1990 (*Rhizobium meliloti* PMNs P87-568, P87-570, P88-1116, P88-1118, P88-1120, P89-280, and P90-339, and *Bradyrizobium japonicum* PMNs P88-1275, P88-1277, P89-340, and P89-341.

*Chemical.* (G) Two *Rizobium meliloti* RCR2011 (SU47) strains modified to contain antibiotic resistance markers and added permease function and three *R. meliloti* PC strains modified to contain antibiotic resistance markers and genes to enhance nitrogen-fixing ability, one strain additionally modified to contain added permease function. Enhanced cassettes introduced into the receipients were constructed using recombinant, intergeneric genetic material.

*Use/Production.* (G) Proposal for 5 small-scale field testing trials (during 1992) of genetically modified strains to identify those which produce significantly higher alfalfa yields compared to the unmodified parental strains. The testing sites will be located on University of Wisconsin Agricultural Research Station property in the towns of Marshfield, Hancock, Arlington, and Lancaster.

*Test Data.* Data from greenhouse studies indicated the dry weight yields of alfalfa plants treated with one of the PMN strains increased 112 percent over yields of plants treated with the unmodified parental strains.

*Exposure. Human*: A maximum of 6 people will be involved in production and field application. *Environmental*: Modified strains are expected to survive in soil at a level below that of initialapplication.

*Environmental Release/Disposal: Release*: minimal aerial dissemination at seeding; no horizontal dissemination; limited vertical dispersal. 100 grams of inoculant will be applied as a humus seed coating (alfalfa seeds coated with humus that has been inoculated with the modified or parental strains (1 x 10 10 cells per gram of humus)), thereby minimizing potential for dispersal during application. Each field test will be conducted on 0.14 acres using individual treatment plots of 3 feet by 14 feet within a test area of 33 feet by 14 feet. Equipment will be disinfected prior to removal from field sites.

**P 92-448**

*Manufacturer.* Confidential.

*Chemical.* (G) Reaction products of diisocycante, glycol ether, alcohols and alkanepolyol.

*Use/Production.* (G) Component of coating with open use. Prod. range: 100,000-300,000 kg/yr.

**P 92-449**

*Importer.* Confidential.

*Chemical.* (G) Aryl azopyridone.

*Use/Import.* (G) Dye. Import range: Confidential.

*Toxicity Data.* Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: slight species (rabbit). Mutagenicity: positive. Skin irritation: slight species (rabbit). Skin sensitization: positive species (guinea pig).

**P 92-450**

*Manufacturer.* Confidential.

*Chemical.* (S) 2-Propenoic acid, 2-methyl-3-(trimethoxyl) propyl ester, reaction product with silica.

*Use/Production.* (G) Coating formulation component. Prod. range: Confidential.

**P 92-451**

*Importer.* Ausimont USA, Inc.

*Chemical.* (G) Bisphenol of, substituted phosphonium salt.

*Use/Import.* (S) Curing agent for thermoset elastomer. Import range: Confidential.

**P 92-452**

*Manufacturer.* Confidential.

*Chemical.* (G) Urea derivative.

*Use/Production.* (G) Crosslinker. Prod. range: Confidential.

*Toxicity Data.* Skin irritation: negligible species (rabbit).

**P 92-453**

*Manufacturer.* Confidential.

*Chemical.* (G) Acrylic polymer.

*Use/Production.* (G) Coating for nondispersive use. Prod. range: Confidential.

**P 92-454**

*Manufacturer.* Confidential.

*Chemical.* (S) Polyamide resin (polymer).

*Use/Production.* (S) Rosin for flexographic inks. Prod. range: 45,000–90,000 kg/yr.

**P 92-455**

*Importer.* Confidential.

*Chemical.* (G) Sodium salt of norpholine derivitive.

*Use/Import.* (S) Buffer component for use in water analysis. Import range: 40–80 kg/yr.

**P 92-456**

*Importer.* Confidential.

*Chemical.* (G) Salt of cephalosporia derivitive.

*Use/Import.* (G) Antimicrobiol agent. Import range: .05–.10 kg/yr.

**P 92-457**

*Importer.* Confidential.

*Chemical.* (G) Thioether.

*Use/Import.* (G) Component in water analysis. Import range: 1–2 kg/yr.

**P 92-458**

*Importer.* Huls America, Inc.

*Chemical.* (G) Copolymer resin of aryl/acryl dibasic acids with alkenediol.

*Use/Import.* (S) Stoving varnish for metal coatings. Import range: Confidential.

**P 92-459**

*Importer.* Ciba-Geigy Corporation.

*Chemical.* (G) Substituted napthalenedisulfonic acid.

*Use/Import.* (G) Dye intermediate. Import range: Confidential.

*Toxicity Data.* Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

**P 92-460**

*Manufacturer.* Rohm Tech, Inc.

*Chemical.* (G) Formaldehyde free acrylic copolymer.

*Use/Production.* (S) Textile coating/finishing. Prod. range: Confidential.

**P 92-462**

*Manufacturer.* Essex Specialty Product.

*Chemical.* (G) Hydroxyl functional polycarbomonyl (polyalkylene oxide) oligomer.

*Use/Production.* (S) Adhesive. Prod. range: Confidential.

**P 92-463**

*Manufacturer.* Essex Specialty Product.

*Chemical.* (G) Hydroxyl functional polycarbomonyl (polyalkylene oxide) oligomer.

*Use/Production.* (S) Adhesive. Prod. range: Confidential.

Dated: February 3, 1992.

**Douglas W. Sellers,**

*Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 92-3022 Filed 2-6-92; 8:45 am]

BILLING CODE 6560-50-F

## FEDERAL COMMUNICATIONS COMMISSION

### Network Reliability Council Meeting

February 4, 1992.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, this notice advises interested persons of the first meeting of the Network Reliability Council ("Council"), which will be held at the Federal Communications Commission in Washington, DC.

**DATES:** Thursday, February 27, 1992 at 2 p.m.

**ADDRESSES:** Federal Communications Commission, room 856, 1919 M Street, NW., Washington, DC 20554.

**SUPPLEMENTARY INFORMATION:** The Council was established by the Federal Communications Commission to bring together leaders of the telecommunication industry and telecommunications experts from academic and consumer organizations to explore and recommend measures that would enhance network reliability.

The agenda for the first meeting is as follows. The meeting will begin with introductory comments by Alfred C. Sikes, Chairman, Federal Communications Commission, and Paul H. Henson, Chairman, Network Reliability Council. Chairman Henson will briefly outline the Council's operating procedures. Chairman Henson and the Council Members will then begin discussion covering assessment of network vulnerability, identification of causes that have been common to recent outages or contributed to or magnified their impact, an assessment of the likelihood of future outages, an assessment of current industry and government efforts to avoid or minimize outages and to strengthen network reliability, and identification of other possible approaches for avoiding or minimizing outages and enhancing network reliability. Chairman Henson will then determine the time of the next Council meeting and make preliminary arrangements for organizing the intervening activities of informal subcommittees who will focus on specific areas for investigation to be determined by Chairman Henson on the basis of the Council's discussion.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many persons as possible. However, admittance will be limited to the seating available. There will be no public oral participation, but the public may submit written comments to James Keegan, the Council's Designated Federal Officer, before the meeting.

For additionl information contact James Keegan, Designated Federal Officer of the Network Reliability Council and Chief, Domestic Facilities Division, Federal Communications Commission at (202) 634-1860.

Federal Communications Commission.

**Donna R. Searcy,**

*Secretary.*

[FR Doc. 92-2988 File 2-6-92; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL MARITIME COMMISSION

**[Docket No. 92-05]**

### Polish Ocean Lines v. Bronel Shipping and Liner Services (Rotterdam) B.V. as Agents for Trust Container Line; Filing of Complaint and Assignment

Notice is given that a complaint filed by Polish Ocean Lines ("Complainant") against Bronel Shipping and Liner Services (Rotterdam) B.V. as agents for Trust Container Line ("Respondent") was served February 3, 1992. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(a)(1), by failing to pay ocean freight and related charges lawfully assessed

pursuant to the applicable tariff, notwithstanding demand for payment.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by February 3, 1993, and the final decision of the Commission shall be issued by June 3, 1993.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 92-2966 Filed 2-6-92; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Carlos Salman, et al.; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than March 3, 1992.

**A. Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

*1. Carlos Salman*, Miami, Florida; to acquire an additional 11.30 percent of the voting shares of Terrabank Holding Corporation, Miami, Florida, for a total of 20.57 percent, and thereby indirectly acquire Terrabank, N.A., Miami, Florida.

Board of Governors of the Federal Reserve System, February 3, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92-2986 Filed 2-6-92; 8:45 am]

BILLING CODE 6210-01-F

### U.S.B. Holding Co., Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 3, 1992.

**A. Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

*1. U.S.B. Holding Company, Inc.*, Nanuet, New York; to acquire 26 percent of the voting shares of New Milford Bank and Trust Company, Inc., New Milford, Connecticut.

**B. Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

*1. F & M National Corporation*, Winchester, Virginia; to acquire 100 percent of the voting shares of Farmers & Merchants Bank of Keyser, Keyser, West Virginia.

**C. Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

*1. Villages Bancorporation, Inc.*, Lady Lake, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First Bank of the Villages, Lady Lake, Florida.

**D. Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

*1. Fairmount Banking Company*, Fairmount, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Fairmount State Bank, Fairmount, Indiana.

Board of Governors of the Federal Reserve System, February 3, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92-2987 Filed 2-6-92; 8:45 am]

BILLING CODE 6210-01-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Toxic Substances and Disease Registry

[ATSDR-47]

### Procedure for Conducting Voluntary Research

**AGENCY:** Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** This notice announces the procedure for volunteering to conduct research as part of the ATSDR Substance-Specific Applied Research Program authorized by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. The voluntary research will be conducted by the private sector to fill priority data needs for hazardous substances that are the subjects of the ATSDR Toxicological Profiles. To date, the priority data needs for 38 hazardous substances have been identified and announced by ATSDR in the **Federal Register** (56 FR 52178) on October 17, 1991. As part of this procedure for conducting voluntary research, the Agency has developed a model agreement, Memorandum of Understanding (MOU), that will be signed by ATSDR and the interested private sector organization(s) (hereinafter referred to as the Company, although multiple companies or a consortium may be signatories to a single MOU) prior to the initiation of the voluntary research. The public is invited to comment on this procedure for conducting voluntary research, and the model MOU.

**DATES:** The ATSDR considers this voluntary research effort to be of significant importance to the continuing development of the Substance-Specific Applied Research Program. Therefore, public comments concerning this Federal Register notice will be accepted throughout the Agency's involvement with voluntary research.

**ADDRESSES:** Comments on this notice should bear the docket control number ATSDR–47 and should be submitted to the Division of Toxicology, Research Implementation Branch, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road NE., Atlanta, Georgia 30333. Requests for a copy of the model Memorandum of Understanding should be addressed similarly.

Comments on this notice will be available for public inspection at the Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), from 8 a.m. until 4:30 p.m., Monday through Friday, except for legal holidays.

**FOR FURTHER INFORMATION CONTACT:** The Division of Toxicology, Research Implementation Branch, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road NE., Atlanta, Georgia 30333. Telephone: 404–639–6015 or FTS 236–6015.

**SUPPLEMENTARY INFORMATION:**

## Background

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9604(i)), as amended by the Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99–499), requires that ATSDR: (1) Develop jointly with the Environmental Protection Agency (EPA) a list of hazardous substances found at National Priorities List (NPL) sites, (in order of priority), (2) prepare Toxicological Profiles of these substances, and (3) assure the initiation of a research program to fill identified data needs associated with the substances.

The identification of the priority data needs for 38 priority hazardous substances was described in the Federal Register (October 17, 1991, 56 FR 52178), public comments were invited, and Companies were invited to volunteer to conduct research to fill specific priority data needs during the public comment period for that notice. Future Federal Register notices will announce (1) the final list of priority data needs for the 38 hazardous substances after public comments on these priority data needs have been addressed, (2) a second call for voluntarism to conduct research to fill priority data needs, and (3) the names of Companies that have volunteered to fill specific priority data needs.

The major purpose of this ATSDR Applied Research Program is to supplement the substance-specific informational needs of the public and scientific community; and to supply necessary information for conducting comprehensive public health assessments for populations living in the vicinity of hazardous waste sites. This program will also provide data that can be generalized to other substances or areas of science, including risk assessments of chemicals, thus creating a scientific base for filling a broader range of data needs.

## Procedure for Conducting Voluntary Research

CERCLA, as amended in section 104(i)(5)(D), states that it is the sense of Congress that the costs for conducting this research program be borne by the manufacturers and processors of the hazardous substances under the Toxic Substances Control Act (TSCA) and registrants under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), or by cost recovery from responsible parties under CERCLA. To effectuate this statutory intent, the ATSDR has developed a plan whereby portions of this CERCLA Substance-Specific Applied Research Program will be conducted via regulatory mechanisms (TSCA/FIFRA), private sector voluntarism, and through the direct use of CERCLA funds.

ATSDR intends to enter into voluntary research projects in ways that lead only to high quality scientific work. This necessitates peer review of study protocols and results consistent with CERCLA section 104(i)(13). CERCLA requires the peer review panel to consist of three to seven peer reviewers who (a) are selected by the Administrator of ATSDR, (b) are disinterested scientific experts, (c) have a reputation for scientific objectivity, and (d) who lack institutional ties with any person involved in the conduct of the study or research under review.

The ATSDR is aware of concerns within some segments of the public regarding voluntary research conducted by Companies with vested interests in the research. To this end, the Agency encourages the public to comment on ATSDR's procedure for conducting voluntary research in this notice. Additionally, for each research project conducted voluntarily, the MOU (signed by ATSDR and the interested Company), the ATSDR approved study plan, peer reviewers' comments, and the final research report will be available for public inspection at the location and times indicated in the **ADDRESSES** section of this notice.

The ATSDR encourages Companies to volunteer to conduct research on priority data needs that were announced in the Federal Register notice "Identification of Priority Data Needs for 38 Priority Hazardous Substances" (October 17, 1991, 56 FR 52178) and on priority data needs to be subsequently announced by the Agency. Interested Companies are asked to submit concept proposals (1–2 pages, not detailed protocols) during the October 17, 1991–January 15, 1992 public comment period for the above-mentioned notice, and for subsequent Federal Register notices. The concept proposal should include (1) the name of the interested Company, (2) the specific priority data need(s) to be filled, (3) a summary of the Company's experience in conducting research similar to that in the concept proposal, and (4) a statement about the laboratory and other resource capabilities for conducting the proposed research. Interested Companies may submit concept proposals that address substance-specific data needs or, where appropriate, concept proposals for research that will provide information relevant to classes of chemical substances or which may be generalized to other areas of science.

A tri-agency review committee comprised of scientists from ATSDR, the National Toxicology Program (NTP), and the EPA will review these concept proposals. The committee, chaired by the Director of the Division of Toxicology, ATSDR, is charged with coordinating and assuring the appropriate evaluation of research conducted to fill priority data needs of ATSDR's priority hazardous substances relevant to the objectives of CERCLA, as amended. The principal responsibilities of the committee are to (1) provide a forum to discuss substance-specific research activities being carried out via TSCA/FIFRA, private sector voluntarism, or CERCLA funds, (2) coordinate knowledge of research activities to avoid duplication of research being conducted in other programs and under other authorities, and (3) maintain a scheduled forum that provides an overall review of the ATSDR Superfund Applied Research Program. Based on the review committee's recommendations, ATSDR will determine which, and how, specific voluntary research projects will be pursued with volunteering Companies. In instances where volunteered research initiatives are considered by the tri-

agency committee to be more appropriate for EPA response, EPA may negotiate directly with the interested Company.

If ATSDR decides to pursue a specific voluntary research project submitted in a concept proposal by a Company, the Agency will enter into a MOU with the interested Company, or where appropriate, a single MOU will be entered into with multiple Companies. ATSDR recognizes that two or more companies or a consortium of interested firms may elect to enter into collaborative efforts in pursuing one or more concept proposals. Following the signing of the MOU and prior to the initiation of the research, the interested Company will negotiate with ATSDR to agree upon an approved study plan including testing protocols. The content of the MOU is described below.

(1) Identification of the party or parties comprising the Company which enters into the MOU—this section consists of the name and address of each party responsible for the conduct of the research.

(2) Identification of the substance(s) subject to research requirements under the MOU—this section consists of the name and Chemical Abstract Service (CAS) Number of the chemical substance(s) that is the subject of the MOU. The chemical substance(s) to be tested shall be as pure as reasonably can be attained. Alternate language will be substituted when the subject of the research is a human population, as in epidemiologic studies.

(3) Identification of the effects or characteristics for which research is to be conducted—in this section, the health effects, environmental fate or other characteristics for which research is to be conducted under the MOU shall be listed.

(4) Schedule for submission of study plans, initiation of research and submission of interim and final reports—the Company shall submit to ATSDR a study plan for each test six weeks after signing the MOU. The study plan shall include test protocols and a schedule with reasonable timetable and deadlines for initiation and completion of each test and submission of interim and final reports. The test protocols will be reviewed by an ATSDR-appointed peer review panel. If ATSDR disapproves the study plan, it will inform the Company of the deficiencies of the plan. The Company may request reconsideration of the study plan, resubmit a modified study plan, or elect to terminate the MOU with no further obligation of either party under the MOU. In the event that the Company resubmits a modified study plan and ATSDR disapproves it, the Agency may elect to terminate the MOU.

The starting date of the research project may be negotiated depending on the type of research being conducted. However, as a general guideline, the research effort shall be initiated within eight weeks of the approval of the study plan and attendant test protocols. Written notification of the starting date of the test will be submitted to ATSDR by the Company. The completion date of the study will be established from the approved study plan. Interim progress reports shall be submitted to ATSDR within six months after the initiation of testing and thereafter within six months after submission of each previous interim report. The final report on the results of testing shall be submitted to ATSDR no more than 20 weeks following the end of the study. ATSDR acceptance of the final report will be contingent upon approval by ATSDR following the peer reviewers' recommendations, consistent with CERCLA section 104(i)(13) peer review requirements. All results of research conducted pursuant to the MOU and all supporting data associated with the research report will be provided to ATSDR and made available by the Agency to the public as part of its implementation of sections 104(i) (3) and (5) of CERCLA. Final reports will not be accepted if the data is designated Confidential Business Information (CBI) or otherwise restricted from public disclosure.

(5) Modifications of study plans, guidelines, and schedules—if a Company intends to modify a study plan, protocol, or schedule that was approved by ATSDR, it must notify ATSDR in writing of the proposed modifications and reasons therefor. If ATSDR approves of the modifications, the time schedule established for completion of the tests shall be re-negotiated and appended to the existing MOU. If ATSDR disapproves the Company's request and the Company does not accept ATSDR's decision to disapprove the modified study plan, the Company may terminate the MOU.

(6) Observance of Good Laboratory Practices—all research agreed to in the MOU shall be conducted in accordance with the Good Laboratory Practice (GLP) standards codified in 40 CFR 792, to the extent that such GLP standards apply. Should the Company's Good Epidemiology Practices be relevant to a research project, those Practices should be affixed to the study protocol.

(7) Inspections—the Company shall ensure that an authorized employee of ATSDR is permitted, at reasonable times and in a reasonable manner, to (i) inspect any research or testing facility that is conducting research pursuant to the MOU, and (ii) inspect (and in the case of records, copy) any records and specimens required to be maintained in connection with research performed pursuant to the MOU.

(8) Submission and publication of data—all data and reports submitted to ATSDR pursuant to the MOU shall be sent to ATSDR, in duplicate, at the address indicated in the **ADDRESSES** section. Acceptance of the final report is contingent upon approval by ATSDR following the peer reviewers' recommendations, consistent with CERCLA peer review requirements. The Company maintains all rights to publication of data and results, however all results of research conducted pursuant to the MOU and all supporting data associated with the final research report will be provided to ATSDR and made available by the Agency to the public as part of its implementation of Section 104(i)(5) of CERCLA. The final report will not be accepted by ATSDR if the data is designated Confidential Business Information (CBI) or is otherwise restricted from public disclosure.

(9) Payments of costs and expenses—each company shall agree to pay all costs, direct and indirect, associated with the research programs and which are not considered part of ATSDR's administrative costs.

(10) Events constituting a breach of the MOU—Failure by the Company to:

(a) Submit a study plan that receives ATSDR's approval following the peer reviewers, recommendations;

(b) Initiate any test agreed to in the MOU by the date established pursuant to the MOU;

(c) Adhere to GLP standards, established test procedures or accepted practices of good science to the extent that these standards and practices apply;

(d) Submit any interim report required under the MOU by the date established pursuant to the MOU; or

(e) Submit any final report that receives ATSDR's approval following peer review conducted by the Agency, shall constitute a breach of the MOU. In the event of a breach, ATSDR will not impose any claim to damages, but at the Agency's discretion may terminate the MOU.

(11) Termination—since the MOU is entered into voluntarily by ATSDR and the Company, termination by ATSDR is not considered reviewable agency action pursuant to the Administrative Procedure Act or any other applicable Federal law, and there will be no appeal

process beyond that set out in the MOU. The Company may elect to terminate the MOU at any time.

(12) Statutory compliance—consistent with section 104(i)(12) of CERCLA, as amended (42 U.S.C. 9612), nothing in the MOU shall be construed to delay or otherwise affect or impair the authority of the President, the Administrator of ATSDR or the Administrator of EPA to exercise any of their authority under any other provision of law, including TSCA and FIFRA, or the response and abatement authorities of CERCLA.

The results of the research conducted via this ATSDR Substance-Specific Applied Research Program will be used for public health assessment purposes and to reassess ATSDR's substance-specific priority data needs. It is the intention of the Agency, at this time, to re-evaluate the priority data needs for the listed hazardous substances every three years.

Dated: February 3, 1992.

**Walter R. Dowdle,**

*Acting Administrator, Agency for Toxic Substances and Disease Registry.*

[FR Doc. 92-2978 Filed 2-6-92; 8:45 am]

BILLING CODE 4160-70-M

## Alcohol, Drug Abuse, and Mental Health Administration

### Suspension Lifted; Laboratory Again Meets Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

**AGENCY:** National Institute on Drug Abuse, HHS.

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services notifies Federal Agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11986) dated April 11, 1988. The following laboratory's certification to engage in urine drug testing for Federal Agencies was suspended on October 15, 1991 (56 FR 54582, October 22, 1991) and was reinstated effective February 4, 1992.

HealthCare/Preferred Laboratories, 24451 Telegraph Road, Southfield, MI 48034, 800-225-9414 (outside MI), 800-328-4142 (inside MI).

**FOR FURTHER INFORMATION CONTACT:** Mona W. Brown, Press Officer, National Institute on Drug Abuse, room 10-A-39, 5600 Fishers Lane, Rockville, Maryland 20857; Telephone (301)-443-6245.

**Richard A. Millstein,**

*Acting Director, National Institute on Drug Abuse.*

[FR Doc. 92-3085 Filed 2-6-92; 8:45 am]

BILLING CODE 4160-20-M

## National Institute of Mental Health; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the advisory committees of the National Institute of Mental Health for February/March 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, portions of these meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

Summaries of the meetings and rosters of committee members may be obtained from: Ms. Joanna L. Kieffer, NIMH Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 9-105, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301-443-4333).

Substantive program information may be obtained from the contacts whose names, room numbers, and telephone numbers are listed below.

*Committee Name:* Mental Health Small Business Research Review Committee.
*Meeting Date:* March 2-3, 1992.
*Place:* Washington Marriott, 1221 22nd Street, NW, Washington, DC 20037.
*Open:* March 2, 9-10:30 a.m.
*Closed:* Otherwise.
*Contact:* Gloria Levin, room 9C-14, Parklawn Building, Telephone (301) 443-1367.

*Committee Name:* Treatment Assessment Review Committee.
*Meeting Date:* March 2-3, 1992.
*Place:* Embassy Suites, 4300 Military Road, NW, Washington, DC 20015.
*Open:* March 2, 8:30-9:30 a.m.
*Closed:* Otherwise.
*Contact:* Barbara Campbell, room 9C-02, Parklawn Building, Telephone (301) 443-4868.

*Committee Name:* Child Psychopathology and Treatment Review Committee.
*Meeting Date:* March 9-11, 1992.
*Place:* Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
*Open:* March 9, 9-10 a.m.
*Closed:* Otherwise.
*Contact:* Doris Lee Robb, room 9C-15, Parklawn Building, Telephone (301) 443-6470.

*Committee Name:* Behavioral, Clinical, and Psychosocial Subcommittee of the Mental Health AIDS and Immunology Review Committee.
*Meeting Date:* March 11-12, 1992.
*Place:* Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
*Open:* March 11, 8:30-9:30 a.m.
*Closed:* Otherwise.
*Contact:* Regina M. Thomas, room 9C-15, Parklawn Building, Telephone (301) 443-6470.

*Committee Name:* Psychobiological, Biological, and Neuroscience Subcommittee of the Mental Health AIDS and Immunology Review Committee.
*Meeting Date:* March 11-12, 1992.
*Place:* Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
*Open:* March 11, 8:30-9:30 a.m.
*Closed:* Otherwise.
*Contact:* Rehana A. Chowdhury, room 9C-15, Parklawn Building, Telephone (301) 443-6470.

*Committee Name:* Clinical Subcommittee, Mental Health Special Project Review Committee.
*Meeting Date:* February 28, 1992.
*Place:* Holiday Inn Crowne Plaza, 66 Hale Avenue, White Plains, NY 10601.
*Open:* February 28, 8:30-9 a.m.
*Closed:* Otherwise.
*Contact:* Gewn Artis, room 9-C18, Parklawn Building, Telephone (301) 443-3944.

Dated: February 4, 1992.

**Peggy W. Cockrill,**

*Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.*

[FR Doc. 91-3024 Filed 2-6-92; 8:45 am]

BILLING CODE 4160-20-M

## Centers for Disease Control

### National Committee on Vital and Health Statistics (NCVHS) Subcommittee on State and Community Health Statistics: Cancellation of Meeting

This notice announces the cancellation of a previously announced meeting.

**Federal Register** *Citation of Previous Announcement: 57 FR 3059, January 27, 1992.*

*Previously Announced times and Dates:* 1 p.m.-5 p.m., February 20, 1992, 9 a.m.-5 p.m., February 21, 1992.

*Change in the Meeting:* This meeting has been cancelled.

*Contact Person for More Information:* Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, National Center for Health Statistics, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050 or FTS 436–7050.

Dated: February 3, 1992.

Elvin Hilyer,

*Associate Director for Policy Coordination, Centers for Disease Control.*

[FR Doc. 92–2976 Filed 2–6–92; 8:45 am]

Billing Code 4160–18–M

## Food and Drug Administration

[Docket No. 91M–0512]

## Diasonic, Inc.; Premarket Approval of Therasonic Lithotripsy Treatment System; Correction

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; correction.

**SUMMARY:** The Food and Drug Administration is correcting a notice that appeared in the Federal Register of January 15, 1992 (57 FR 1748) that announced its approval of the application by Diasonics, Inc., Milpitas, CA, for premarket approval of the Therasonic Lithotripsy Treatment System. The document was published with an incorrect docket number. This document corrects that error.

**FOR FURTHER INFORMATION CONTACT:** Marsha Melvin, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1194.

In FR Doc. 92–1099, appearing on page 1748, in the Federal Register of Wednesday, January 15, 1992, in the first column, the docket number "91N–0512" is corrected to read "91M–0512".

Dated: February 3, 1992.

Michael R. Taylor,

*Deputy Commissioner for Policy.*

[FR Doc. 92–3025 Filed 2–6–92; 8:45 am]

BILLING CODE 4160–01–M

## Health Care Financing Administration

## Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), *(FR,* Vol 56, No. 57, pp. 12376, dated Monday, March 25, 1991; Vol. 56, No. 59, pp. 12738, dated Wednesday, March 27, 1991) is amended to create an entirely new substructure within the Office of Prepaid Health Care Operations and Oversight, Office of the Associate Administrator for Operations.

**The Specific Changes to Part F are:**

• Section FP.20.B.1., Office of Qualifications (FPF1) will be deleted in its entirety and replaced by the following:

*1. Division of Payment and Operations Support (FPF4)*

• Manages the national Medicare beneficiary enrollment and disenrollment operations.

• Ensures timely and accurate payment to coordinated health care plans.

• Plans, develops, operates, and evaluates the operational and management information systems supporting the Medicare coordinated health care program.

• Conducts special analyses of specific coordinated health care plans and management information systems to identify problems and determine the need for new or enhanced systems design.

• Establishes national operational policy, procedures, and instructions for system specifications and data exchange methods which define and automate the coordinated health care plans' enrollment, disenrollment, and other systems operations.

• Serves as liaison with the Bureau of Data Management and Strategy and other FCFA Central Office and Regional Office components in their implementation and evaluation of the management information systems.

• Section FP.20.B.2., Office of Compliance (FPF2) will be deleted in its entirety and replaced by the following:

*2. Office of Operations (FPF5)*

• Directs the qualification applications process for Health Maintenance Organizations (HMOs) under the requirements of section 1301 of the Public Health Service Act (PHS Act).

• Coordinates with and provides technical assistance to the regional offices (ROs) on the monitoring of HMOs and Comprehensive Medical Plans.

• Manages and monitors the processing of Medicare coordinated health care contract reconsiderations.

• Investigates and evaluates applicants' conformance with legal and financial requirements for qualification for Medicare contracts under section 1301 of the PHS Act, section 1833 and section 1876 of the Social Security Act, and related regulations.

• Coordinates Program Advisory Council activities, including obtaining RO reports and recommendations, incorporating information from Central Office reviewers, and issuing approval of initial applications and renewals. Coordinates and makes recommendations on nonrenewals; terminations, and revocations based on information and analysis provided by ROs.

• Implements new legislation and regulations regarding coordinated health care operations.

• Assures compliance with section 1310 of the PHS Act by employers with the mandatory offering of a coordinated health care plan alternative in employer health benefit plans.

• In consultation with the ROs, establishes performance standards and evaluates the plans' performance.

• Provides training for and guidance of ROs in activities related to coordinated health care. Also provides training and workshops for HMOs.

• Establishes and maintains liaison with appropriate State and Federal regulatory agencies for coordination of qualification, contract, and monitoring issues.

• Section FP.20.B.3., Office of Financial Management (FPF3) will be deleted in its entirety and replaced by the following:

*3. Division of Finance (FPF6)*

• Establishes interim payment rates, retroactively adjusts payments, and performs end-of-year settlements for all cost-based contracting plans.

• Reviews initial Adjusted Community Rate (ACR) proposals. Trains and guides the regional offices in the administration of the annual ACR process.

• Trains and guides the audit contractor who performs the desk review of the Health Maintenance Organization (HMO) and Competitive Medical Plan (CMP) cost reports.

• Provides operational input for legislative and regulatory proposals and standard operating procedures related to cost methodology and fiscal responsibility.

• Establishes national financial standards for federally qualified HMOs and CMPs and assures that these entities comply with these requirements.

• Establishes national standards for the protection of enrollees in the event of HMO or CMP insolvency. Assures that HMOs and CMPs comply with these standards.

• Develops procedures to improve or revise the payment methodologies and processes of Medicare contractors and financial reviews of HMOs and CMPs.

• Manages the plan qualification fiscal soundness and insolvency protection reviews process.

Dated: December 24, 1991.

**Gail R. Wilensky,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 92–2950 Filed 2–6–92; 8:45 am]

BILLING CODE 4120–01–M

## Public Health Service

### Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, January 31, 1992.

(Call PHS Reports Clearance Officer on 202–245–2100 for copies of package)

1. PHS Supplements to Application for Federal Assistance (SF–424): Project Approval Checklist and Program Narrative Instructions—0937–0189—The Checklist and Program Narrative Sections are part of application forms used to elicit information primarily from governmental and other non-profit organizations requesting financial assistance from various PHS grant programs. Respondents: State and local governments, Businesses or other for-profit, Non-profit institutions.

| | Number of respondents | Number of responses per respondent | Average burden per response |
|---|---|---|---|
| Checklist | 8,046 | 1 | 10 min. |
| Program narrative. | 8,046 | 1 | 4 hrs. |

Estimated Total Annual Burden..... 33,525 hours.

2. National Health Service Corps Scholarship Program Application—0915–0146—Health professions students applying for National Health Service Corps Scholarships provide information needed to determine eligibility for the program. Respondents: Individuals or households; Number of Respondents: 5,000; Number of Responses per Respondent: 1; Average Burden per Response: 1 hour; Estimated Annual Burden: 5,000 hours.

3. Feasibility Study of Maternal Preconception Radiation and Late Effects—New—Women irradiated for infertility will be asked to respond to a telephone questionnaire about their offspring. The information will be used to relate preconception radiation to genetic effects. Respondents: Individuals or households; Number of Respondents: 315; Number of Responses per Respondent: 1; Average Burden per Response: .166 hours; Estimated Annual Burden: 52 hours.

4. Assessment of Health Care Provider Training in Smoking Cessation Techniques—New—The National Cancer Institute has developed a health care provider training program in smoking cessation techniques for national dissemination to health care professionals. Clearance is requested to conduct surveys to evaluate this program. Respondents: Individual or households; Small businesses or organizations; Number of Respondents: 6,000; Number of Responses per Respondent: 1.3; Average Burden per Response: 0.14 hours; Estimated Annual Burden: 1,134 hours.

5. Survey of the NIH General Clinical Research Centers Program—New—The evaluation is to develop an improved operational design for the program, based on objective performance data as well as on projections of resources that will be required to accommodate developing clinical research technologies. Data will be collected from investigators, graduates of career development programs and GCRC program directors. Respondents: Non-profit institutions; Number of Respondents: 5,172; Number of Responses per Respondent: 1; Average Burden per Response: .16 hours; Estimated Annual Burden: 826 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: January 31, 1992.

**Phyllis M. Zucker,**

*Acting Deputy Assistant Secretary for Public Health Policy.*

[FR Doc. 92–2910 Filed 2–6–92; 8:45 am]

BILLING CODE 4160–17–M

## Social Security Administration

### Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on January 24, 1992.

(Call Reports Clearance Officer on (301) 965–4149 for copies of package)

1. Response To Notice Of Revised Determination—0960–0347. The form SSA-765 is used to request a hearing and/or to submit additional information before a revised reconsideration determination is issued. The respondents are claimants/representatives for disability insurance benefits.

*Number of Respondents:* 1,086.
*Frequency of Response:* 1.
*Average Burden Per Response:* 30 minutes.
*Estimated Annual Burden:* 543 hours.

2. Statement For Determining Continuing Eligibility For Supplemental Security Income Payments—0960–0416. The information collected on the form SSA–8203 is used to conduct a redetermination of a recipient's continuing eligibility for supplemental security income (SSI) payments and the payment amount. The respondents are selected SSI recipients.

*Number of Respondents:* 514,000.
*Frequency of Response:* 1.
*Average Burden Per Response:* 17 minutes.
*Estimated Annual Burden:* 145,633 hours.

3. Representative Payee Report—0960–0068. The information collected on the form SSA–623 is used to determine whether a representative payee has used a beneficiary's funds properly. The respondents are representative payees.

*Number of Respondents:* 3,756,000.
*Frequency of Response:* 1.
*Average Burden Per Response:* 15 minutes.
*Estimated Annual Burden:* 939,000 hours.
*OMB Desk Officer:* Laura Oliven.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk

Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Date: January 29, 1992.

**Ron Compston,**

*Social Security Administration, Reports Clearance Officer.*

[FR Doc. 92-2635 Filed 2-6-92; 8:45 am]

BILLING CODE 4190-11-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Community Planning and Development

**[Docket No. N-92-1917; FR-2934-N-64]**

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**ADDRESSES:** For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Corps of Engineers: Gary B. Paterson, Chief, Base Realignment and Closure Office, Directorate of Real Estate, 20 Massachusetts Ave., NW., rm. 4133, Washington, DC 20314-1000; (202) 272-0520; GSA: Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 2005; (202) 501-0067; (These are not toll-free numbers).

Dated: January 31, 1992.

**Paul Roitman Bardack,**

*Deputy Assistant Secretary for Economic Development.*

**Title V, Federal Surplus Property Program Federal Register For 02/07/92**

**Suitable/Available Properties**

**Buildings (by State)**

*Connecticut*

Portland CT 36
Family Housing
1 Freedom Street
Portland, Co: Middlesex, CT 06484—
Landholding Agency: COE-BC
Property Number: 319011218
Status: Excess
Base closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
2 Freedom Street
Portland, Co: Middlesex, CT 06484-
Landholding Agency: COE-BC
Property Number: 319011219
Status: Excess
Base closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
3 Freedom Street
Portland, Co: Middlesex, CT 06484-
Landholding Agency: COE-BC
Property Number: 319011220
Status: Excess
Base closure—Number of Units: 1
Comment: 1100 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
4 Freedom Street
Portland, Co: Middlesex, CT 06484-
Landholding Agency: COE-BC
Property Number: 319011221
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
5 Freedom Street
Portland, Co: Middlesex, CT 06484-

Landholding Agency: COE–BC
Property Number: 319011222
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
6 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011223
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
7 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011224
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
8 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011225
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
9 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011226
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
10 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011227
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
11 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011228
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
13 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011229
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
14 Freedom Street
Portland Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011230
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
15 Freedom Street
Portland Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011231
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
16 Freedom Street
Portland Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011232
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

*Florida*

(P)Jacksonville Job Corps
236 W. 4th Street
Jacksonville Co: Duval, FL 32206–
Landholding Agency: GSA
Property Number: 549140007
Status: Excess
Comment: 1250 sq. ft., 2 story residence, needs major rehab, subject to compliance with federal and local historic preservation laws
GSA Number: 4–L–FL–967

*Illinois*

12 Addison Family Houses
Fort Sheridan
Addison Co: DuPage, IL 60101–
Landholding Agency: COE–BC
Property Number: 329210001
Status: Excess
Base closure—Number of Units: 12
Comment: 1-story residences, possible asbestos, scheduled to be vacated 05/93.

12 Worth Family Houses
Fort Sheridan
Worth Co: Cook, IL 60482–
Landholding Agency: COE–BC
Property Number: 329210002
Status: Excess
Base closure—Number of Units: 12
Comment: 1-story residences, possible asbestos, off-site use only, scheduled to be vacated 05/93.

*New Jersey*

Bldg. 0201
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010734
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0202
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010735
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0203
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010736
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0204
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010737
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0205
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010738
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0206
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010739
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0207
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010740
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0208
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010741
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0209

Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010742
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0210
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010743
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0211
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010744
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0212
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010745
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0213
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010746
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0214
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010747
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0215
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010748
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0216
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010749
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0217
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010750
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0218
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010751
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0219
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010752
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0220
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010753
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0221
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010754
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0222
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010755
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0223
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010756
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0224
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010757
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0201
Livingston Family Housing
Harmony Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010758
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0202
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010759
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0203
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010760
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0204
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010761
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0205
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010762
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0206
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010763
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0207
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC

Property Number: 319010764
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0208
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010765
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0209
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010766
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0210
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010767
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0211
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010768
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0212
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010769
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0213
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010770
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0214
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010771
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0215
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010772
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0216
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010773
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0217
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010774
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0218
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010775
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0219
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010776
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0220
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010777
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0221
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010778
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0222
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010779
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0223
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010780
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0224
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010781
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0225
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010782
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0226
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010783
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0227
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010784
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0228
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010785
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0230
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010786
Status: Excess
Base closure—Number of Units: 1

Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0231
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010787
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0232
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010788
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0229
Livingston Family Housing
Hornug Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010789
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

*Tennessee*

Federal Building
216 North Jackson Street
Athens Co: McMinn, TN 27303–
Landholding Agency: GSA
Property Number: 549210003
Status: Excess
Comment: 2069 sq. ft., 3 story brick and concrete frame, presence of asbestos on pipes and air ducts in mechanical areas, most recent use—offices.
GSA Number: 4–G–TN–632

**Land (by State)**

*Colorado*

Portion/Curecanti Substation
Cimarron Co: Montrose, CO 81220–
Location: 2 miles east of Cimarron on Highway 50
Landholding Agency: GSA
Property Number: 419030009
Status: Excess
Comment: 36.39 acres, easement restrictions
GSA Number: 7–B–CO–624

*Kansas*

Titan II Missile S–17
McConnell Air Force Base Co: Kingman, KS 67068–
Location: 4 miles east on US Hwy 54 and 3 miles north on FAS 361
Landholding Agency: GSA
Property Number: 549210001
Status: Excess
Comment: 10.26 acres fee and 2/43 acres easement (paved), potential utilities, PCB's underground on 1 acre, most recent use—missile site.
GSA Number: 7–D–KS–477–Q

Titan II Missile S–12
McConnell Air Force Base Co: Sumner, KS 67221–
Location: 1.5 miles south of Conway Springs, KS on State Hwy 49
Landholding Agency: GSA
Property Number: 549210002
Status: Excess
Comment: 16.75 acres fee and 3.79 acres easement (paved), potential utilities, PCB's underground on 1 acre, most recent use—missile site.
GSA Number: 7–D–KS–477–R

*Texas*

Test Tract—Formerly Jet Ind.
Burleson Road
Austin Co: Travis, TX 78741–
Location: Approx. 7 mi NW of U.S. Hwy 183 and approx. 3.5 mi SE of Ben White Blvd.
Landholding Agency: GSA
Property Number: 549140008
Status: Excess
Comment: 75.81 acres, most recent use—one-mile asphalt test track for electric cars, approx. 15 acres in floodplain.
GSA Number: 7–B–TX–970

*Wyoming*

Wind Site A
Medicine Bow Co: Carbon, WY 82329–
Location: 3 miles south and 2 miles west of Medicine Bow
Landholding Agency: GSA
Property Number: 419030010
Status: Excess
Comment: 46.75 acres, limitation-easement restrictions.

**Suitable/Unavailable Properties**

**Buildings (by State)**

*New York*

Nike
New York 01 Housing
402 Lafayette Street
Tappan Co: Rockland, NY
Landholding Agency: COE–BC
Property Number: 319011049
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence.

Nike
New York 01 Housing
424 Bogart Place
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011070
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
423 Bogart Place
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011071
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
422 Western Highway
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011072
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
NewYork 01 Housing
421 Western Highway
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011073
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
420 Western Highway
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011074
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
419 Western Highway
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011075
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
418 Western Highway
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011076
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
430 Greenbush Road
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011077
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
429 Greenbush Road
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011078
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
428 Greenbush Road
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011079
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
436 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011080
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
435 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011081
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
434 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011082
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
433 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011083
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
432 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011084
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
431 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011085
Status: Excess
Base closure—Number of Units: 1
Comment: 897sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
427 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011086
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
426 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011087
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
426 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011088
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
425 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011088
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
417 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011089
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
416 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011090
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
415 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011091
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
414 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011092
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
413 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011093
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
412 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011094
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
411 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011095
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
410 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011096
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
409 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011097
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
408 Lafayette Street
Tappan Co: Rockland NY 10983–
Landholding Agency: COE–BC
Property Number: 319011098
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
407 Lafayette Street
Tappan Co: Rockland NY 10983–
Landholding Agency: COE–BC
Property Number: 319011099
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
404 Lafayette Street
Tappan Co: Rockland NY 10983–
Landholding Agency: COE–BC
Property Number: 319011100
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
406 Lafayette Street
Tappan Co: Rockland NY 10983–

Landholding Agency: COE–BC
Property Number: 319011101
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
405 Lafayette Street
Tappan Co: Rockland NY 10983–
Landholding Agency: COE–BC
Property Number: 319011102
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
402 Lafayette Street
Tappan Co: Rockland NY 10983–
Landholding Agency: COE–BC
Property Number: 319011103
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
403 Lafayette Street
Tappan Co: Rockland NY 10983–
Landholding Agency: COE–BC
Property Number: 319011104
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
401 Lafayette Street
Tappan Co: Rockland NY 10983–
Landholding Agency: COE–BC
Property Number: 319011105
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Bldg. P–232
Dry Hill Family Housing
Route 3, Box 232
Watertown Co: Jefferson NY 13601–
Landholding Agency: COE–BC
Property Number: 319030015
Status: Excess
Base closure—Number of Units: 1
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P–233
Dry Hill Family Housing
Route 3, Box 233
Watertown Co: Jefferson NY 13601–
Landholding Agency: COE–BC
Property Number: 319030016
Status: Excess
Base closure—Number of Units: 1
Comment: 816 sq. ft., 1 story wood frame residence.

Bldg. P–234
Dry Hill Family Housing
Route 3, Box 234
Watertown Co: Jefferson NY 13601–
Landholding Agency: COE–BC
Property Number: 319030017
Status: Excess
Base closure—Number of Units: 1
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P–235
Dry Hill Family Housing
Route 3, Box 235
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030018
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–236
Dry Hill Family Housing
Route 3, Box 236
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030019
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–237
Dry Hill Family Housing
Route 3, Box 237
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030020
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–238
Dry Hill Family Housing
Route 3, Box 238
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030021
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–239
Dry Hill Family Housing
Route 3, Box 239
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030022
Status: Excess
Base closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P–240
Dry Hill Family Housing
Route 3, Box 240
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030023
Status: Excess
Base closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P–241
Dry Hill Family Housing
Route 3, Box 241
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030024
Status: Excess
Base closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P–242
Dry Hill Family Housing
Route 3, Box 242
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030025
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–243
Dry Hill Family Housing
Route 3, Box 243
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030026
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–244
Dry Hill Family Housing
Route 3, Box 244
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030027
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–245
Dry Hill Family Housing
Route 3, Box 245
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030028
Status: Excess
Base closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P–246
Dry Hill Family Housing
Route 3, Box 246
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030029
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–247
Dry Hill Family Housing
Route 3, Box 247
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030030
Status: Excess
Base Closure—Number of Units: 1
Comment: 1500 sq. ft., 1 story wood frame residence.

Bldg P–248
Dry Hill Family Housing
Route 3, Box 248
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030031
Status: Excess
Base Closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P–249
Dry Hill Family Housing
Route 3, Box 249
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030032

Status: Excess
Base Closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–250
Dry Hill Family Housing
Route 3, Box 250
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030033
Status: Excess
Base Closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–251
Dry Hill Family Housing
Route 3, Box 251
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030034
Status: Excess
Base Closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–252
Dry Hill Family Housing
Route 3, Box 252
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030035
Status: Excess
Base Closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–253
Dry Hill Family Housing
Route 3, Box 253
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030036
Status: Excess
Base Closure—Number of Units: 1
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P–254
Dry Hill Family Housing
Route 3, Box 254
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030037
Status: Excess
Base Closure—Number of Units: 1
Comment: 816 sq. ft., 1 story wood frame residence.

Bldg. P–255
Dry Hill Family Housing
Route 3, Box 255
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030038
Status: Excess
Base Closure—Number of Units: 1
Comment: 816 sq. ft., 1 story wood frame residence.

Bldg. P–256
Dry Hill Family Housing
Route 3, Box 256
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030039
Status: Excess
Base Closure—Number of Units: 1
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P–257
Dry Hill Family Housing
Route 3, Box 257
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030040
Status: Excess
Base Closure—Number of Units: 1
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P–258
Dry Hill Family Housing
Route 3, Box 258
Watertown Co: Jefferson, NY 13601–
Landholding Agency: COE–BC
Property Number: 319030041
Status: Excess
Base Closure—Number of Units: 1
Comment: 816 sq. ft., 1 story wood frame residence.

*Pennsylvania*

C.E. Kelly Support Facility
Finleyville Area Site 52, S–101–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011407
Status: Excess
Base closure—Number of Units: 1
Comment: 1307 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S–102–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011409
Status: Excess
Base closure—Number of Units: 1
Comment: 1121 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S–103–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011410
Status: Excess
Base closure—Number of Units: 1
Comment: 1121 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S–104–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011411
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S–105–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011412
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S–106–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011413
Status: Excess
Base closure—Number of Units: 1
Comment: 1013 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S–107–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011414
Status: Excess
Base closure—Number of Units: 1
Comment: 1013 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S–108–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011415
Status: Excess
Base closure—Number of Units: 1
Comment: 1013 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S–109–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011416
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S–110–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011417
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S–111–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011418

Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.
C.E. Kelly Support Facility
Finleyville Area Site 52, S–112–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011419
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.
S–29–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030051
Status: Excess
Base closure—Number of Units: 1
Comment: 1307 sq. ft., 1 story frame residence with playground area, possible asbestos.
S–30–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030052
Status: Excess
Base closure—Number of Units: 1
Comment: 1121 sq. ft., 1 story frame residence with playground area, possible asbestos.
S–31–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030053
Status: Excess
Base closure—Number of Units: 1
Comment: 1121 sq. ft., 1 story frame residence with playground area, possible asbestos.
S–32–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030054
Status: Excess
Base closure—Number of Units: 1
Comment: 1013 sq. ft., 1 story frame residence with playground area, possible asbestos.
S–33–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030055
Status: Excess
Base closure—Number of Units: 1
Comment: 1013 sq. ft., 1 story frame residence with playground area, possible asbestos.
S–34–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030056
Status: Excess
Base closure—Number of Units: 1
Comment: 1013 sq. ft., 1 story frame residence with playground area, possible asbestos.
S–35–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030057
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence with playground area, possible asbestos.
S–36–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030058
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence with playground area, possible asbestos.
S–37–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030059
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence with playground area, possible asbestos.
S–38–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030060
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence with playground area, possible asbestos.
S–39–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030061
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence with playground area, possible asbestos.
S–40–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030062
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence with playground area, possible asbestos.

**Land (by State)**

*Pennsylvania*

C.E. Kelly Support Facility
Finley Area Site 52, Land
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011408
Status: Excess
Base Closure—Number of Units: 1
Comment: 11.63 acres, potential utilities, most recent use—playground area.

**Unsuitable Properties**

**Land (by State)**

*Florida*

Cape St. George Reservation
Fort Rucker, AL Installation #12050
Apalachicola Co: Franklin G C, FL 32320–
Landholding Agency: COE–BC
Property Number: 329140001
Status: Unutilized
Base closure—Number of Units: 1
Reason: Floodway, Other
Comment: Inaccessible

[FR Doc. 92–2854 Filed 2–6–92; 8:45 am]
BILLING CODE 4210–29–M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[AK–968–4230–15; AA–6704–B]**

## Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C 1601, 1613(a), will be issued to Ahtna, Incorporated for the village of Tazlina, for 13.3 acres. The lands involved are in the vicinity of Glennallen, Alaska in T. 4 N., R. 2 W., Copper River Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 (907) 271–5690.

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until March 9, 1992 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart

E, shall be deemed to have waived their rights.

Jenice Prutz,

*Acting Chief, Branch of Cook Inlet and Ahtna Adjudication.*

[FR Doc. 92-2974 Filed 2-6-92; 8:45 am]

BILLING CODE 4310-84-M

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[WY-060-92-4333-13]

## Emergency Closure of Public Road; Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of closure.

**SUMMARY:** Notice is hereby given that effective immediately the Texaco Road, on Muddy Mountain, Sections 3 and 4, T. 31 N., R. 79 W., located south of the unmaintained dirt road transversing diagonally from the southwest quarter of Section 34; T. 32 N., R. 79 W., and southeast of the maintained gravel road used for seasonal access to Muddy Mountain is closed to wheeled vehicle transit during the months of December through March.

The purpose of this closure is to protect the grooming done by Natrona County parks for the use and enjoyment of the snowmobile recreationists accessing Muddy Mountain.

The authority for this closure is 43 CFR 8341.2. The closure will remain in effect until an amendment for the Muddy Mountain Environmental Education and Recreation Area plan is done in the spring and summer of 1992. The road may be opened by administrative action at any time during said dates of closure.

**EFFECTIVE DATE:** February 12, 1992.

The closure will remain in effect until the Muddy Mountain Environmental Education and Recreation Plan is amended in the summer of 1992.

**FOR FURTHER INFORMATION CONTACT:** James Monroe, District Manager, Casper District, Bureau of Land Management, 1701 East 'E' Street, Casper, Wyoming 82601. 307-261-7600.

Dated: January 29, 1992.

James W. Monroe,

*District Manager.*

[FR Doc. 92-2948 Filed 2-6-92; 8:45 am]

BILLING CODE 4310-22-M

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[NV-050-91-4210-02]

## Las Vegas District Advisory Council; Meeting

**AGENCY:** Bureau of Land Management, Department of the Interior.

Notice is hereby given in accordance with Public Law 920463 that a meeting of the Bureau of Land Management, Las Vegas District Advisory Council will be held February 27, 1992, at 9 a.m. to 3 p.m. in the Las Vegas BLM District Office, Las Vegas, Nevada.

The meeting agenda will include:

1. Election.
2. Desert Tortoise/Habitat Conservation Plan/Recovery Plan/ Grazing.
3. Resource Management Plan Update.
4. Landfills.
5. Nellis Wild Horse Gather.
6. Water Applications.
7. Public Comments.

Advisory Council meetings are open to the public. Persons wishing to make oral statements to the Council must notify the District Manager, Bureau of Land Management, Las Vegas District. P.O. Box 26569, Las Vegas, Nevada 89125, prior to February 21, 1992.

Minutes of the meeting will be available, upon request, at the Las Vegas District Office on March 12, 1992.

Dated: January 21, 1992.

Ben Collins,

*District Manager, Las Vegas, Nevada.*

[FR Doc. 92-2946 Filed 2-6-92; 8:45 am]

BILLING CODE 4310-HC-M

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[WY-030-02-4320-14]

## Rawlins District Grazing Advisory Board; Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Rawlins District Grazing Advisory Board; Meeting.

**SUMMARY:** Notice is hereby given in accordance with Public Law 92-463 and 94-579 that a meeting of the Rawlins District Grazing Advisory Board will be held. This notice sets forth the schedule and proposed agenda for the meeting.

**DATES:** March 4, 1992, 10 a.m. to 4 p.m.

**ADDRESSES:** Bureau of Land Management, Rawlins District Office, 1300 North Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

**FOR FURTHER INFORMATION CONTACT:** John Spehar, District Range Conservationist, Rawlins District Office, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301, (307) 324-7171.

**SUPPLEMENTARY INFORMATION:** The agenda of the meeting will include:

1. Introduction and opening remarks.
2. Opportunity for the public to present information or make statements.
3. Review of the 1991 range improvement program.
4. Presentation of the proposed 1992 range improvements.
5. Wild horse program update.
6. Law enforcement program presentation.
7. District weed control program presentation.

The meeting is open to the public. Individuals interested in attending the meeting or making an oral presentation to the board must notify the District Manager by February 28, 1992. Written statements may also be filed for the board's consideration. Summary minutes of this meeting will be on file in the Rawlins District Office and available for public inspection (during regular business hours) within 30 days of the meeting.

Dated: January 30, 1992.

Al Pierson,

*District Manager.*

[FR Doc. 92-2975 Filed 2-6-92; 8:45 am]

BILLING CODE 4310-22-M

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[ID-943-02-4212-12; IDI-25288]

## Exchange and Order Providing for Opening of Public Lands; Idaho

**AGENCY:** Bureau of Land Management, Interior. .

**ACTION:** Notice of exchange and opening order.

**SUMMARY:** The United States has issued an exchange conveyance document to the State of Idaho under section 206 of the Federal Land Policy and Management Act. In addition to providing official public notice of the exchange, this document contains an order which opens lands received by the United States to the public land, mining, and mineral leasing laws.

**EFFECTIVE DATE:** March 9, 1992.

**FOR FURTHER INFORMATION CONTACT:** Sally Carpenter, BLM. Idaho State Office, 3380 Americana Terrace, Boise, Idaho (208) 384-3163.

1. In an exchange made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following described lands have been conveyed from the United States:

Boise Meridian

T. 7 S., R. 14 E.,
Sec. 1, S½SE¼;
Sec. 3, S½SE¼;
Sec. 10, E½, E½NW¼, SW¼NW¼, and NE¼SW¼;
Sec. 11, all;
Sec. 12, all;
Sec. 13, N½, N½SW¼, and SE¼;
Sec. 14, NE¼, N½NW¼, SE¼NW¼, and N½SE¼;
Sec. 15, NE¼NE¼;
Sec. 24, E½NE¼;
T. 7 S., R. 15 E.,

Sec. 4, lot 4 and W½SW¼;
Sec. 5, all;
Sec. 6, lot 1 and E½SE¼;
Sec. 7, all;
Sec. 8, E½, N½NW¼, and SW¼SW¼;
Sec. 9, W½W½;
Sec. 10, S½;
Sec. 11, S½NW¼ and SW¼;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 17, all;
Sec. 18, all;
Sec. 19, lots 1 and 2, NE¼, E½NW¼, and N½SE¼;
Sec. 20, N½, W½SW¼, and NW¼SE¼;
Sec. 21, N½N½;
Sec. 22, N½, SE¼, and N½SW¼;
Sec. 23, all;
Sec. 24, N½, SW¼, W½SE¼, and NE¼SE¼;
Sec. 26, N½, SW¼, and W½SE¼;
Sec. 27, NE¼, E½SE¼, and NW¼SE¼.
T. 7 S., R. 16 E.,
Sec. 8, E½;
Sec. 9, W½;
Sec. 17, all;
Sec. 18, all;
Sec. 19, lot l, N½NE¼, and NE¼NW¼.

Comprising 14,186.21 acres of public land.

2. In exchange for these lands, the United States acquired the following described lands:

**Boise Meridian**

T. 2 S., R. 12 E.,
Sec. 36, all.
T. 3 S., R. 12 E.,
Sec. 16, all.
T. 4 S., R. 12 E.,
Sec. 16, all.
T. 3 S., R. 13 E.,
Sec. 16, E½;
Sec. 36, all.
T. 4 S., R. 13 E..
Sec. 36, all.
T. 3 S., R. 14 E.,
Sec. 16, all;
Sec. 36, all.
T. 4 S., R. 14 E.,
Sec. 16, all.
T. 3 S., R. 15 E.,
Sec. 16, all;
Sec. 36, all.
T. 3 S., R. 16 E.,
Sec. 16, all;
Sec. 36, all.
T. 2 S., R. 17 E.,
Sec. 36, all.
T. 3 S., R. 17 E.,
Sec. 16, all.
T. 4 S., R. 17 E.,
Sec. 16, all.
T. 4 S., R. 20 E.,
Sec. 16, all.
T. 5 S., R. 20 E.,
Sec. 36, all.
T. 6 S., R. 20 E.,
Sec. 16, N½, SW¼, and S½SE¼.
T. 2 S., R. 21 E.,
Sec. 36, all.
T. 3 S., R. 21 E.,
Sec. 36, all.
T. 5 S., R. 21 E.,
Sec. 36, W½W½.
T. l S., R. 22 E.,
Sec. 36, all.
T. 2 S., R. 22 E.,
Sec. 16, all;
Sec. 36, all.
T. 3 S., R 22 E.,
Sec. 16, all.
T. 4 S., R. 22 E.,
Sec. 16, all.
T. 2 S., R. 23 E.,
Sec. 16, all.
T. 3 S., R 23 E.,
Sec. 16, all.

Comprising 17,666.63 acres of State lands.

The purpose of the exchange was to acquire non-Federal lands which have high public values for wilderness, livestock grazing, recreation, and riparian habitat. The public interest was well served through completion of this exchange The values of the Federal and State lands were appraised at $638,400 and $637,500, respectively.

3. At 9 a.m. on March 9, 1992, the reconveyed State lands described in paragraph 2 will be opened to the operation of the public land laws generally, subject to valid existing rights. the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on March 9, 1992, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 9 a.m. on March 9, 1992, the reconveyed State 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 above 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.

Dated: January 31, 1992.

**William E. Ireland,**

*Chief, Realty Operations Section.*

[FR Doc. 92–2949 Filed 2–6–92; 8:45 am]

BILLING CODE 4310-GG-M

**[G–010–4111–08/G2–0103]**

## Availability of the Records of Decision for the Farmington, Rio Puerco, and Taos Resource Management Plan Amendments Oil and Gas Leasing and Development

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Bureau of Land Management, New Mexico announces the availability of the Record of Decision (ROD) for the Farmington, Rio Puerco, and Taos Resource Management Plan Amendments Oil and Gas Leasing and Development as described in the Albuquerque District Proposed Resource Management Plan Amendment/Final Environmental Impact Statement Oil and Gas Leasing and Development (PRMPA/FEIS). The RODs announce BLM's decision to accept a combination of the "Proposed and Current Management Alternatives" for amending the Farmington Resource Management Plan and the decision to approve the "Proposed Alternative" for amending the Rio Puerco and Taos Resource Management Plans. These amendments establish determinations for fluid mineral leasing and development.

**SUPPLEMENTARY INFORMATION:** The Resource Management Plans of July 1988 for Farmington, November 1986 Rio Puerco, and October 1988 for Taos Resource Areas did not consider oil and gas leasing and development as a planning issue. Therefore specific fluid mineral leasing and development determinations were not made. Since that time program guidance and NEPA compliance concerns have required a plan amendment and impact analysis related to oil and gas leasing and development. Tha amendment of the Farmington, Rio Puerco, and Taos Resource Management Plans brings the plans into compliance with both the program guidance and NEPA requirements and will provide for the continued leasing of oil and gas in the Albuquerque District of New Mexico.

Dated: January 29, 1992.

**Robert T. Dale,**

*District Manager.*

[FR Doc. 92–2947 Filed 2–6–92; 8:45 am]

BILLING CODE 4310-FB-M

## INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 335X)]

### Burlington Northern Railroad Co.—Abandonment Exemption—Between Klickitat and Goldendale, WA

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Commission, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Burlington Northern Railroad Company of its 28.30-mile line between milepost 13.80 near Klickitat and milepost 42.11 near Goldendale, WA, subject to standard employee protective conditions and a public use condition.

**DATES:** Provided no formal expression of intent to file an offer of financial assistance has been received, the exemption will be effective on March 9, 1992. Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.17(c)(2) [1] and petitions to stay must be filed by February 24, 1992. Petitions for reopening must be filed by March 3, 1992.

**ADDRESSES:** Send pleadings referring to Docket No. AB-6 (Sub-No. 335X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's Representative: Sarah J. Whitley, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 927-5660. (TDD for hearing impaired: (202) 927-5721).

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD service (202) 927-5721.)

Decided: January 30, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

**Sidney L. Strickland, Jr.,**

*Secretary.*

[FR Doc. 92-2982 Filed 2-6-92; 8:45 am]

BILLING CODE 7035-01-M

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

## DEPARTMENT OF LABOR

### Office of the Secretary

### Advisory Committee on Special Minimum Wages; Renewal

Notice is given that after consultation with the General Services Administration (GSA), it has been determined that the Advisory Committee on Special Minimum Wages whose charter expires October 11, 1991 is hereby renewed for the period November 18, 1991 through November 18, 1993. This action is necessary and in the public interest.

The Committee will advise the Secretary on issues concerning the application of the Fair Labor Standards Act, the McNamara-O'Hara Service Contract Act, and the Public Contracts Act to workers with impaired productive capacity.

Committee membership is designed to ensure that all major groups affected by the Acts and the regulations issued thereunder are represented. The members are selected on the basis of their expertise and serve in their individual capacities, not as representatives of their organizations.

The Committee shall consist of 23 members selected to represent the respective viewpoints of the following groups: one each from labor, industry (other than workshops), the public a State rehabilitation agency and a State labor agency; 9 consumer members (workers with disabilities or representatives of organizations representing such workers with disabilities or the parents or guardians of such workers); and 9 officials representing workshops, hospitals, or institutions or organizations of workshops, hospitals, or institutions. Committee members shall not be employees of the Government by virtue of their nomination to the Committee, except those who are compensated by the Department of Labor for their services on the Committee. The Committee may establish subcommittees from among its members as may be necessary.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The charter will be filed with GSA and the appropriate Congressional Committees.

Further information may be obtained from: John R. Fraser, Acting Administrator, Wage and Hour Division, Department of Labor, room S3502, 200 Constitution Avenue NW., Washington, DC 20210, phone 202-523-8305.

Signed at Washington, DC, this 18th day of November, 1991.

**Lynn Martin,**

*Secretary of Labor.*

[FR Doc. 92-3005 Filed 2-6-92; 8:45 am]

BILLING CODE 4510-27-M

## Employment Standards Administration

### Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisons of the Davis-Bacon Act of March 3, 1991, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisons are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Divison, Division of Wage Determinations, 200 Constitution Avenue NW., room S-3014, Washington, DC 20210.

**New General Wage Determination Decisions**

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

*Volume I*

Connecticut:
CT91-6 (Feb. 7, 1992)..... p. All.
Maryland:
MD91-31 (Feb. 7, 1992)..... p. All.
MD91-32 (Feb. 7, 1992)..... p. All.
MD91-26 (Feb. 7, 1992)..... p. All.
Pennsylvania:
PA91-27 (Feb. 7, 1992)..... p. All.

*Volume II*

Iowa:
IA91-15 (Feb. 7, 1992)..... p. All.

*Volume III*

Arizona:
AZ91-4 (Feb. 7, 1992)..... p. All.

**Modifications to General Wage Determination Decisions**

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

*Volume I*

Massachusetts:
MA91-1 (Feb. 22, 1991)..... p. 421, pp. 422-423, 427.
Maryland:
MD91-1 (Feb. 22, 1991)..... p. 469, p. 470.
MD91-15 (Feb. 22, 1991)..... p. 507, pp. 508-510.
New Jersey:
NJ91-2 (Feb. 22, 1991)..... p. 701, pp. 703, 711.
NJ91-3 (Feb. 22, 1991)..... p. 721, p. 724.
New York:
NY91-3 (Feb. 22, 1991)..... p. 797, pp. 798-799.

*Volume II*

Illinois:
IL91-1 (Feb. 22, 1991)..... p. 69, p. 73.
IL91-2 (Feb. 22, 1991)..... p. 97, pp. 100, 103.
IL91-8 (Feb. 22, 1991)..... p. 145, p. 146.
IL91-9 (Feb. 22, 1991)..... p. 153, p. 155-156.
IL91-12 (Feb. 22, 1991)..... p. 171, p. 172.
Indiana:
IN91-2 (Feb. 22, 1991)..... p. 259, pp. 260-261.
Kansas:
KS91-7 (Feb. 22, 1991)..... p. 369, p. 370.
New Mexico:
NM91-1 (Feb. 22, 1991)..... p. 779, p. 781.
Ohio:
OH91-1 (Feb. 22, 1991)..... p. 809, p. 811.
OH91-2 (Feb. 22, 1991)..... p. 821, p. 823.
OH91-3 (Feb. 22, 1991)..... p. 841, p. 842.
OH91-29 (Feb. 22, 1991)..... p. 903, p. 907.
OH91-35 (Feb. 22, 1991)..... p. 951, p. 952.
OH91-36 (Feb. 22, 1991)..... p. 952a, p. 952b.
Texas:
TX91-3 (Feb. 22, 1991)..... p. 1021, p. 1022.

*Volume III*

Oregon:
OR91-1 (Feb. 22, 1991)..... p. 371, pp. 386, 388.

**General Wage Determination Publication**

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 31st day of January 1992.

**Alan L. Moss,**

*Director, Division of Wage Determinations.*

[FR Doc. 92-2755 Filed 2-6-92; 8:45 am]

BILLING CODE 4510-27-M

## Employment and Training Administration

### Job Training Partnership Act: Native American Programs' Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended and section 401(h)(1) of the Job Training Partnership Act, as amended 29 U.S.C. 1671 (h)(1)), notice is hereby given of a meeting of the Job Training Partnership Act Native American Programs' Advisory Committee.

*Time and Date:* The meeting will begin at 1:30 p.m. on March 5, 1992, and continue until close of business that day; and will reconvene at 9 a.m. on March 6, 1992, and adjourn at close of business that day. The initial hours and a half of the meeting on March 6, 1992 will be reserved for participation and presentations by members of the public.

*Place:* Navajo Rooms A, B and C (March 5) and Hopi Rooms A & B (March 6), Omni Adams Hotel, 111 North Central Avenue, Phoenix, Arizona.

*Status:* The meeting will be open to the public.

*Matters to be Considered:* The agenda will focus on a discussion of enhancing the quality of Indian and Native American programs, the Department's responses to the motions of the January 15-16, 1992 meeting, and any reports to the subcommittees.

*Contact Person for More Information:* Paul A. Mayrand, Director, Office of Special Targeted Programs, Employment and Training Administration, United States

Department of Labor, Room N–4641, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, 4th day of February, 1992.

**Roberts T. Jones,**

*Assistant Secretary of Labor.*

[FR Doc. 92–3004 Filed 2–6–92; 8:45 am]

BILLING CODE 4510–30–M

## LEGAL SERVICES CORPORATION

### Funding Availability for Law School Civil Clinical Programs

**AGENCY:** Legal Services Corporation.

**ACTION:** Announcement of funding.

**SUMMARY:** The Legal Services Corporation (LSC or Corporation) announces that grant funds are available for advancing the provision of civil legal assistance through the Law School Civil Clinical Programs (LSCCP). The Corporation may distribute up to twenty (20) one-time non-recurring grants to geographically distributed law schools of varying sizes. Each grant will be for up to 12 months and in an amount up to $75,000 per grant. All grants will be awarded pursuant to authority conferred by section 1006(a)(1)(B) (42 U.S.C. 2996e(a)(1)(B) of the Legal Services Corporation Act of 1974, as amended. Each applicant is required to guarantee that a substantial portion (more than 50 percent) of the total funding for its LSCCP project will come from non-federal sources and that federally funded assets and projects will not be counted as part of any in-kind service.

Grant proposals are being solicited from all law schools that are currently accreditied by the American Bar Association, or accreditied for purposes of bar admission by the state bar association of the state in which the law school is located. Proposals may be submitted by either a single law school or a consortium of law schools. Each applicant must submit appropriate documentation of elgibility.

**DATE:** Grant proposals must be received by the Office of Field Services on or before March 13, 1992. Grant awards may be announced by April 1992.

**ADDRESSES:** Office of Field Services, Legal Services Corporation, 400 Virginia Avenue, SW., Washington, DC 20024–2751.

**FOR FURTHER INFORMATION CONTACT:** Charles T. Moses, III, Deputy Director, or Janice P. White, Grants Research Analyst, Office of Field Services, (202) 863–1837.

**SUPPLEMENTARY INFORMATION:** Congress has recognized LSC support of clinical education by earmarking specific funds for law school clinical grants. This grant program is designed to provide monetary assistance for expansion or development of law school clinical programs that address the civil legal needs of poor persons. This expansion may include increasing the number of supervising attorneys and participating students, developing new areas of clinical coverage, providing legal services to LSC-eligible clients who are not otherwise receiving legal assistance, developing projects that provide services to underserved segments of the population (e.g. Native American, handicapped, homebound, isolated, and rural residents) or filling in the gaps in existing services and resources.

All proposals will be reviewed to ensure that each is responsive to the minimum requirements set forth in this solicitation. Final selection of grantees will be made by the President of LSC, following submission of non-binding recommendations from any advisory committee comprised of outside private experts and LSC staff. The following criteria, which have been grouped into four basic categories, will be used exclusively to assess each proposal:

**I. Objectives of Legal Clinic Program Development/Expansion (25%)**

The extent of the applicant's objectives (e.g., the number of clients to be served, or the complexity and number of cases to be closed by the LSCCP clinic) and quality of the applicant's objectives (e.g., clinic characteristics that would enhance the quality of basic legal services to be provided by the clinic, such as a high level of student supervision or the availability of complementary classroom courses) will be assessed in the context of the amount of funding requested and the clinic's prior grant history, if any. It is particularly important that the applicant's objectives address the topics of student training and delivery of legal services to the client-eligible population, including estimates of the number of cases to be closed. The applicant should also describe the substantive case types to be handled in the clinic and explain why those case types are appropriate for both clinical legal education and the specific locality.

**II. Capability of Applicant To Accomplish Objectives (30%)**

The proposed project design, management plan, staff level and experience, and clinic structure will be evaluated to determine whether the applicant can effectively accomplish its stated objectives.

The qualifications and experience of the clinic director and clinic staff will be evaluated to determine whether they can effectively administer the proposed clinic. Time and resource allocations will also be evaluated to assess the levels of supervision that will be provided to students.

**III. Reasonableness of Costs in Relation to LSCCP Objectives and University Commitment to the LSCCP Objectives (30%)**

To enable the reviewers to fairly assess the extent of the university's commitment and the nature of the budgeted costs, it is recommended that detailed information be provided regarding the following items:

(1) Each applicant will need to show that it has or will be able to obtain substantial (i.e., more than 50%) non-federal support for its clinical education program. In addition, if the proposed LSC-funded project is a portion of the applicant's clinical education program, a significant amount of the proposed LSC-funded project's budget must be funded through nonfederal support. In order to maximize the direct delivery of legal services through one-time grants, proposals with a higher proportion of nonfederal support will be given priority.

(2) Budgeted costs and funding support for both the clinical program and the proposed LSCCP project should be separately identified on duplicate copies of the Part B forms. The narrative portion of the application should describe the university's past financial commitment and/or project its future financial commitment to the clinical education program and, if applicable, the LSCCP project.

(3) Evidence that the university's budgetary support levels will be maintained and/or increased beyond the grant term is also needed. The viability of the LSCCP project beyond the grant term must be specifically addressed.

(4) Each applicant should demonstrate that it plans to make an adequate in-kind contribution to the project. Federally funded assets and projects cannot be counted as part of the in-kind contribution. In order to maximize service delivery, indirect administrative costs may not be paid or deducted from LSC grant funds.

(5) The applicant's budget submission (Part B) will be reviewed in the context of its stated objectives to determine whether projected costs are reasonable. Since the LSCCP grant, if awarded, will be a one-time, non-recurring grant,

proposed purchases of capital acquisitions are not allowed.

**IV. Community Support (15%)**

We recommend that the applicants explain how the proposed LSCCP clinic activities and services will complement the civil legal services provided to low-income persons by other local entities. The extent to which a cooperative effort exists among the applicant and LSC-funded field programs, local courts, and bar associations should also be described. Increased attorney participation in the LSCCP clinic, either as adjunct faculty, consultants or supervising attorneys for internship with the private bar, is also encouraged by LSC.

It is recommended that letters of support or other evidence of support by LSC-funded field programs, local courts, and bar associations be attached to the proposal.

To encourage nationwide participation and to ensure geographic distribution of the funds available, LSC created seven (7) regions to be used strictly for the purposes of this grant program. The regional boundaries are used to assure a geographic dispersion of program funds, as well as competition among a proportionate number of states and eligible law schools.

The following is a list of the seven (7) LSC Law School Clinical Program regions:

*Region #1*

Connecticut
Maine
Massachusetts
New Hampshire
New Jersey
New York
Rhode Island
Vermont

*Region #2*

Delaware
District of Columbia
Pennsylvania
Maryland
Puerto Rico
U.S. Virgin Islands
Virginia
West Virginia

*Region #3*

Alabama
Arkansas
Florida
Georgia
Louisiana
Mississippi
North Carolina
South Carolina
Tennessee

*Region #4*

Illinois
Indiana
Michigan
Ohio
Kentucky

*Region #5*

Kansas
Nebraska
Iowa
Missouri
Oklahoma
Texas

*Region #6*

Alaska
Washington
Oregon
Idaho
Montana
Wyoming
Minnesota
South Dakota
North Dakota
Wisconsin

*Region #7*

Arizona
California
Colorado
Hawaii
Nevada
New Mexico
Utah
Micronesia
Guam

Dated: February 4, 1992.

**Ellen J. Smead,**

*Director, Office of Field Services.*

[FR Doc. 92-3006 Filed 2-6-92; 8:45 am]

BILLING CODE 7050-01-M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50-396]**

### The University of Virginia (The University of Virginia CAVALIER Research Reactor); Order Authorizing Dismantling of Facility and Disposition of Component Parts

By application dated February 26, 1990, as supplemented on June 17, 1991, the University of Virginia (the licensee or UVA) requested authorization to dismantle the Cooperatively Assembled Virginia Low Intensity Educational Reactor (CAVALIER), License No. R-123, located on the licensee's campus in Charlottesville, Virginia, and to dispose of the component parts, in accordance with the Decommissioning Plan submitted as part of the application. A "Notice of Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License" was published in the Federal Register on April 22, 1991 (56 FR 16350). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the application with respect to the provisions of the Commission's rules and regulations and has found that the dismantling and disposal of component parts as stated in the licensee's Decommissioning Plan will be consistent with the regulations in 10 CFR chapter I, and will not be inimical to the common defense and security or to the health and safety of the public. The basis of these findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact for the proposed action, (57 FR 3801, January 31, 1992). Based on that Assessment, the Commission has determined that the proposed action will not result in any significant environmental impact and that an environmental impact statement need not be prepared.

Accordingly, the licensee is hereby ordered to dismantle the University of Virginia Cavalier research reactor facility covered by License No. R-123, as amended, and dispose of the component parts in accordance with its Decommissioning Plan, as amended, and the Commission's rules and regulations.

After completion of the dismantling and disposal, the licensee will submit a report on the radiation survey it has performed to confirm that radiation and surface contamination levels in the facility area satisfy the values specified in the Decommissioning Plan and in the Commisssion's guidance which is set forth in the staff's Safety Evaluation. Following an inspection by representatives of the Commission to verify the radiation and contamination levels in the facility, consideration will be given to issuance of a further order terminating Facility Operating License No. R-123.

For further details with respect to this action, see (1) the licensee's application for authorization to dismantle the facility, dispose of component parts, and terminate Facility Operating License No. R-123, dated February 26, 1990, as supplemented; (2) the Commission's Safety Evaluation; and (3) the Environmental Assessment and Finding of No Significant Impact. All of these items are available for public inspection

at the Commission's Public Document room, 2120 L Street, NW, Washington, DC. Copies of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Advanced Reactors and Special Projects.

Dated at Rockville, Maryland this 3rd day of February 1992.

For the Nuclear Regulatory Commission.

**Dennis M. Crutchfield,**

*Acting Associate Director for Advanced Reactors, Office of Nuclear Reactor Regulation.*

[FR Doc. 92–2999 Filed 2–6–92; 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 part 213 on December 16, 1991 (56 FR 65293). Individual authorities established or revoked under Schedules A and B and established under Schedule C between November 1 and December 31, 1991, 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:

*U.S. Department of State*

One position of Curator (Arts), GM–1015–15, in the Office of the Under Secretary for Management. Effective November 9, 1991.

The following exception was revoked:

*Department of Commerce, NOAA*

Field positions, GS–9 and below, in the National Marine Fisheries Service conducting fish and processed fish products inspection, funded by the private sector. New appointments under this authority may not be made after July 1, 1991. Effective November 22, 1991.

**Schedule B**

The following exception was established:

*Department of the Navy*

One position of Housing Management Specialist, GM–1173–14, involved with the Bachelor Quarters Management Study. Effective December 24, 1991.

**Schedule C**

*Department of Agriculture*

One Confidential Assistant to the Administrator, Foreign Agricultural Service. Effective November 1, 1991.

One Confidential Assistant to the Director, Office of Governmental Affairs and Public Information, Food and Nutrition Service. Effective November 1, 1991.

One Deputy Press Secretary to the Director/Press Secretary, Office of Public Affairs. Effective November 5, 1991.

One Confidential Assistant to the Administrator, Foreign Agricultural Service. Effective November 13, 1991.

One Staff Assistant to the Manager, Federal Crop Insurance Corporation. Effective November 15, 1991.

One Confidential Assistant to the Administrator, Food and Nutrition Service. Effective November 22, 1991.

One Director, Intergovernmental Affairs to the Director, Office of Public Affairs/Press Secretary. Effective December 13, 1991.

One Speech Writer to the Director, Office of Public Affairs/Press Secretary. Effective December 13, 1991.

One Member, Board of Directors, Federal Crop Insurance Corporation to the Secretary of Agriculture. Effective December 13, 1991.

One Executive Speechwriter to the Director, Office of Public Affairs/Press Secretary. Effective December 13, 1991.

One Staff Assistant to the Secretary of Agriculture. Effective December 13, 1991.

One Director, Congressional Relations and Public Affairs to the Administrator, Human Nutrition Information Service. Effective December 16, 1991.

One Confidential Assistant to the Administrator, Human Nutrition Information Service. Effective December 16, 1991.

One Speechwriter to the Director/Press Secretary, Office of Public Affairs. Effective December 23, 1991.

One Private Secretary to the Deputy Secretary of Agriculture. Effective December 30, 1991.

One Confidential Assistant to the Chief of Staff, Office of the Secretary. Effective December 31, 1991.

*Agency for International Development*

One Director, Office of Foreign Disaster Assistance to the Assistant Administrator, Bureau for Food and Humanitarian Assistance. Effective December 16, 1991.

One Confidential Assistant to the Assistant Administrator, Bureau of Legislative Affairs. Effective December 27, 1991.

*Department of Commerce*

One Confidential Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective November 1, 1991.

One Confidential Assistant to the Director, Office of Business Liaison, Office of the Secretary. Effective November 1, 1991.

One Chief of Legislative and Intergovernmental Affairs to the Assistant Director for External Affairs, Minority Business Development Agency. Effective November 6, 1991.

One Confidential Assistant to the Director, Office of Policy Planning and Coordination. Effective November 15, 1991.

One Attorney-Advisor to the General Counsel, National Oceanic and Atmospheric Administration. Effective November 15, 1991.

One Director, Office of Public Affairs to the Under Secretary, International Trade Administration. Effective November 25, 1991.

One Special Assistant to the Assistant Secretary for Export Enforcement, Bureau of Export Administration. Effective November 25, 1991.

One Director of Congressional Affairs to the Assistant Secretary for Economic Development. Effective November 25, 1991.

One Confidential Assistant to the Under Secretary, International Trade Administration. Effective November 27, 1991.

One Confidential Assistant to the Director, Office of Business Liaison, Office of the Secretary. Effective December 5,1991.

One Special Assistant to the Director, Office of Public Affairs, Office of the Secretary. Effective December 7, 1991.

One Confidential Assistant to the Director, Office of Legislation, Education, Outreach and Intergovernmental Affairs, National Oceanic and Atmospheric

Administration. Effective December 10, 1991.

One Congressional Affairs Specialist to the Chief of Legislative and Intergovernmental Affairs, Office of External Affairs, Minority Business Development Agency. Effective December 19, 1991.

One Deputy to the Director, Office of Business Liaison, Office of the Secretary. Effective December 23, 1991.

*Consumer Product Safety Commission*

One Special Assistant to a Commissioner. Effective December 18, 1991.

*Department of Defense*

One Staff Assistant to the Director, Humanitarian Assistance, Office of the Deputy Assistant Secretary of Defense (Global Affairs). Effective November 1, 1991.

One Private Secretary to the Executive Secretary. Effective November 1, 1991.

One Private Secretary to the Deputy Under Secretary of Defense for International Programs. Effective November 1, 1991.

One Private Secretary to a Judge, U.S. Court of Military Appeals. Effective November 27, 1991.

One Personal and Confidential Assistant to a Judge, U.S. Court of Military Appeals. Effective November 27, 1991.

One Director for Editorial Services to the Assistant Secretary of Defense for Public Affairs. Effective December 5, 1991.

One Special Assistant to the Assistant Secretary of Defense (International Security Policy). Effective December 7, 1991.

*Department of Energy*

One Legislative Affairs Liaison Officer to the Deputy Assistant Secretary for House Liaison, Office of Congressional and Intergovernmental Affairs. Effective November 1, 1991.

One Special Assistant to the Assistant Secretary for Conservation and Renewable Energy. Effective November 15, 1991.

One Public Affairs Specialist to the Director of Public Affairs. Effective November 22, 1991.

One Deputy Assistant Secretary for House Liaison to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective December 3, 1991.

One Writer-Editor to the Director, Office of Public Affairs. Effective December 13, 1991.

One Legislative Affairs Specialist to the Director, Office of Congressional Operations, Office of Congressional and Intergovernmental Affairs. Effective December 23, 1991.

One Special Projects Liaison Specialist to the Director, Office of Consumer and Public Liaison, Office of Congressional and Intergovernmental Affairs. Effective December 23, 1991.

One Legislative Affairs Specialist to the Deputy Assistant Secretary for House Liaison, Office of Congressional and Intergovernmental Affairs. Effective December 23, 1991.

*Department of Education*

One Confidential Assistant to the Director, Corporate Liaison Staff. Effective November 1, 1991.

One Chief of Staff to the Deputy Secretary, Office of the Deputy Secretary. Effective November 1, 1991.

One Deputy to the Chief of Staff, Office of the Secretary. Effective November 4, 1991.

One Confidential Assistant to the Deputy Under Secretary for Management. Effective November 15, 1991.

One Deputy to the Director, Office of Bilingual Education and Minority Language Affairs. Effective November 15, 1991.

One Special Assistant to the Special Advisor to the Secretary for America 2000. Effective December 10, 1991.

One Deputy to the Director, Scheduling and Briefing Staff. Effective December 10, 1991.

Two Special Assistants to the Deputy Under Secretary, Office of Intergovernmental and Interagency Affairs. Effective December 23, 1991.

One Confidential Assistant to the Director, Scheduling and Briefing. Effective December 23, 1991.

One Special Assistant to the Assistant Secretary, Office of Postsecondary Education. Effective December 23, 1991.

*Equal Employment Opportunity Commission*

One Director, Legislative Affairs Staff to the Director, Office of Communications and Legislative Affairs. Effective December 31, 1991.

*Environmental Protection Agency*

One Deputy to the Associate Administrator for Regional Operations and State/Local Relations. Effective November 4, 1991.

One Congressional Liaison Specialist to the Director, Congressional Liaison Division, Office of Congressional and Legislative Affairs. Effective December 6, 1991.

One Associate Assistant Administrator to the Assistant Administrator for Water. Effective December 6, 1991.

*Department of Transportation*

One Deputy to the Assistant Administrator for Government and Industry Affairs, Federal Aviation Administration. Effective November 15, 1991.

One Special Assistant to the Administrator, Research and Special Programs Administration. Effective December 23, 1991.

*Federal Mine Safety and Health Review Commission*

One Confidential Assistant to the Vice Chairman. Effective December 16, 1991.

*Federal Maritime Commission*

One Secretary (Typing) to the Chairman. Effective December 16, 1991.

*General Services Administration*

One Deputy to the Associate Administrator for Policy Analysis. Effective November 18, 1991.

One Special Assistant to the Director of Child Care and Development Programs. Effective December 9, 1991.

One Confidential Assistant to the Regional Administrator, Region 10, Auburn, WA. Effective December 10, 1991.

*Department of Health and Human Services*

One Confidential Assistant to the Counsel to the Secretary on Drug Abuse Policy. Effective November 1, 1991.

One Special Assistant to the Assistant Secretary for Health, Public Health Service. Effective November 22, 1991.

One Deputy to the Director of Communications, Office of the Assistant Secretary for Public Affairs. Effective November 27, 1991.

One Special Assistant for State Government Relations to the Director, Office of External Affairs, Social Security Administration. Effective December 7, 1991.

One Speechwriter to the Deputy Assistant Secretary for Public Affairs (Media). Effective December 16, 1991.

*Department of Housing and Urban Development*

One Staff Assistant to the Deputy Assistant Secretary for Grant Programs in Community Planning and Development. Effective November 1, 1991.

One Special Assistant for Congressional Relations to the Regional Administrator, Regional Housing

Commissioner, Region V, Chicago, Illinois. Effective November 22, 1991.

One Special Assistant (Speechwriter) to the Assistant Secretary for Public Affairs. Effective November 22, 1991.

One Special Assistant to the Secretary. Effective November 27, 1991.

One Assistant to the Deputy Assistant Secretary for Congressional Relations. Effective December 7, 1991.

One Staff Assistant to the Secretary. Effective December 31, 1991.

*Interstate Commerce Commission*

One Congressional Liaison Representative to the Director, Congressional and Legislative Affairs. Effective November 25, 1991.

*Department of the Interior*

One Special Assistant to the Assistant to the Secretary and Director, External Affairs. Effective November 15, 1991.

One Special Assistant to the Assistant Secretary-Land and Minerals Management. Effective December 27, 1991.

*Department of Justice*

One Program Analyst to the Director, Child Exploitation and Obscenity Section, Criminal Division. Effective November 26, 1991.

One Confidential Assistant to the Attorney General. Effective December 27, 1991.

*Department of Labor*

One Deputy Legislative Officer to the Deputy Assistant Secretary for Congressional and Intergovernmental Affairs. Effective November 1, 1991.

One Executive Assistant to the Chief of Staff, Office of the Secretary. Effective November 1, 1991.

One Special Assistant to the Administrator, Wage and Hour Division, Employment Standards Administration. Effective December 7, 1991.

One Staff Assistant to the Deputy Assistant Secretary for Congressional and Intergovernmental Affairs. Effective December 10, 1991.

One Special Assistant to the Secretary of Labor. Effective December 19, 1991.

One Executive Assistant to the Deputy Secretary of Labor. Effective December 19, 1991.

One Confidential Assistant to the Solicitor of Labor. Effective December 31, 1991.

*Office of Management and Budget*

One Confidential Assistant to the Controller, Office of Federal Financial Management. Effective December 27, 1991.

*Office of National Drug Control Policy*

One Staff Assistant to the Public Affairs Specialist (Press Secretary). Effective December 23, 1991.

One Confidential Assistant to the Special Assistant to the Director and White House Liaison. Effective December 23, 1991.

One Confidential Assistant to the Special Assistant to the Director. Effective December 23, 1991.

*Office of Science and Technology Policy*

One Administrative Assistant (Typing) to the Director. Effective November 15, 1991.

*Small Business Administration*

One Special Assistant to the Associate Deputy Administrator for Special Programs. Effective November 25, 1991.

*Securities Exchange Commission*

One Supervisory Public Affairs Specialist to the Chairman. Effective November 18, 1991.

*Department of State*

One Secretary (Stenography) to the Assistant Secretary for Near Eastern and South Asian Affairs. Effective November 1, 1991.

One Supervisory Protocol Officer (Visits) to the Assistant Chief of Protocol for Visits. Effective November 1, 1991.

One Staff Assistant to the Special Assistant, White House Liaison, Bureau of Public Affairs. Effective November 27, 1991.

One Secretary (Typing) to the Senior Deputy Assistant Secretary for Public Affairs. Effective December 10, 1991.

One Program Specialist (Visits) to the Assistant Chief of Protocol for Visits. Effective December 16, 1991.

*Department of the Treasury*

One Special Assistant to the Assistant Secretary (International Affairs). Effective November 15, 1991.

One Supervisory Public Affairs Specialist to the Commissioner of Customs. Effective November 27, 1991.

One Director, Office of Business Liaison to the Deputy Assistant Secretary (Public Liaison). Effective December 2, 1991.

One Public Affairs Specialist to the Commissioner of Customs. Effective December 5, 1991.

One Director, Public Affairs to the Executive Director, U.S. Savings Bonds Division. Effective December 10, 1991.

*United States Information Agency*

One Special Assistant to the Director, Office of Private Sector Committees. Effective November 1, 1991.

One Chief, Creative Arts Division to the Director, Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs. Effective November 22, 1991.

*Office of the United States Trade Representative*

One Confidential Assistant to the Deputy United States Trade Representative. Effective December 2, 1991.

*Department of Veterans Affairs*

One Special Assistant to the Secretary of Veterans Affairs. Effective December 13, 1991.

**Authority:** 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218

Office of Personnel Management.

**Constance Berry Newman,**

*Director.*

[FR Doc. 92–3008 Filed 2–6–92; 8:45 am]

BILLING CODE 6325–01–M

## Federal Salary Council

**AGENCY:** United States Office of Personnel Management.

**ACTION:** Notice of meetings.

**SUMMARY:** The Federal Salary Council agenda for these meetings continues to be the discussion of issues relating to the new locality-based comparability payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). The meetings will be open.

**DATES:** February 26, 1992, beginning at 10 a.m.; March 11, 1992, beginning at 2 p.m.; and March 25, 1992, beginning at 10 a.m.

**ADDRESSES:** Room 7B09 for the February 26th meeting, room 1350 for the March 11th meeting, and room 5A06A for the March 25th meeting, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ruth O'Donnell, Chief of Salary Systems Division, room 6H31, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001. Telephone number: (202) 606–2838.

For the President's Pay Agent:

**Constance Berry Newman,**

*Director.*

[FR Doc. 92–3007 Filed 2–6–92; 8:45 am]

BILLING CODE 6325–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-30329; File No. SR-CBOE-92-02]**

## Self-Regulatory Organizations; Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Listing and Trading of Options on the Russell 2000 Index.

February 3, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 21, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange hereby requests authorization to list and trade index options, pursuant to chapter XXIV of the Exchange Rules, on the Russell 2000 Index ("Russell 2000" or "Index"), a capitalization-weighted index of domestic equities traded on the New York Stock Exchange ("NYSE"), American Stock Exchange ("Amex") and the National Association of Securities Dealer's ("NASD") Automated Quotation System ("NASDAQ"). The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

### 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 CBOE 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 CBOE has prepared summaries, set for 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*

(I) Purpose

Pursuant to Exchange Rule 24.2, the purpose of this proposed rule change is to permit the CBOE to list and trade cash-settled, American-style index options based on the Russell 2000.

*Index Design.* The Russell 2000 is composed of the bottom 2000 of the 3000 largest U.S. equity securities in terms of domestic market capitalization. It is considered a benchmark of the performance of the U.S. small-capitalization market. Unlike the Standard & Poor's ("S&P") indexes, the Russell 2000 is adjusted for cross ownership, *i.e.*, a company's weighting is determined after deducting the net capitalization value of securities held by other companies or corporate insiders. The Index is calculated real time using last sale prices for National Market Securities ("NMS") and best-bid prices for non-NMS securities. Primary calculation is done by Bridge Data Services.

Component stocks range in capitalization from $12 million to $460 million. The median capitalization as of June 30, 1991, was $80 million. The highest capitalized stock, UGI Corp., accounts for only 0.2% of the Index. The top 100 stocks comprise only 14.8% of the total Index capitalization of $222.1 billion. The stocks included in the Index account for approximately 10% of the capitalization of the U.S. equity market.

In every year since 1986, the Russell 2000 has had lower volatility than the S&P 500 Stock Index. Over the period 1986 to mid-1991, the daily return correlation between the two indexes was 76.1%.

*Calculation.* The Index is calculated continuously and disseminated every 15 seconds by Bridge Data Services based on last-sale or best-bid prices. As described above, the Index is calculated real time using last sales prices for NMS securities and best-bid prices for non-NMS securities. If a component stock is closed for trading, the most recently traded price is used in the Index calculation. As a capitalization-weighted index, the Russell 2000 reflects changes in the capitalization (market value) of the component stocks relative to the capitalization on a base date. The current Index value is calculated by adding the market values of the component stocks, which are derived by multiplying the price of the stock by its shares outstanding, to arrive at the total market capitalization of the 2000 stocks. The total market capitalization is then divided by a divisor, which represents the "adjusted" capitalization of the Index on the base date of December 31, 1986. When necessary, the divisor is adjusted in order to maintain continuity in the value of the Index in the event of composition and capitalization changes.

*Maintenance.* The Russell 2000 Index is maintained by the Frank Russell Company, which provides asset management consulting services to institutional investors. The component securities are adjusted once per year to reflect changes in capitalization rankings and shares available. The composition of the Index is reviewed annually, as of the last trading day of May. The largest 3000 U.S. securities are ranked in descending order and the composition of the Index is updated to reflect the stocks that rank 1,001 to 3000. The recapitalization is effective as of the last day of June. If a stock ceases to trade as a result of a merger or acquisition during the year, the stock is removed from the Index and replaced in the subsequent annual recapitalization. No interim replacements are made. Replacements stocks are selected strictly on the basis of market value.

*Index Options Trading.* The proposed Russell 2000 options will be based on the full value of the Index (presently approximately 170–180). The Exchange proposes that Russell 2000 options will have an American-style exercise and will settle based on the closing value of the Index on the exercise date. The multiplier will be $100. The proposed options will expire on the Saturday following the third Friday of the expiration month, with the last day for trading in an expiring series being the last business day prior to the Saturday expiration.

*Exchange Rules Applicable to Stock Index Options.* The Russell 2000 option, as proposed, will be very similar to the broad-based index options presently traded on the Exchange. Therefore, the rules contained in chapter XXIV of Exchange Rules will govern trading in the Russell 2000, with the following modifications. Since the level of the Russell 2000 is approximately one-half of the level of the other broad-based indexes currently traded on the CBOE, an amendment to rule 24.4 proposes position and exercise limits at twice the level of the limits for existing broad-based index options traded on the CBOE. Additionally, an amendment is proposed to Interpretation .01 to Rule 24.9 to allow for 2½ point strike price intervals.

The Exchange intends to list up to three near-term as well as three quarterly series in the March cycle.

Pursuant to Exchange Rule 5.8, long-term options series at two and three year intervals may be listed.

*Economic Rational.* The Russell 2000 tracks a segment of the U.S. equity market that is not currently represented in the domestic derivative markets. Russell 2000 options will provide retail and institutional investors with a means to benefit from their forecasts of the performance of the small-capitalization equity market. The Index will provide a performance measure and evaluation guide for passively or actively managed small-capitalization or growth funds. Additionally, Russell 2000 options could provide an effective means for hedging the risks of small capitalization stocks and a low cost means of altering the composition of an equity portfolio.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act, in general, and section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, to protect investors and the public interest, and to remove impediments to and perfect the mechanism of a free and open market.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld 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 CBOE. All submissions should refer to File No. SR-CBOE-92-02 and should be submitted on or before February 28, 1992.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[1]

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 92-2993 Filed 2-6-92; 8:45 am]

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**[Release No. 34-30326; File No. SR-MSTC-92-01]**

## Self-Regulatory Organizations; Midwest Securities Trust Co.; Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Establishing the Institutional Participant Services Program

January 31, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on January 31, 1992, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by MSTC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change on a temporary basis through July 31, 1992.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The proposed rule change establishes (i) the Institutional Participant Services Program ("Program") and (ii) a new category of participants ("Institutions").[2]

**II. Self-Regulatory Organizations's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, MSTC 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. MSTC 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 Commission has approved the proposed rule change on a temporary basis through January 31, 1992 ("Temporary Approval Period").[3] The rationale for initially approving the rule change on a temporary basis was to provide MSTC with the opportunity to formulate more definitive financial and operational standards for Institutions that desire to participate in the Program. Subsequently, on December 26, 1990, MSTC filed a proposed rule change (SR-MSTC-90-10) which requested permanent approval of the Program and proposed more definitive standards of participation and financial and operational capabilities for Institutions.[4] To provide the Commission with the opportunity to study these standards while providing continuity of service to Institutions that currently participate in the Program, this proposed rule change requests that the Commission extend the Program under the terms of the Temporary Approval Orders through January 31, 1993.

MSTC believes that the proposed rule change is consistent with section 17A of the Act because it will promote the

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[1] 17 CFR 200.30-3(a)(12) (1989).

[1] 15 U.S.C. 78s(b)(1).

[2] Attached as Exhibit A and Exhibit B, respectively, to Securities Exchange Act Release No. 28844 (February 1, 1991), 56 FR 5035 [File No. SR-MSTC-91-01] are the text of the proposed rule change and MSTC's procedures for the Program.

[3] Securities Exchange Act Release Nos. 27752 (March 1, 1990), 55 FR 8271 [File No. SR-MSTC-89-05]; 28844 (February 1, 1991), 56 FR 5035 [File No. SR-MSTC-9101]; and 29493 (July 26, 1991), 56 FR 36854 [File No. SR-MSTC-91-03] (collectively "Temporary Approval Orders").

[4] For a complete description of the services offered under the Program and the current standards of financial and operational capabilities for Institutions under the Program, see Temporary Approval Orders.

prompt and accurate clearance and settlement of securities transactions and the safeguarding of funds and securities by providing Institutions with the opportunity to participate directly in MSTC.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

MSTC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

*C. Self-Regulatory Organizations's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

MSTC has not received any comments from participants of the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action**

MSTC requests the Commission to find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. Such accelerated approval would permit MSTC to offer continuity of service to Institutions that participate in the Program while providing the Commission with sufficient time to analyze the more definitive standards of participation and financial operational capability proposed by MSTC.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and, in particular, with the requirements of sections 17A(b)(3)(A) and (F) of the Act.[5] Those sections require that the rules and organizational structure of a clearing agency promote the prompt and accurate clearance and settlement of securities transactions and the safeguarding of funds and securities which are under the clearing agency's custody or control. The Commission believes that MSTC's proposal will help achieve these requirements by providing Institutions with the opportunity to participate directly in MSTC.

The Commission also finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Commission does not anticipate that it will receive any significant negative comment on the proposed rule change in view of the fact that no comments were received on the proposals approved in the Temporary Approval Orders, which were identical in substance to this proposed rule change. Further, the Commission notes that the Program has operated without incident during the Temporary Approval Period. Thus, accelerated approval of the proposed rule change on a temporary basis will permit MSTC to provide continuity of service to those Institutions that currently participate in the Program while the Commission reviews MSTC's proposed permanent standards of financial and operational capabilities for such Institutions.

**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 submissions, 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 at the principal office of MSTC. All submissions should refer to file number SR–MSTC–92–01 and should be submitted by February 28, 1992.

It Is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–MSTC–92–01) be, and hereby is, approved on a temporary basis through July 31, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 92–2957 Filed 2–6–92; 8:45 am]

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**[Release No. 34–30328; File No. SR–OCC–92–2]**

## Self-Regulatory Organizations; The Options Clearing Corp.; Filing of Proposed Rule Change Relating to the Addition of a Public Director to Its Board of Directors

January 31, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 10, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On January 28, 1992, OCC filed an amendment to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The purpose of the proposed rule change is to amend OCC By-Laws to add a Public Director category to the composition of OCC's Board of Directors.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, OCC included statements concerning the purpose of and statutory 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. OCC 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 rule change is to broaden the viewpoint of OCC's Board of Directors by amending OCC By-Laws to add a Public Director category. Each Public Director would be a representative of the public, unaffiliated with any national securities exchange or national securities association or with any broker or dealer in securities. The addition of a Public Director category would therefore broaden the mix of viewpoints and business expertise represented on the Board. Accordingly, OCC believes that adding a Public Director category to the Board would benefit OCC in the administration of its affairs and would benefit the options markets it serves.

Under the proposed rule change, each Public Director would be nominated by the Chairman of OCC, with the approval of the Board of Directors, and would be elected by the stockholders at their annual meeting. Each public director would serve a two-year term. To ensure diversity in the position of Public Director, the amendments to the By-Laws provide that no person shall be eligible to serve as Public Director for consecutive two-year terms.

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[5] 15 U.S.C 78q–1(b)(3)(A) and (F).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

The proposed change to article III, sections 1 and 3 would revise the formula for determining the number of Member Directors to ensure that Member Directors will at all times constitute a majority of the Board regardless of the number of Exchange Directors and Public Directors to be elected pursuant to OCC By-Laws.

The proposed change to article III, section 12 would allow a majority of the directors then in office, even though they may be less than a quorum, to fill by appointment any vacancy occurring in the position of Public Director. The person appointed to fill such a vacancy would serve for the remainder of the predecessor's term of office or until a successor is elected and qualified.

Finally, the remaining proposed changes to OCC By-Laws would delete certain obsolete language and would conform other language more closely to Delaware law.

The proposed rule change is consistent with the Act and in particular with section 17A(b)(3)(C) thereunder because it helps to assure a fair representation of OCC's shareholders, members, and participants in the administration of OCC's affairs.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

OCC does not believe that the proposed 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*

OCC has neither solicited nor received comments on the proposed change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within thirty five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds that such longer period is appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commissions will:

A. By order approve the proposed rule change or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Those wishing to make a written submission should file six copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, subsequent amendments, written statements with respect to the proposed rule change that are filed with the Commission, and written communications relating to the proposed rule change between the Commission and any persons, 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 OCC. All submissions should refer to File No. SR–OCC–92–2 and should be submitted by February 27, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 92–2959 Filed 2–6–92; 8:45 am]

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**[Release No. 34–30327; File No. SR–OCC–92–4]**

## Self-Regulatory Organizations; the Options Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change To Alphabetize the Definitions Sections of OCC's By-Laws and Rules

January 31, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 23, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposal from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The purpose of the proposed rule change is to alphabetize the definitions sections of OCC's By-Laws and Rules.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, OCC included statements concerning the purpose of and statutory basis for the proposed 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. OCC 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 rule change is to alphabetize the definitions sections of OCC's By-Laws and Rules to make it easier to locate terms in those sections. The Definitions sections of OCC's By-Laws and Rules have been amended over time by adding new definitions to the end of each section when a new product is developed. This process has resulted in an unwieldy compilation of terms with no identifiable order. As a result, OCC is proposing to reorganize and alphabetize the Definitions sections. OCC believes that alphabetizing the Definitions sections will facilitate the referencing of terms in those sections. Because the proposed changes are organizational rather than substantive, they require no further discussion.

The proposed rule change is consistent with the Act and in particular with section 17A(b))(3)(F) thereunder because it promotes the perfection of the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

OCC does not believe that the proposed rule change will impose a burden on competition.

[1] 17 CFR 200.30–3(a)(12).

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

OCC has neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Those wishing to make a written submission should file six copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, subsequent amendments, written statements with respect to the proposed change that are filed with the Commission, and written communications relating to the proposal between the Commission and any persons, other than those that may be withheld from the public in accordance with 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 OCC. All submissions should refer to File No. SR-OCC-92-4 and should be submitted by February 28, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 92-2958 Filed 2-6-92; 8:45 am]

BILLING CODE 8010-01-M

[1] 17 CFR 200.30-3(a)(12).

**[Rel. No. IC-18516; 812-7840]**

## Eaton Vance Cash Management Fund, et al.; Notice of Application

January 31, 1992.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** Eaton Vance Cash Management Fund, Eaton Vance Government Obligations Trust, Eaton Vance Growth Fund, Eaton Vance Income Fund of Boston, Eaton Vance Investors Fund, Eaton Vance Municipal Bond Fund L.P., Eaton Vance Special Equities Fund, Eaton Vance Stock Fund, Eaton Vance Tax Free Reserves, Eaton Vance Total Return Trust, and Nautilus Fund, Inc. (the "Funds"); Eaton Vance Management ("EVM"); and Eaton Vance Distributors, Inc. (the "Distributor"), on their own behalf and on behalf of any existing or future registered investment companies, or existing or future series thereof, which may become a member of the Eaton Vance group of investment companies and whose shares may be distributed on substantially the same basis as those of the Funds ("Future Funds").

**RELEVANT ACT SECTIONS:** Exemption requested pursuant to section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and rule 22c-1 thereunder.

**SUMMARY OF APPLICATION:** Applicants seek an order that would permit each of the Funds and Future Funds to assess a contingent deferred sales charge ("CDSC") on redemptions of certain shares of such Funds purchased without the imposition of a sales charge in the amount of one million dollars or more and to waive the CDSC in certain cases.

**FILING DATE:** The application was filed on December 23, 1991. An amendment to the application was filed on January 22, 1992.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 25, 1992, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 24 Federal Street, Boston, Massachusetts 02110.

**FOR FURTHER INFORMATION CONTACT:** John O'Hanlon, Staff Attorney, at (202) 272-3922 or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

**Applicants' Representations**

1. Each Fund is registered under the Act as an open-end management investment company. Eaton Vance Cash Management Fund, Eaton Vance Government Obligations Trust, Eaton Vance Growth Fund, Eaton Vance Income Fund of Boston, Eaton Vance Investors Fund, Eaton Vance Special Equities Fund, Eaton Vance Stock Fund, Eaton Vance Tax Free Reserves, and Eaton Vance Total Return Trust are organized as Massachusetts business trusts. Eaton Vance Municipal Bond Fund, L.P. is a California limited partnership, and Nautilus Funds, Inc. is a Massachusetts business corporation. EVM provides investment advisory services to the Funds, and the Distributor acts as principal underwriter for the Funds.

2. All shares of the Funds, except shares of Eaton Vance Cash Management, Eaton Vance Tax Free Reserves (together, the "Money Market Funds"), and Eaton Vance Short-Term Treasury Fund (the "Treasury Fund"), a series of Eaton Vance Government Obligations Trust, are currently offered daily to the public at their net asset value plus a front-end sales load calculated as a percentage of the offering price at the time of purchase. A 4.75 percent sales load is assessed on purchases of $100,000 or less; this sales load is reduced as the aggregate dollar amount invested increases. The front-end sales load is waived for certain classes of purchasers named in each Fund's Prospectus. Shares of the Money Market Funds and the Treasury Fund are offered daily to the public at net asset value without imposition of a sales charge.

3. The Applicants propose to eliminate the front-end sales load on all future purchases of Fund shares of $1 million or more and to impose a CDSC on such

shares if they are redeemed within a period of up to 24 months after the end of the calendar month in which the purchase order is accepted (the "CDSC period"). The CDSC period may be shorter than 24 months at the discretion of the Funds but would not be longer than 24 months. The amount of the CDSC to be imposed at any time during the CDSC period will be calculated as a specified percentage of the lesser of (i) the net asset value of the shares at the time of purchase, or (ii) the net asset value of the shares at the time of redemption (the "CDSC value"). The specified CDSC percentage will be a range of percentages, the maximum percentage of which will vary from 2% to 1% and the minimum of which will vary at the Fund's discretion, but will be no less than 0.25%. The particular percentage used to calculate the CDSC at the time of redemption will be based on the original amount invested and will decrease as the amount of the original investment increases. Although the percentage used to calculate the CDSC would be specified based on the original amount invested, the amount to which the percentage is ultimately applied will be the CDSC value. Any changes to the CDSC period or the amount of the CDSC to be imposed will be disclosed in the affected Fund's prospectus and any such change will not affect the shares of that Fund that were issued prior to the disclosure of such changes in the prospectus.

4. No CDSC would be imposed on an amount which represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for shares purchased during the CDSC period. No CDSC would be imposed on an amount representing shares purchased through the reinvestment of dividends or capital gains distributions. In determining whether a CDSC is applicable, it will be assumed that a redemption is made, first, of shares not subject to the CDSC, second, of shares derived from reinvestment of distributions or amounts which represent an increase in the value of the shareholder's account resulting from capital appreciation, and finally, of shares subject to the CDSC, in a manner which will result in the lowest CDSC being imposed at the time of redemption.

5. The CDSC would not apply to redemptions of shares of a Money Market Fund or the Treasury Fund. No CDSC will be imposed on exchanges of Fund shares to acquire shares of another Fund. However, if the shares (including shares of a Money Market Fund or the Treasury Fund) acquired in an exchange were acquired in exchange for shares subject to the CDSC and such acquired shares are then redeemed (other than in connection with a reexchange) within 24 months following the original investment, the CDSC will be assessed. The Treasury Fund does not currently offer such an exchange privilege. The Applicants reserve the right to change or discontinue the exchange privilege in the future.

6. The Applicants intend to waive or reduce the CDSC in the following instances: (a) On redemptions following the death or disability of a shareholder, as defined in section 72(m)(7) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"); (b) in connection with (i) distributions from retirement plans qualified under section 401(a) of the Internal Revenue Code when such redemptions are necessary to make distributions to plan participants (such payments include, but are not limited to, death, disability, retirement, or separation from service), (ii) distributions from a custodial account under Internal Revenue Code 403(b)(7) or an individual retirement account (an "IRA") due to death, disability, or attainment of age 59½ , and (iii) a tax-free return of an excess contribution to an IRA; (c) in whole or in part, in connection with shares sold (i) to current and retired directors, trustees and director general partners of Eaton Vance Funds, (ii) to officers, employees, and clients of EVM and its affiliates, (iii) to registered representatives or employees of authorized dealers, (iv) to such persons' spouses and children under the age of 21 and their beneficial accounts, or (v) any trust, pension, profit sharing, or other benefit plan for persons described above; (d) in whole or in part, in connection with shares sold to any state, county, or city, or any instrumentality, department, authority or agency thereof, which is prohibited by applicable investment laws from paying a sales load or commission in connection with the purchase of shares of any registered investment management company; (e) pursuant to a systematic withdrawal plan; (f) in connection with the redemption of shares of any Fund that is combined with another Fund or investment company by virtue of a merger, acquisition or other similar reorganization transaction; and (g) in connection with the Fund's right to redeem or liquidate an account that holds a certain minimum number or dollar amount of shares. Any revocation of a waiver or reduction of the CDSC in effect at any given time will be applied only to shares purchased after the effective date of such revocation and any such revocation of a waiver or reduction of the CDSC will be disclosed in a Fund's prospectus. For a waiver or reduction of the CDSC undertaken pursuant to items (c) and (d) above, whether such waiver or reduction of the CDSC is in whole or in part will be disclosed in a Fund's prospectus. Applicants may implement a consistent practice under which shareholders will be credited with any CDSC paid in connection with the redemption of any shares followed by a reinvestment within a specified period (currently 30 days) after such redemption. Any such credit for the amount of the CDSC will be paid by the Distributor.

**Applicants' Legal Analysis:**

The Applicants seek an exemption from sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c–1 thereunder. They submit that the requested relief is, in keeping with the requirements of section 6(c) of the Act, necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. The Applicants submit that the CDSC, unlike a front-end sales charge, will enable affected shareholders to have their entire investment working for them from the time of their initial purchase of shares. In addition, the money that otherwise would have been paid as a front-end sales charge will benefit a Fund by increasing the Fund's asset base and reducing its expense ratio, which will have a corresponding benefit to all shareholders. The Applicants assert that the imposition of the CDSC will not restrict any affected shareholder of any Fund from receiving a proportionate share of the current net assets of such Fund, but will merely defer the deduction of a sales charge and make it contingent upon an event which may never occur.

3. The Applicants submit that the waiver of the CDSC will not harm the Funds or their shareholders, nor will it unfairly discriminate among shareholders or purchasers. The Applicants submit that the waiver on redemptions in connection with certain distributions from retirement plans and employee benefit plans is appropriate for public policy reasons. Such a waiver is fully consistent with the provisions granting favored federal tax treatment to accumulations under such plans and imposing additional taxes on early distributions from them.

4. The Applicants further submit that the proposed credit of the CDSC

applicable to a shareholder who redeems shares subject to the charge and reinvests the proceeds of the redemption within a specified period after the redemption is in the interest of shareholders. This reinvestment privilege allows investors who erroneously redeemed or otherwise had second thoughts about having redeemed their shares to reinvest the proceeds without reincurring the sales charge.

**Applicants' Condition**

1. If the requested exemptive relief is granted, the Applicants agree to comply with the provisions of proposed Rule 6c–10 under the Act, Investment Company Act Rel. No. 16619 (November 2, 1988), as currently proposed and as it may be re-proposed, adopted or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 92–2960 Filed 2–6–92; 8:45 am]

BILLING CODE 8010–01–M

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**[Rel. No. IC–18515; Int'l Series Release No. 363; 812–7859]**

## The Montgomery Funds; Notice of Application

January 31, 1992.

**AGENCY:** Securities and Exchange Commission (the "SEC" or "Commission").

**ACTION:** Notice of Application for an Order under the Investment Company Act of 1940 (the "Act").

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**APPLICANT:** The Mongomery Funds.

**RELEVANT ACT SECTIONS:** Order requested under section 6(c) that would grant an exemption from section 12(d)(3) of the Act and rule 12d3–1 thereunder.

**SUMMARY OF APPLICATION:** Applicant seeks a conditional order permitting one of its series, Montgomery Emerging Markets Fund, to invest in equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from securities related activities in accordance with the conditions of the proposed amendments to rule 12d3–1 under the Act.

**FILING DATE:** The application was filed on January 27, 1992.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 25, 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 the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, N.W., Washington, DC 20549. Applicant, 600 Montgomery Street, San Francisco, California 94111.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

**Applicant's Representations**

1. Applicant is an open-end management investment company registered under the Act and organized as a series company. Applicant currently consists of one separate investment series. On December 23, 1991, applicant filed with the Commission a post-effective amendment to its registration statement to establish a second series, the Montgomery Emerging Markets Fund (the "Fund"). Relief is sought only with respect to the Fund. Applicant's existing series is managed by Montgomery Asset Management, L.P., which is the proposed manager for the Fund.

2. The Fund wishes to invest in foreign issuers that, in their most recent fiscal year, derived more than 15% of their gross revenues from their securities related activities as a broker, dealer, underwriter, or investment adviser ("Foreign Securities Companies").

3. Applicant seeks relief from section 12(d)(3) of the Act and rule 12d3–1 thereunder to permit the Fund to invest in securities of Foreign Securities Companies to the extent allowed in the proposed amendments to rule 12d3–1. *See* Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989). The proposed amendements to rule 12d3–1 would, among other things, facilitate the acquisition by applicant of securities issued by Foreign Securities Companies. The Fund's proposed acquisitions of securities issued by Foreign Securities Companies will satisfy each of the requirements of the proposed amendments to rule 12d3–1.

**Applicant's Legal Conclusions**

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1 under the Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from secuities related activities, provided the acquisitions satisfy certain conditions set forth in the rule. Subparagraph (b)(4) of rule 12d3–1 provides that "at the time of acquisition, any equity security of the issuer * * * [must be] a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." A limited number of foreign stocks are deemed "margin securities" under Regulation T. Accordingly, applicant seeks an exemption from the margin security requirements of rule 12d3–1.[1]

2. The proposed amendments to rule 12d3–1 provide that the margin security requirement would be excused if the acquiring company purchases the equity securities of Foregin Securities Companies that meet criteria comparable to those applicable to equity securities of United States securities related businesses. The criteria, as set forth in the proposed amendements, "are based particularly on the policies that underlie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989).

**Applicant's Condition**

Applicant agrees to the following condition in connection with the relief granted:

Applicant will comply with the provisions of the proposed amendments to rule 12d3–1 [Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)], as such amendments are currently proposed,

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[1] The staff of the Division of Investment Management notes that the Board of Governors of the Federal Reserve System has amended Regulation T to include "foreign margin stock." However, because the requirements for inclusion on the Board's "List of Foreign Margin Stocks" are generally more restrictive than the requirements for a "margin security" traded in the United States markets, securities issued by many Foreign Securities Companies are not included in the definition of "foreign margin stock" under Regulation T. See 12 CFR § 220.2(i) and (q)(6).

and as they may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 92-2961 Filed 2-6-92; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster Loan Areas #2547, #2548, and #2549]**

### Maryland (And Contiguous Counties in Delaware & Virginia); Declaration of Disaster Loan Area

Worcester County and the contiguous counties of Somerset and Wicomico in the State Maryland; Sussex County in the State of Delaware; and Accomack County in the State of Virginia constitute a disaster area as a result of damages caused by severe storms and flooding which occurred on January 4, 1992. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on March 27, 1992 and for economic injury until the close of business on October 27, 1992 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, suite 300, Atlanta, Georgia 30308, or other locally announced locations.

The interest rates are:

| | *Percent* |
|---|---|
| For Physical Damage: | |
| Homeowners with credit available elsewhere | 8.000 |
| Homeowners without credit available elsewhere | 4.000 |
| Businesses with credit available elsewhere | 6.500 |
| Businesses and non-profit organizations without credit available elsewhere | 4.000 |
| Others (including non-profit organizations) with credit available elsewhere | 8.500 |
| For Economic Injury: | |
| Businesses and small agricultural cooperatives without credit available elsewhere | 4.000 |

The numbers assigned to this disaster for physical damage are 254706 for Maryland; 254806 for Delaware; and 254906 for Virginia. For economic injury the numbers are 752800 for Maryland; 752900 for Delaware; and 753000 for Virginia.

**Notice:**

Due to SBA's present shortage of operating funds for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of our ability to continue to accept or process disaster loan applications or make disbursements on loans until additional funds are available.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: January 27, 1992.

Patricia Saiki,

*Administrator.*

[FR Doc. 92-2997 Filed 2-6-92; 8:45 am]

BILLING CODE 8025-01-M

**[Disaster Loan Area #2545, Amendment #2]**

### Declaration of Disaster Loan Area, TX

The above-numbered Declaration is hereby amended in accordance with amendments dated January 11, 14, 17, and 22, 1992, to the President's major disaster declaration of December 26, to include the counties of Anderson, Brazos, Calhoun, Callahan, Comanche, DeWitt, Eastland, Freestone, Gillespie, Hamilton, Hays, Hill, Hood, Houston, Johnson, Jones, Kerr, Lampasas, Leon, Milam, Mills, Palo Pinto, Victoria, Williamson, and Wise in the State of Texas as a disaster area as a result of damages caused by severe thunderstorms and flooding, and to establish the incidence period as beginning December 20, 1991 and continuing through January 14, 1992.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Aransas, Bandera, Cherokee, Comal, Cooke, Edwards, Fisher, Goliad, Guadalupe, Haskell, Henderson, Karnes, Kendall, Kimble, Montague, Nolan, Real, Refugio, Shackelford, Stonewall, Stephens, and Young in the State of Texas may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is February 24, 1992, and for economic injury until the close of business on September 28, 1992.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 29, 1992.

Alfred E. Judd,

*Acting Assistant Administrator for Disaster Assistance.*

[FR Doc. 92-2998 Filed 2-6-92; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Radio Technical Commission for Aeronautics (RTCA); GNSS Task Force Strategy and Initiative Task Force 1, Working Group 2; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice, is hereby given for the meeting of Task Force 1, Working Group 2 to be held February 19-21, 1992, at the Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, VA 23185, commencing at 9 a.m.

The agenda for this meeting is as follows: (1) Chairman's opening remarks; (2) Review and approve summary of January 13th meeting, RTCA paper No. 65-92/TF1-13; (3) Receive reports from subgroup chairmen; (4) Update subgroup tasking; (5) Adjourn to subgroup meetings; (6) Date and place of next TF1/WG3 meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833-9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 30, 1992.

Joyce J. Gillen,

*Designated Officer.*

[FR Doc. 92-2984 Filed 2-6-92; 8:45 am]

BILLING CODE 4910-13-M

### Aviation Security Advisory Committee; Meeting

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

**ACTION:** Notice of Aviation Security Advisory Subcommittee meeting; correction.

**SUMMARY:** This action corrects an error in the location of a meeting. On Friday, January 31, 1992, page 3812, and in the third column, please make the following change: The location of the meeting will be the Airport Association Council International (AACI), 1220 19th Street, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** The Office of the Assistant Administrator for Civil Aviation Security, ACS, 800 Independence

Avenue, SW., Washington, DC 20591; telephone (202) 267–9863.

**Ken Lauterstein,**

*Manager, Strategic Initiatives Division.*

[FR Doc. 92–3014 Filed 2–6–92; 8:45 am]

BILLING CODE 4910–13–M

## Greater Buffalo International Airport, NY; Intent to Rule on Application

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

**ACTION:** Notice of intent to rule on application to impose a Passenger Facility Charge (PFC) at the Greater Buffalo International Airport, Buffalo, New York.

**SUMMARY:** The Federal Aviation Administration (FAA) proposes to rule and invities public comment on the application to impose a PFC at Greater Buffalo International 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 14 CFR part 158.

On January 30, 1992, the FAA determined that the application to impose a PFC submitted by the Niagara Frontier Transportation Authority 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 May 22, 1992.

**DATES:** Comments must be received on or before March 9, 1992.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: New York Airports District Office, 180 South Franklin Avenue, room 315, Valley Stream, NY 11581.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Samuel J. Seava, Manager for Revenue Development of the Niagara Frontier Transportation Authority at the following address: 181 Ellicott Street, Buffalo, New York 14230.

Comments from air carriers and foreign air carriers may be in the same form as provided to the Niagara Frontier Transportation Authority under § 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Mr. Philip Brito, Manager, New York Airports District Office, 181 South Franklin Avenue, room 315, Valley Stream, NY 11581 (tel. (718) 553–1882). The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 1992.

Proposed charge expiration date: July 31, 2025.

Total estimated PFC revenue: $189,873,000.

Brief description of proposed project(s): Construction of 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; Circulatory Roadway System; Acquisition/Demolition of Airways Motel; Construct Flyover.

### Availability of Application

Any person may inspect the application in person at the FAA office listed above and at the FAA Regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Niagara Frontier Transportation Authority.

Issued in New York City, New York on January 30, 1992.

**Louis P. DeRose,**

*Manager, Airports Division, Eastern Region.*

[FR Doc. 92–2983 Filed 2–6–92; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirements Submitted to OMB for Review

February 3, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pubic Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW, Washington, DC 20220.

### Office of Thrift Supervision

*OMB Number*: 1550–0006.

*Form Number*: OTS Form 1450.

*Type of Review:* Extension.

*Title*: Application for Permission to Establish a Branch Office or Change of Location of an Office.

*Description*: 12 CFR 545.92 requires associations, as defined in § 516.3(b), which desire to establish a branch office or change the location of a branch office to file an application.

*Respondents*: Businesses or other for-profit.

*Estimated Number of Respondents*: 310.

*Estimated Burden Hours Per Respondent*: 2 hours.

*Frequency of Response*: Other (Submission made by association proposing to establish branch or change location).

*Estimated Total Reporting Burden*: 620 hours.

*Clearance Officer*: John Turner (202) 906–6840, Office of Thrift Supervision, 2nd Floor, 1700 G. Street, NW., Washington, DC 20552.

*OMB Reviewer*: Gary Waxman (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

**Louis K. Holland,**

*Departmental Reports Management Officer.*

[FR Doc. 92–2989 Filed 2–6–92; 8:45 am]

BILLING CODE 4810–25–M

### Public Information Collection Requirements Submitted to OMB for Review

February 3, 1992.

The Department of the Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

### Internal Revenue Service

*OMB Number*: 1545–0951.

*Form Number*: IRS Form 5434 and 5434A.

*Type of Review*: Extension.

*Title*: Application for Enrollment (5434), Application for Renewal of Enrollment (5434–A).

*Description*: The information relates to the granting of enrollment status to

actuaries admitted (licensed) by the Joint Board for the Enrollment of Actuaries to perform actuarial services under the Employee Retirement Income Security Act of 1974.

*Respondents*: Individuals or households.

*Estimated Number of Respondents/Recordkeepers*: 6,000.

*Estimated Burden Hours Per Respondent/Recordkeeper*: Completion/Filing time for IRS Form 5434—1 hour. Completion/Filing time for IRS Form 5434–A—27 minutes.

*Frequency of Response*: Other (once every three years).

*Estimated Total Reporting/Recordkeeping Burden*: 3,800 hours.

*OMB Number*: 1545–1226.

*Regulation ID Number*: FI–59–89 Final Regulations.

*Type of Review*: Extension.

*Title*: Proceeds of Bonds Used for Reimbursement.

*Description*: The rules require record maintenance by a state or local government or section 501(c)(3) organization issuing tax-exempt bonds ("Issuer") to reimburse itself for previously-paid expenses. This recordkeeping will establish that the Issuer had an intent, when it paid an expense, to later issue a reimbursement bond.

*Respondents*: State or local governments.

*Estimated Number of Recordkeepers*: 2,500.

*Estimated Burden Hours Per Recordkeeper*: 2 hours, 24 minutes.

*Frequency of Response*: On occasion, Weekly, Monthly, Quarterly, Semi-annually, Biennially, Other.

*Estimated Total Recordkeeping Burden*: 6,000 hours.

*Clearance Officer*: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

*OMB Reviewer*: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

**Lois K. Holland,**

*Departmental Reports Management Officer.*

[FR Doc. 92–2990 Filed 2–6–92; 8:45 am]

BILLING CODE 4830–01–M

## Customs Service

**[T.D. 92–11]**

### Extension of Oiltest, Inc.'s Customs Approval and Accreditations To Include a New Facility and Additional Analysis Performed at a Previously Accredited Site

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

**ACTION:** Notice of the extension of Oiltest, Inc.'s Customs approval and accreditations to include additional testing performed at a previously accredited site and gauging and laboratory testing performed at a new facility.

**SUMMARY:** Oiltest, Inc., of Roselle, New Jersey, a Customs accredited commercial laboratory and approved gauger under § 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its commercial laboratory accreditations to include the following analyses at its Roselle, New Jersey facility: Reid Vapor Pressure, Saybolt Universal Viscosity, percent by weight sulfur of petroleum products and percent by weight lead in gasoline. Further, the company's Thorofare, New Jersey facility has been given approval to perform the gauging of petroleum and petroleum products, organic chemicals in bulk and in liquid form and vegetable oils. Additionally, Oiltest's Thorofare facility has also been accredited to perform the following analyses: API Gravity, sediment and water, Reid Vapor Pressure and percent by weight sulfur in petroleum products.

**SUPPLEMENTARY INFORMATION:** Part 151 of the Customs Regulations provides for the acceptance at Customs Districts of laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. Oiltest, Inc., which holds Customs accreditation in certain laboratory analyses and approval to gauge certain products, has applied to Customs to extend its laboratory accreditation and gauging approval in the manner described above. Review of Oiltest, Inc.'s qualifications shows that the extension is warranted and, accordingly, has been granted.

**EFFECTIVE DATE:** January 29, 1992.

**FOR FURTHER INFORMATION CONTACT:** Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave. NW., Washington, DC 20229 (202–566–2446).

Dated: February 4, 1992.

**John B. O'Loughlin,**

*Director, Office of Laboratories and Scientific Services.*

[FR Doc. 92–2992 Filed 2–6 92; 8:45 am]

BILLING CODE 4820–02–M

# Sunshine Act Meetings

Federal Register
Vol. 57, No. 26
Friday, February 7, 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).

**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 11:30 a.m., Friday, February 14, 1992.

**PLACE:** 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room,

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Enforcement Meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 254–6314.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 92–3140 Filed 2–5–92; 3:37 pm]

BILLING CODE 6351-01-M

**BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM**

**TIME AND DATE:** Approximately 10:15 a.m., Wednesday, February 12, 1992, following a recess at the conclusion of the open meeting.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Benefits proposals regarding the Office of Inspector General.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 5, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92–3076 FIled 2–5–92; 10:31 am]

BILLING CODE 6210-01-M

**BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM**

**TIME AND DATE:** 10:00 a.m., Wednesday, February 12, 1992.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

*Summary Agenda*

Because of its routine nature, no discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Publication for comment of proposed revisions to Regulation O (Loans to Executive Officers, Directors, and Principal Shareholders) to implement the Federal Deposit Insurance Corporation Improvement Act of 1991.
2. Any items carried forward from a previously announced meeting.

*Discussion Agenda*

Please Note That No Discussion Items are Scheduled for This Meeting.

**Note:** If the item is moved from the Summary Agenda to the Discussion Agenda, discussion of the item will be recorded. Cassettes will then be available for listening in the Board's Freedom of Information Office, and copies can be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 10551

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 5, 1992.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 92–3077 Filed 2–5–92; 10:31 am]

BILLING CODE 6210-01-M

# Corrections

Federal Register
Vol. 57, No. 26
Friday, February 7, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### 7 CFR Part 273

**[Amendment No. 346]**

### Food Stamp Program; Income Exemption for Homeless Households in Transitional Housing From the Mickey Leland Memorial Domestic Hunger Relief Act

*Correction*

In proposed rule document 92-2415 beginning on page 3961 in the issue of Monday, February 3, 1992, make the following correction:

**§ 273.9 [Corrected]**

On page 3963, in the first column, in § 273.9(c)(1)(ii)(D), in the fifth line, "80" should read "50".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[OR-4735; OR 030-01-4212-13; GP1-348]**

### Realty Action; Exchange of Public Lands; Baker County, Oregon

*Correction*

In the correction to notice document 91-23280 appearing on page 1313 in the issue of Monday, January 13, 1992, make the following correction:

In the third column, in the second correction, in the third line, "seventh" should read "eighth".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE TREASURY

### Customs Service

### 19 CFR Part 10

**[T.D. 92-8]**

**RIN 1515-AA75**

### Customs Regulations Amendments Relating to the United States-Canada Free-Trade Agreement

*Correction*

In rule document 92-1437 beginning on page 2447 in the issue of Wednesday, January 22, 1992, make the following corrections:

**§ 10.305 Value content requirement.**

1. On page 2453, in the third column, in § 10.305(a)(1)(i), in the eighth line, "of" should read "or".

2. On the same page, in the same column, in § 10.305(a)(1)(ii), in the first line, "inspection" should read "inspecting".

3. On page 2454, in the first column, in § 10.305(a)(3), in the first line, "(1)" should read "(i)".

4. On page 2455, in the 2d column, in § 10.305(b)(3)(ii) *Example 2*, in the 20th line, "materials" should read "material".

BILLING CODE 1505-01-D

federal register

Friday
February 7, 1992

Part II

# Department of Education

**Office of Educational Research and Improvement Fellows Program; Notice Inviting Applications for New Awards for Fiscal Year 1992**

## DEPARTMENT OF EDUCATION

[CFDA No. 84.117J]

### Office of Educational Research and Improvement Fellows Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1992

*Purpose of Program:* To provide Federal financial assistance enabling individuals to make contributions to the improvement of education by engaging in educational research at the Office of Educational Research and Improvement (OERI) in Washington, DC.

*Eligible Applicants:* Only individuals are eligible to be recipients of fellowships. Any individual who has training and experience that indicates that he or she has the potential to conduct educational research is eligible to apply. An individual must be a citizen of the United States to be eligible for a fellowship.

*Deadline for Transmittal of Applications:* April 17, 1992.

*Available Funds:* $75,000.

*Estimated Range of Awards:* $25,000–$45,000.

*Estimated Average Size of Awards:* $35,000.

**Note:** The amount of a fellowship includes a stipend based on the fellow's current annual salary prorated for the length of the fellowship. If a fellow has no current salary, the amount of the fellowship includes a stipend based on the fellow's education and experience. In addition, the fellowship includes a subsistence allowance and necessary travel expenses related to the fellowship.

*Estimated Number of Awards:* 2–3.

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

*Project Period:* Projects will be for a period of no fewer than four nor more than twelve months of full-time activity or the equivalent in less than full-time participation.

*Applicable Regulations:* The regulations for this program in 34 CFR part 762.

*Selection Criteria:* In selecting fellows under this program, the Secretary rates applications using the criteria in 34 CFR 762.21 and then determines the order in which the applications will be selected. The Secretary uses the following criteria in evaluating each applicant for a fellowship:

(a) *Quality of the plan for the proposed activity* (40 points). The Secretary reviews the quality of each proposed project to ensure that—

(1) The design of the project is of high quality;

(2) The applicant's project relates to the purposes of the fellowship program; and

(3) The applicant's project is feasible.

(b) *Significance of the proposed project* (20 points). The Secretary assesses the significance of each proposed project to ensure that—

(1) The project addresses important issues in American education;

(2) Project results will benefit American education; and

(3) The project will enhance education practice.

(c) *Qualifications of the applicant* (40 points). The Secretary reviews the qualifications of each applicant to ensure—

(1) The appropriateness and quality of the education and experience of the applicant as they may be related to the proposed project; and

(2) Demonstrated ability to produce a final product which is comprehensive and useful.

*Application Forms:* Individuals must submit a written request to be considered for a fellowship. The Department has no application forms or prescribed format for applications under the Fellows Program. Applicants are encouraged to submit sufficient information to allow the Secretary to determine the merits of the proposed activities under the criteria in 34 CFR 762.21. Applicants are encouraged to submit their curriculum vitae, a detailed project description containing the design of their research proposal and specific activities they will undertake while in DC, and a proposed budget for the project.

*Supplementary Information:* Pursuant to 34 CFR 762.21(b)(1), the Secretary assesses the significance of each proposed project to ensure that the project addresses important issues in American education. Listed below are some examples of educational topics that address issues that the Secretary considers to be important in American education. Research on these topics could help implement AMERICA 2000, the President's strategy for reaching the National Education Goals. The topics identified in this notice are examples only; the Secretary also considers many other educational topics to be important issues in American education. Applications that propose research activities on educational topics that are listed in this notice will not receive any competitive preference.

Some examples of educational topics are:

1. Helping parents support the learning of their young children;

2. Improving the education of children and youth whose circumstances put them at a disadvantage;

3. Identifying factors that will lead to greater student learning at any stage from birth through postsecondary and graduate education; and

4. Identifying how school or college organization and environment affects student achievement.

*Instructions for Transmittal of Applications:* (a) An individual who wants to apply for an award shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.117J, 400 Maryland Avenue, SW., Washington, DC 20202–4725; or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.117J, Room #3633, Regional Office Building #3, Seventh and D Streets, SW., Washington, DC.

(b) An application must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

**Notes:** (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with their local post office.

(2) The Application Control Center will mail an Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the closing date, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant *must* indicate on the envelope the CFDA number and letter of this competition.

*For Information Contact:* Dr. Jeffrey Gilmore, U.S. Department of Education, Office of Educational Research and Improvement, Office of Research, room 615, 555 New Jersey Avenue, NW., Washington, DC 20208–5647. Telephone:

(202) 219–2243. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

**Program Authority:** 20 U.S.C. 1221e.

Dated: February 3, 1992.

**Diane Ravitch,**

*Assistant Secretary and Counselor to the Secretary.*

[FR Doc. 92–2967 Filed 2–6–92; 8:45 am]

BILLING CODE 4000–01–M

federal register

Friday
February 7, 1992

Part III

# Department of the Interior

## Minerals Management Service

## Alaska OCS Region; Call for Information and Nominations and Environmental Impact Statement; Notice

4310-MR

**UNITED STATES**
**DEPARTMENT OF THE INTERIOR**
**MINERALS MANAGEMENT SERVICE**
**Alaska OCS Region**

**Cook Inlet**
**Lease Sale 149**
**Call for Information and Nominations**
and
**Notice of Intent to Prepare an Environmental Impact Statement**

**CALL FOR INFORMATION AND NOMINATIONS**
(Responses Due in 45 Days)

On December 17, 1991, the Minerals Management Service (MMS) published a Federal Register Notice requesting comments on enlarging the proposed Outer Continental Shelf (OCS) Lease Sale 149 sale area and on changing the name of the Cook Inlet Planning Area. The closing date for comments on that Federal Register Notice was January 31, 1992. The comments will be evaluated and the decision on these two alternatives will be announced with the Department of the Interior's Proposed Final Comprehensive Program in the Spring of 1992.

In order to keep the program options open, this Call will cover the enlarged area. However, all nominated areas outside the area included in the Final Comprehensive Program will be excluded from further consideration in this sale.

**Purpose of Call**

The purpose of the Call for Information and Nominations (Call) is to gather information for proposed Outer Continental Shelf (OCS) Lease Sale 149. This proposed sale, located in the Cook Inlet Planning Area, is tentatively scheduled for mid-1994.

Information and nominations on oil and gas leasing, exploration, and development and production within the Cook Inlet Planning Area are sought from all interested parties. This early planning and consultation step is part of the Area Evaluation and Decision Process and is important for ensuring that all interests and concerns are communicated to the Department of the Interior (DOI) for future decisions in the leasing process pursuant to the OCS Lands Act, as amended (43 U.S.C. 1331 - 1356 (1988)), and regulations at 30 CFR Part 256. This Call does not indicate a preliminary decision to lease in the area described below.

**Description of Area**

The area of this Call is located offshore the State of Alaska in Federal waters located in Cook Inlet, and extending approximately

200 nautical miles southwestward into Shelikof Strait (See page-sized map at the end of this Notice). The area available for nominations and comments consists of approximately 761 whole and partial blocks (about 3.7 million acres). Respondents may nominate and are asked to comment on any acreage within the entire Call area. A large scale map of the Cook Inlet Planning Area (hereinafter referred to as the Call map) showing boundaries of the Call area on a block-by-block basis and a complete list of Official Protraction Diagrams (OPD's) are available from the Records Manager, Alaska OCS Region, Minerals Management Service, 949 E. 36th Avenue, Room 502, Anchorage, Alaska 99508-4302, telephone (907) 271-6621. The OPD's may be purchased from the Records Manager for $2.00 each.

Current editions of the listed OPDs are based on the North American Datum of 1927 (NAD27) and have block boundaries defined in terms of X and Y coordinates of the Universal Transverse Mercator (UTM) grid system based on the Clarke Spheroid of 1866. Prior to the issuance of any Proposed Notice of Sale, new editions of all the listed OPDs would be prepared based on the North American Datum of 1983 (NAD83) and would have block boundaries defined in terms of X and Y UTM coordinates based on the Geodetic Reference System of 1980 (GRS80).

**Instructions on Call**

Respondents are requested to nominate blocks within the Call area that they would like considered for inclusion in proposed OCS Lease Sale 149. Nominations must be depicted on the Call map by outlining the area(s) of interest along block lines. Respondents are asked to submit a list of whole and partial blocks nominated (by OPD designations) to facilitate correct interpretation of their nominations on the Call map. Although the identities of those submitting nominations become a matter of public record, the individual nominations are deemed to be proprietary information.

Respondents are also requested to rank areas nominated according to priority of interest (e.g., priority 1 (high), 2 (medium), or 3 (low). Areas nominated that do not indicate priorities will be considered priority 3. Respondents are encouraged to be specific in indicating areas or blocks by priority. Blanket priorities on large areas are not useful in the analysis of industry interest. The telephone number and name of a person to contact in the respondent's organization for additional information should be included in the response.

Comments are sought from all interested parties about particular geologic, environmental, biological, archaeological, social, and economic conditions, conflicts, or other information that might bear upon potential leasing and development in the Call area. Comments are also sought on potential conflicts with approved

local coastal management plans (CMP's) that may result from the proposed sale and future OCS oil and gas activities. If possible, these comments should identify specific CMP policies of concern, the nature of the conflicts foreseen, and steps that MMS could take to avoid or mitigate the potential conflicts. Comments may be in terms of broad areas or restricted to particular blocks of concern. Those submitting comments are requested to list block numbers or outline the subject area on the large-scale Call map.

Nominations and comments must be received no later than 45 days following publication of this document in the Federal Register in envelopes labeled **"Nominations for Proposed Cook Inlet Lease Sale 149,"** or **"Comments on the Call for Information and Nominations for Proposed Cook Inlet Lease Sale 149,"** as appropriate. The original Call map with indications of interest and/or comments must be submitted to the Regional Supervisor, Leasing and Environment, Alaska OCS Region, Minerals Management Service, 949 E. 36th Avenue, Room 110, Anchorage, Alaska 99508-4302.

## Use of Information from Call

Information submitted in response to this Call will be used for several purposes. First, responses will be used to identify the areas of potential for oil and gas development. Second, comments on possible environmental effects and potential use conflicts will be used in the analysis of environmental conditions in and near the Call area. This information will be used to make a preliminary determination of potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. A third purpose for this Call is to use the comments to initiate the scoping process for the Environmental Impact Statement (EIS) and analyze alternatives to the proposed action. The Notice of Intent to Prepare an EIS is included later in this document. Fourth, comments may be used in developing lease terms and conditions to ensure safe offshore oil and gas activities. Fifth, comments may be used to point out potential conflicts between offshore oil and gas activities and the State's CMP.

## Existing Information

An extensive environmental as well as socioeconomic studies program has been under way in this area since 1975. The emphasis, including continuing studies, has been on geologic mapping, environmental characterization of biologically sensitive habitats, endangered whales and marine mammals, physical oceanography, ocean-circulation modeling, and ecological effects of oil and gas activities. A complete listing of available study reports and information for ordering copies may be obtained from the Records Manager, Alaska OCS Region, at the address stated

under Description of Area. The reports may also be ordered directly from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephone at (703) 487-4650.

In addition, a program status report for continuing studies in this area may be obtained from the Chief, Environmental Studies Section, Alaska OCS Region, at the address stated under Instructions on Call or by telephone at (907) 271-6620.

Summary Reports and Indices and technical and geologic reports are available for review at the MMS Alaska OCS Region (see address under Description of Area). Copies of the Alaska OCS Regional Summary Reports may also be obtained from the OCS Information Program, Office of Offshore Information and Publications, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070.

**Tentative Schedule**

Final delineation of the area for possible leasing will be made at a later date in compliance with applicable laws including all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as amended, and the OCS Lands Act, as amended, and with established departmental procedures.

Tentative milestones that will precede this sale, proposed for mid 1994, are:

| Milestones | Dates |
|---|---|
| Comments Due on the Call | March '92 |
| Scoping Comments Due | March '92 |
| Area Identification | June '92 |
| Draft EIS/Proposed Notice of Sale Published | July '93 |
| Hearings on Draft EIS Held | August '93 |
| Governor's Comments Due on Proposed Notice Notice of Sale | October '93 |
| FEIS Filed with EPA | April '94 |
| Consistency Determination Signed | April '94 |
| Final Notice of Sale Published | August '94 |
| Sale | September '94 |

**NOTICE OF INTENT TO PREPARE ENVIRONMENTAL IMPACT STATEMENT**
(Comments Due in 45 Days)

**Purpose of Notice of Intent**

Pursuant to the regulations (40 CFR 1501.7) implementing the procedural provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as amended, MMS is announcing its intent to prepare an EIS regarding the oil and gas leasing proposal known as Sale 149 in the Cook Inlet off Alaska. The Notice of Intent also serves to announce the scoping process that will be followed for this EIS. Throughout the scoping process, Federal, State, and local governments and other interested parties have the opportunity to aid MMS in determining the significant issues and alternatives to be analyzed in the EIS and the possible need for additional information.

The EIS analysis will focus on the potential environmental effects of leasing, exploration, and development of the blocks included in the area defined in the Area Identification procedure as the proposed area of the Federal action. Alternatives to the proposal that may be considered are to delay the sale, cancel the sale, or modify the sale.

**Instructions on Notice of Intent**

Federal, State, and local governments and other interested parties are requested to send their written comments on the scope of the EIS, significant issues that should be addressed, and alternatives that should be considered to the Regional Supervisor, Leasing and Environment, Alaska OCS Region, at the address stated under Instructions on Call above. Comments should be enclosed in an envelope labeled **"Comments on the Notice of Intent to Prepare an EIS on the proposed Cook Inlet Lease Sale 149."** Comments are due no later than 45 days from publication of this Notice.

Scott Sewell

Scott Sewell
Director, Minerals Management Service

Approved:

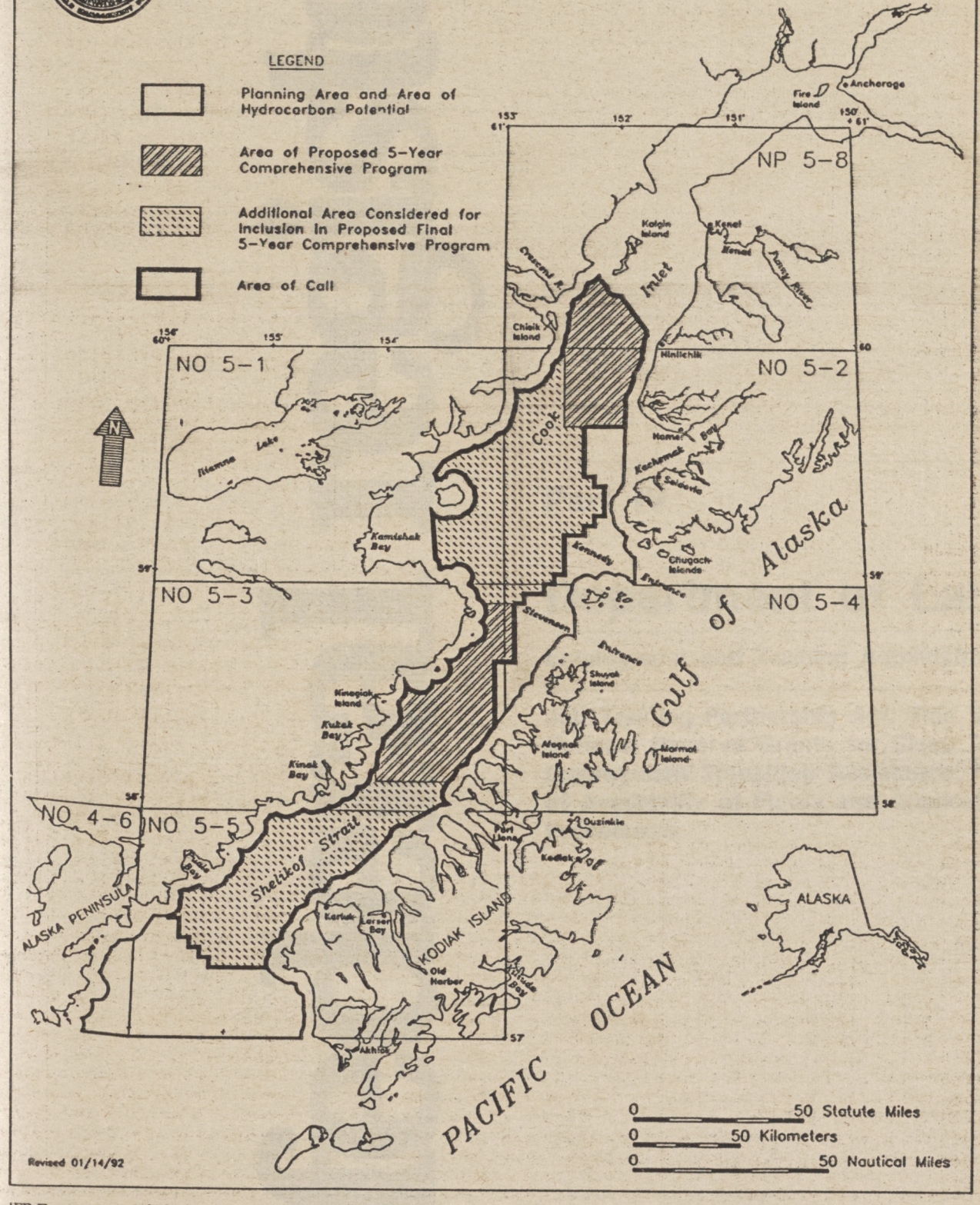
Richard Roldan

Deputy Assistant Secretary, Land and Minerals Management

Date

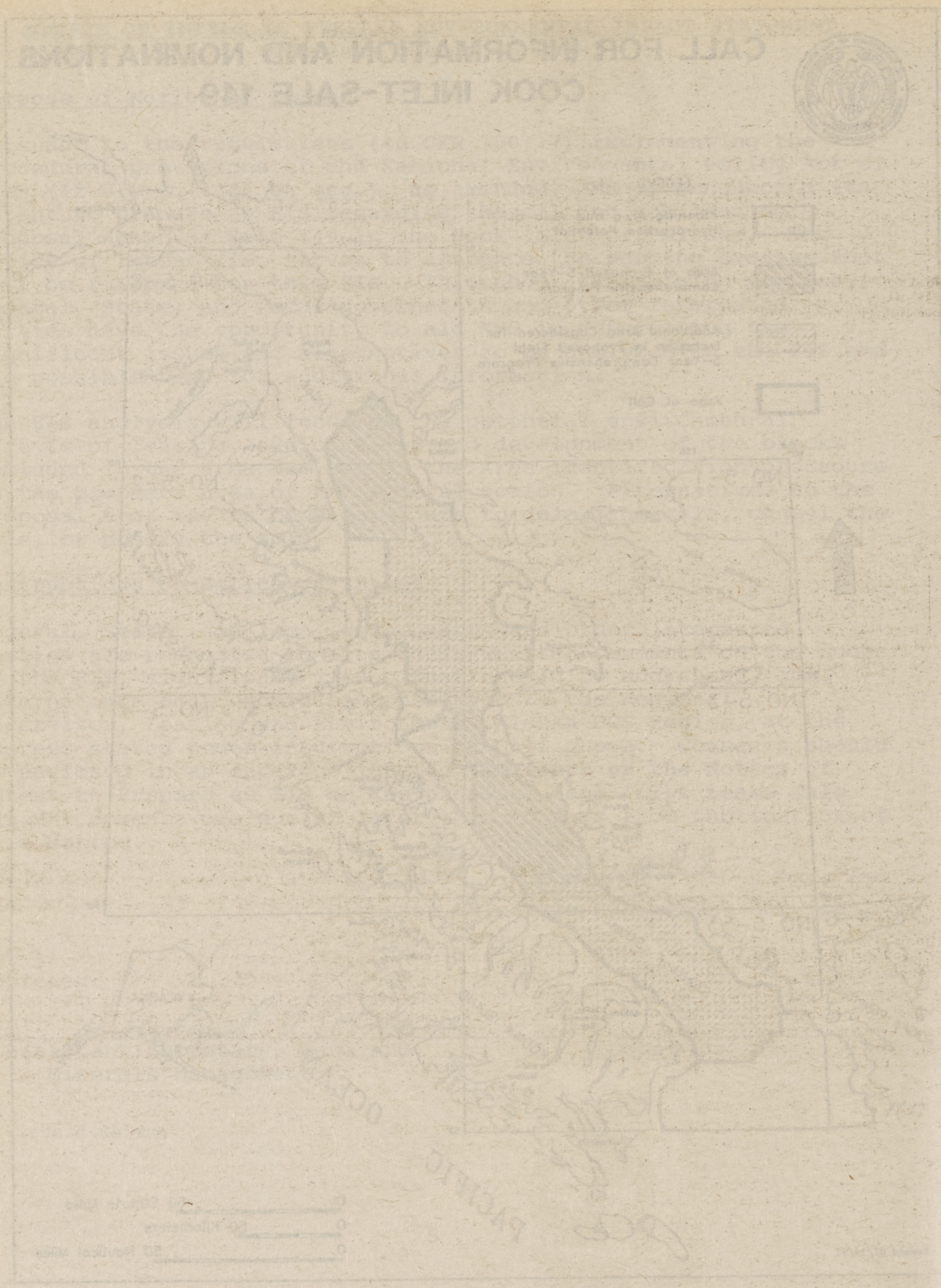
Richard Roldan

# CALL FOR INFORMATION AND NOMINATIONS COOK INLET-SALE 149




[FR Doc. 92-2953 Filed 2-6-92; 8:45 am]

BILLING CODE 4310-MR-C



federal register

Friday
February 7, 1992

Part IV

# Department of Labor

## Employment and Training Administration

## Job Training Partnership Act: Title III National Reserve Grants for Clean Air Employment Transition Assistance; Notice of Availability of Funds and Application Procedures

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Job Training Partnership Act: Title III National Reserve Grants for Clean Air Employment Transition Assistance; Availability of Funds and Application Procedures for Program Years 1991 and 1992

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of availability of funds and solicitation for grant applications.

**SUMMARY:** The Employment and Training Administration of the Department of Labor is announcing that funds are available for a new Clean Air Employment Transition Assistance (CAETA) grant program. All applications prepared and submitted pursuant to these guidelines and received at the address below will be considered. Grant awards will be made only to the extent that funds are now available. Funds are now available for obligation for this new program from October 1, 1991 through June 30, 1993.

**DATES:** Applications will be accepted on an ongoing basis throughout the balance of Program Year 1991 and Program Year 1992 (July 1, 1991 through June 30, 1993) as the need for funds arises at the State and local level. Grant awards will be made during the Program Years in response to the applications received. There is no closing date for applications under this announcement.

**ADDRESSES:** It is preferred that applications be mailed. Mail or hand deliver applications to: Office of Grants and Contracts Management, Division of Acquisition and Assistance, Employment and Training Administration, U.S. Department of Labor, room C–4305, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Dislocated Worker Grants, Barbara J. Carroll, Grant Officer.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert N. Colombo, Director, Office of Worker Retaining and Adjustment Programs. Telephone: (202) 535–0577. (This is not toll free number).

**SUPPLEMENTARY INFORMATION:** The Employment and Training Administration (ETA) announces the availability of funds reserved by the Secretary of Labor for the delivery of dislocated worker services to workers whose dislocation occurred as a consequence of an employer's compliance with the Clean Air Act, and the procedures to make application for these funds. Funding is authorized by the Job Training Partnership Act (JTPA or Act). The application procedures, selection criteria, and approval process contained in this notice are issued in accordance with the JTPA regulations 20 CFR 631.61.

This program announcement consists of four parts. Part I provides the background and purpose of the discretionary funds for activities under section 326 of the Act. Part II establishes basic U.S. Department of Labor (Department or DOL) policies and emphases for these discretionary grants. Part III describes the basic grant application process. Part IV provides detailed guidelines for the preparation of applications. The primary selection criteria used in reviewing applications are also included.

The JTPA Title III program is listed in the Catalogue of Federal Domestic Assistance at No. 17–246 "Employment and Training Assistance—Dislocated Workers" (JTPA Title III Programs).

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## Part I. Background

### *A. Fund Availability*

Funds available for Clean Air Employment Transition Assistance (CAETA) programs total $50 million and shall be awarded pursuant to the requirements contained in the JTPA and these guidelines. These funds are in addition to funds appropriated for the basic Title III program.

### *B. Circumstances Under Which Services May Be Provided With CAETA National Reserve Funds*

Services described in JTPA section 314 may be provided with CAETA national reserve funds where there is a dislocation resulting from requirements of the Clean Air Act. (42 U.S.C. 7401 *et seq.*)

## Part II. Department of Labor Policy and Program Emphasis

### *A. Basic Policies*

1. Available funds shall be awarded by the Secretary in a manner that efficiently targets resources to areas most in need, and in a manner which promotes effective use of funds.

2. All projects and activities funded shall be subject to the applicable provisions of JTPA, the appropriate regulations, and to the requirements contained in these instructions and the Grant Officer's award document(s) and any subsequent grant amendment authorized. All applications shall also be subject to Clean Air Employment Transition Assistance Program regulations once such regulations are published in final.

3. CAETA funds shall not be considered as an ongoing source of funds for existing centers or other projects or activities. For this reason, it is a general policy of the Department that it will not refund CAETA national reserve projects. Projects involving extraordinary circumstances, such as massive continuing layoffs, may be considered for refunding.

4. CAETA national reserve funds are not to be used to subsidize a grantee's ongoing operations. A grantee may only be reimbursed for costs over and above those costs associated with the grantee's ongoing costs. It is the Department's position that where CAETA national reserve funded projects are operated by existing State or substate grantees, administrative savings will be realized.

**Note:** "Substate grantee" is defined at JTPA section 301.

5. CAETA national reserve funds shall only be provided to meet needs which cannot be met by JTPA formula funds or other State and local resources. Grants will be primarily awarded, therefore, where substantial numbers of workers, relatively speaking, in a substate area, labor market, region or industry are dislocated as a consequence of a firm's compliance with the Clean Air Act and the State and/or substate area do not have suffucient JTPA funds available to assist such workers.

Note: "Substate area" is defined at JTPA section 301.

6. Eligible dislocated workers to be served with CAETA national reserve funds shall meet the requirements of part IV, section 1(b) of these guidelines.

7. The Department shall make every effort to review and respond to each application within 45 days of the Department's receipt of the application.

8. No grant funds awarded shall be used to reimburse costs incurred prior to the date authorized by the Grant Officer.

*B. Secretary's Rights Reserved*

The Secretary reserves the right to distribute some CAETA national reserve funds in a manner other than that provided by this notice, consistent with the JTPA, and taking into consideration special circumstances and unique needs which may arise throughout the course of the program year.

The Secretary also reserves the right to fund individual projects on an incremental basis where the Department determines that such an action would result in the most effective use of available resources.

If insufficient applications are received by the Department which are of acceptable quality and which meet the guidelines and selection criteria contained in this notice to exhaust the CAETA national reserve account, the Department shall take whatever action it deems necessary and appropriate, consistent with the Act and the regulations, to exhaust the funds.

*C. Basic Planning Rules*

1. Operating Definition of "State"

For purposes of these grant application procedures, State shall mean one of the 50 States of the United States and the following nine grant eligible territories and legal jurisdictions: The District of Columbia, The Commonwealth of Puerto Rico, The Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas. The freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Trust Territory of the Pacific Islands/ Republic of Palau, while not "States" under the Clean Air Act (See 42 U.S.C. 7602 (d)(1)), are eligible to receive grants under this program, since Clean Air impacted individuals may reside in those areas.

2. Allocation of Costs

a. *State administration.* States may include no more than 1.5 percent or $15,000, whichever is lower, for State administration of "pass-through" grants. State administrative cost requests that are above this established set-aside must be accompanied by a justification showing the projected person-hours and functions to be performed and any other relevant cost information. This cost is to be included in the administrative cost category. It is expected that these funds will be used for subgrant administration, the provision of technical assistance, on-site and desk monitoring, and data collection.

States must provide specific information regarding why State 40 percent funds are not available to support a project.

b. *Administrative requirements for grant projects.* (1) In addition to applicable administrative requirements contained in JTPA and these guidelines, some grantee organizations may be subject to other requirements as listed below:

(a) State and local Governments (except for JTPA grant recipients under the Federal, State, Governor-Secretary Agreement block grant)—OMB Circular A–87 (cost principles) and 29 CFR part 97 (Uniform Administrative Requirements for Grants with State and Local Governments) apply. The audit requirements at 29 CFR part 96 also apply.

(b) Non-Profit Organizations—OMB Circulars A–122 and A–133 (Audits) apply.

(c) Educational Institutions—OMB Circulars A–21 and A–133 (Audits) apply.

(d) Profit Making Commercial Firms—Federal Acquisition Regulation (FAR)—48 CFR part 31 apply.

(2) Any planned equipment purchases with a unit cost of $500 or more must be justified and specifically listed along with its purchase price in the grant application. If equipment purchased is to be prorated, the total cost and the CAETA grant's share of the total cost must be indicated. Equipment planned to be leased and the cost of such equipment must be listed in the grant application.

c. *Establishment of a Labor Management Committee.* Costs associated with the establishment of a Labor Management Committee are appropriately charged as Rapid Response costs against the State's 40 percent Title III formula funds. Therefore, they are not to be charged to the CAETA grant. Ongoing operational costs of the Labor/Management Committee during the period of performance of the grant are chargeable to the Administration Cost category.

d. When a participant is eligible for either partial or full reimbursement of training costs (*e.g.*, Pell grants, employer tuition reimbursement, etc.) the application must describe the procedures established for the reimbursement and/or crediting of such costs if such costs are initially charged to the CAETA national reserve grant.

Note: Where CAETA national reserve funds are expended for training prior to certification of TAA eligibility, CAETA national reserve funds shall not be reimbursed to the JTPA program when TAA funds become available to cover the balance of the training.

e. *Necessary and reasonable costs/ cost effectiveness.* In accordance with 20 CFR 629.37(a), costs are required to be "reasonable" and "necessary" to be charged to the grant. In reviewing a grant application, the Grant Officer shall consider these criteria. Areas of concern include but are not limited to: Staff to participant ratios; the proportion of staff costs to the total grant; the cost of purchased or leased equipment; the cost of proposed training as it relates to the complexity of the skills to be learned, the length of training, and the provider's access to other supplemental funding sources. The extent to which the proposed project budget reflects costs that appear to be "reasonable" and "necessary" will be a significant factor in determining the project's cost effectiveness.

f. All indirect administration costs shall be charged to the Administration Cost category. Any indirect costs that are not administrative shall be itemized separately in the appropriate cost category. If an indirect rate is applied, the basis for the rate and the approving authority must be cited.

g. It is not intended that CAETA national reserve projects automatically be charged 15 percent of the award amount toward the overall administrative costs of the SDA/ substate grantee. The amount planned to be used for administration and the specific purposes for which it will be used must be determined in order for an administrative cost budget line item to be established. Once determined and approved, the amount budgeted for administration may be included in any existing administrative cost pool of the SDA/substate grantee which is administering the CAETA national reserve grant. A portion of costs charged to the administrative cost pool may be allocated to the grant, up to the total amount included in the cost pool from the grant and consistent with overall expenditures for the grant and with the existing rules for the charging of costs against an administrative cost pool.

3. Additional Funding

The amount of a grant award cannot be increased after the grant is awarded. If circumstances change so substantially that additional funds are required to serve dislocated workers from the targeted layoff or closing, another grant application must be submitted. The same review and approval procedures will apply to a second grant application as apply to other dislocated worker project proposals. A second application shall include an up-to-date status report of performance under the first award including: Overall enrollments, enrollments by activity and expenditures (obligations and expenditures by cost category).

4. Activities

a. The application budget shall not include costs for activities or services begun with JTPA formula funds used for program purposes prior to the grant award. If initial training costs for a participant are incurred with such funds, the balance of the training cost commitment for that participant must be funded by State or substate formula funds. This policy does not apply to State funded rapid response activities.

b. Applications shall not provide for using CAETA reserve funds for work experience.

c. A minimum of 50 percent of all participants to be served with CAETA national reserve funds shall receive educational and/or occupational retraining, unless otherwise specifically authorized by the Grant Officer.

The 50 percent minimum may include participants whose training is funded by TAA, employer or union-funded tuition or training assistance, as well as Pell grants and other educational financial assistance.

d. CAETA national reserve funds shall not be used for rapid response activities. Rapid response activities are paid for out of State 40 percent funds.

e. CAETA national reserve funds shall not be awarded to fund an individual training project or an individual activity.

5. Identification of Participants To Be Served

The applicant must explain how affected workers most in need of services to return to the labor force will be identified and assured access to necessary services. The applicant must also explain how the planned number of participants to be served was determined.

6. Project Locations

If an applicant plans to operate more than one project or subproject, each location shall be listed and separate budgets, implementation schedules and, where appropriate, lists of local demand occupations for retraining provided. In all cases, the applicant must also include a summary budget and implementation schedule for the entire project.

7. Placement Rate Expectations

Since funds and resources are specifically focused on the needs of a targeted group of workers and their employment and training needs, the Department expects that:

a. Project placement rate—The planned entered employment rate for any program will be at least 70 percent.

b. Occupational classroom training—A placement rate of 75 percent will be expected from occupational classroom training. This rate may be calculated by including the provisions of job search assistance and other services to participants who receive occupational classroom training.

c. On-the-Job Training (OJT)—A placement rate of at least 80 percent will be expected for OJT. This rate may be calculated by including the provision of job search assistance and other services to participants who receive OJT. If the applicant does not believe such a rate can be achieved in its proposal, it must provide reasons for planning a lower rate.

8. On-the-Job Training (OJT)

No OJT under six weeks duration shall be funded with CAETA reserve grant funds. Any OJT training for between six and 10 weeks in duration shall be consistent with an approved rationale to determine the length of training for a given occupation. The rationale shall be stated in the application. An OJT contract must contain a "hire first" provision.

**Part III. The Basic Application Process**

*A. Funding Considerations*

1. Identification of Dislocated Workers

a. Dislocated workers eligible to be provided services with CAETA national reserve funds are defined as individuals who meet the definitions set forth in section 301(a) of the Act and 20 CFR 631.3, 29 U.S.C. 1651(a) and must be dislocated as a consequence of a firm's compliance with the Clean Air Act. The dislocated workers to be served must be specifically identified in the application.

Eligible individuals may be served without regard to the State of residence of the individual (section 311(b)(1)(B), 29 U.S.C. 1661(b)(1)(B).

b. Applications should indicate that the provision of services to eligible participants will take into account those "most in need", those least likely to be recalled, those with the least transferable or most obsolete occupational skills, those with the most barriers to other employment opportunities such as poor reading or math skills. Those "most in need", for purposes of CAETA reserve funding, will be determined on a project-by-project basis. Applications shall provide that those participants requiring labor exchange services and other minimal employment services are directed to other appropriate resources such as the State Employment Service.

2. CAETA dislocated worker project applications selected for funding will generally be those which:

a. Effectively identify and target the project to specific groups of dislocated workers, industries or plants, occupations and geographic areas;

b. Specify occupational and educational training related to local demand occupations;

c. Demonstrate a timely response to the target group's employment and training needs for such services; and

d. Are cost effective in terms of services to be provided and results to be achieved.

3. Priority consideration will be given to applications focusing on services to workers who "are unlikely to return to their previous occupation or industry," with particular emphasis on those requiring and wanting retraining for occupations determined to be in demand in the local economy.

*B. Screening and Review of Applications*

1. Screening Requirements

All applications will be screened to determine completeness and conformity to the Act, regulations, application guidelines and other requirements contained in this announcement.

In order for an application to be in conformance, it must be paginated and include the following:

a. *Transmittal letter.* A transmittal letter from the Governor or the applicant's authorized signatory containing the required assurances.

b. *Standard form.* SF 424, Application for Federal Domestic Assistance (Catalogue No. 17.246).

c. *Budget.* A detailed line item budget according to the applicable cost categories found at 20 CFR 631.13 of the JTPA Title III regulations and as outlined in these guidelines.

d. *Project narrative.* The narrative portion of the application including attachments shall not exceed twenty-five (25) double-spaced pages,

typewritten on one side of the paper only. The narrative must address all of the elements specified in the application guidelines.

e. *Certifications.* (1) An original signature certification regarding "Drug-Free Workplace" must be submitted with the application except in the case where the applicant is a State. States may opt to submit a copy of the Statewide or agency annual certification renewable every Fiscal Year per Training and Employment Information Notice (TEIN) No. 15–90. This certification requirement applies only to the Federal grant applicant. The "Certification Regarding Drug-Free Workplace Requirements" form is found in appendix A.

(2) A "Certification Regarding Debarment, Suspension and other Responsibility Matters, Primary Covered Transactions" must be submitted with all applications as required by the DOL regulations implementing Executive Order 12549, "Debarment and Suspension," 29 CFR 98.510. This certification form is found in appendix B.

(3) A "Certification Regarding Lobbying" shall be submitted with each application as required by 29 CFR part 93, "New Restrictions on Lobbying." 54 FR 6736, 6751 (February 26, 1990). A suggested form incorporating the required text is found in appendix C.

(4) When the applicant is not the State JTPA entity (i.e., subject to the JTPA Governor/Secretary Agreement), SF 424B, Assurances—Non-Constructions Programs, with an original signature, must be submitted with the application. This assurance form is found in appendix D.

2. Review and Evaluation

Complete conforming applications will be reviewed and evaluated based on the selection criteria specified in part IV and the availability of funds.

*C. Information and Reporting Requirements*

1. *Records.* By accepting a grant, the grantee agrees that it shall maintain and make available to the U.S. Department of Labor upon request, information on the operation of the project and on project expenditures. Such information may include the implementation status of the project such as completion of subagreements, hiring of staff, date enrollments began, current and cumulative number of participants, and cumulative expenditures.

2. *Reports.* The grantee shall submit to the Employment and Training Administration, an original and two copies of:

a. The Worker Adjustment Program Quarterly Report. ETA Form No. 9020 (OMB No. 1205–0274), and

b. The Worker Adjustment Program Annual Program Report. ETA Form No. 9019 (OMB No. 1205–0274).

*D. Grant Funding Procedures*

1. *Proposals funded pursuant to the Secretary/Governor agreement shall be subject to the following procedures.* Where proposals are approved for funding pursuant to the Secretary/Governor Agreement, immediate funding shall be provided. The State and/or local program may be required to submit additional information to satisfy requirements that have been determined to be unacceptable in the original proposal. In such circumstances, the Department may or may not allow the incurring of costs prior to the approval of the modification submitting the additional information depending on the nature and the seriousness of the problems identified. The Grant Officer's approval letter shall contain the Department's decision on this issue.

2. Proposals not funded pursuant to the Secretary/Governor Agreement shall be subject to the following grant award procedures:

a. Once a decision is made by the Secretary to approve a proposal, the Secretary shall send a letter to the applicant announcing the award.

b. The applicant shall also be contacted by telephone by the Employment and Training Administration's (ETA) Grant Officer to resolve any problems identified in the proposal and to develop a grant to be executed by the applicant and the Department of Labor. A letter announcing this process shall also be forwarded to the applicant from the ETA Grant Officer.

c. All of the details of the grant shall be resolved by telephone and the grant document shall then be completed in duplicate by the Department's grants office and forwarded to the applicant for signature. The applicant shall sign both copies of the grant document and return the copies to the ETA Grant Officer for final execution.

d. The ETA Grant Officer shall sign both copies of the grant, and forward one signed copy to the applicant. The grant document and the transmittal letter shall instruct the grantee as to the date that the grantee may commence to incur costs against the executed grant.

3. *Emergency awards.* When an emergency award is approved, the Grant Officer shall send an award letter to the applicant.

a. For emergency proposals which are funded pursuant to the Secretary/Governor Agreement, immediate funding, normally 30 percent of any approved request shall be provided. The applicant shall then be required to submit a fully documented proposal in accordance with the appropriate requirements. Normally the grantee will be allowed to immediately begin incurring costs once the award is made. Such costs may be incurred pursuant to the initial proposal, the award letter, the appropriate assurances, the Act, the regulations, and the Clean Air application procedures.

In certain circumstances it may be necessary to require additional information before the grantee may commence to incur costs. The grantee shall be notified in the award letter where this is the case and of the requirements that must be met before costs may be incurred.

The final funding level, and any additional requirements shall be determined once the Department receives, reviews and approves the fully documented proposal.

b. For emergency proposals which are approved but not funded pursuant to the Secretary/Governor Agreement, the ETA Grant Officer shall both fax and mail an original initial grant once the Grant Officer has approved the award. The grantee, shall sign both the faxed grant and the original grant, in duplicate. The signed fax copies should be faxed immediately to the Grant Officer. The two copies of the signed original grant shall be returned by mail as soon as executed. The Grant Officer will sign the returned fax copies and refax one to the grantee with a cover letter which will authorize the grantee to commence to incur costs and which will also instruct the grantee regarding the development and submission of a fully documented proposal to be submitted. The Grant Officer shall, upon receipt of the two signed originally copies, sign and return one original with a cover letter. This original initial grant will contain the same date for incurring costs as the faxed grant, and the same instructions for developing and submitting a fully documented proposal. The final level and any additional requirements shall be determined once the Department receives, reviews and approves the fully documented proposal.

*E. Grant Amendment Procedures*

The Department recognizes that circumstances will arise where grant amendments will be necessary, and that those circumstances will be, in some cases, beyond the control of the project operator. Nevertheless, the Department is concerned about the need to amend

discretionary awards since such amendments can, and in many cases do, represent poor plannning and/or management of the projects. Following are guidelines for when an amendment is necessary.

1. All grant amendment requests must be submitted to the Grant Officer by the authorized signatory citing the number of the Notice of Obligation transmitting the grant funds to the State or, in the case of a grantee who is not subject to the JTPA Governor/Secretary Agreement, the grant number.

The States and grantees are responsible for monitoring the implementation and progress of their national reserve projects and identifying circumstances that would require a grant amendment request. *All requests for grant amendments must be accompanied by an explanation of the reasons for proposing such a change to the originally approved project plan.*

a. There are several reasons for grant amendments. Following are types of reasons, and the information or possible changes required related to each reason.

(1) *Grant Amendment Requests required due to changes in circumstances after the grant award,* such as, but not limited to, a delay in layoff or plant closure date, the recall of a number of the project participants, certification of worker eligibility for Trade Adjustment Assistance, or recruitment difficulty resulting in enrollments significantly below the planned level. Such circumstances may require substantial amendment of the project plan and may entail any or all of the following aspects of the plan.

(a) *Extension of the period of performance.* When an extension of the period of performance beyond the approved project period of operation is necessary, such extension requests must be submitted 60 days before the scheduled expiration date of the project as designated in the grant award letter or subsequent correspondence. The reason for the request explaining the change in circumstances that requires the extension must be provided.

(b) *A revised quarterly implementation plan* reflecting the revised period of performance which reflects the activity through the most recent quarter must be provided.

(c) *A revised budget* (if appropriate) must be provided.

(2) *Grant amendment requests required due to budget changes.* The following budget changes will require a grant amendment request. In each case, an explanation of the circumstances requiring the change and a revised overall grant budget must accompany the request. Any other parts of the approved grant impacted by such changes must also be submitted for approval.

(a) Any proposed increase to the approved budget for Administration;

(b) A proposed increase or decrease of 15 percent or more in the approved project budget for Retraining, so long as the decrease does not result in an overall expenditure for Retraining of less than the 50 percent for this cost category.

(c) In the case of any budget change regardless of the percentage that would result in a decrease in the Retraining cost category line item below the required 50 percent expenditure rate for retraining, or requiring a change in an expenditure rate previously waived by the Secretary, a grant amendment request must be submitted. If the budget change would result in a retraining expenditure rate below the required 50 percent level, a request for waiver including justification must accompany the amendment request.

(d) A proposed increase or decrease of 15 percent or more in the approved project budget for Supportive Services. The resulting increase may not exceed the 25 percent cost limitation for this cost category.

(3) *Grant amendment requests required due to changes in project participant activity levels* such as any increase or decrease of more than 15 percent in the total number of participants to be served or in the number of participants to receive Retraining services including classroom training, occupational skill training, on-the-job training, entrepreneurial training, remedial education, or other proposed training serving more than 10 participants. In such circumstances, the following information must accompany the grant amendment request.

(a) The reason for the request explaining the change in circumstances that requires the extension.

(b) A revised quarterly implementation plan which reflects the activity through the most recent quarter, and the appropriate adjustments to reflect the requested new activity level.

(c) A revised budget (if appropriate).

(4) *Grant amendment requests due to a change in the targeted dislocated workers to be served by the grant.*

In such circumstances, the following information must accompany the grant amendment request.

(a) The reason for the request explaining the change in circumstances that requires the extension.

(b) When appropriate, a revised quarterly implementation plan reflecting the activity through the most recent quarter, and making the appropriate adjustments to reflect the requested activity level, or a statement to indicate no such activity level changes are anticipated. If a new subproject is added to the grant, each subproject must have a quarterly implementation schedule, and an overall implementation schedule for the project must also be submitted.

(c) A revised budget (if appropriate), or a statement indicating such a change will not affect budget line items. If a new subproject is added to the grant, each subproject must have a separate budget, and an overall project budget must also accompany the request.

(d) The amendment must specifically state if a substantial number of the new workers to be added to the target group are represented by a labor organization. If appropriate, based on the statement provided, evidence of consultation with labor organizations representing such workers must be provided before expenditures will be authorized to serve these workers.

(e) Where a new geographic area is involved, evidence of review by the substate area's Private Industry Council(s) must also accompany the request.

(5) *Grant amendment requests required when it is projected that CAETA national reserve grant funds will remain unexpended.* As soon as it becomes apparent that funds will be unexpended, the State should notify the ETA Regional Office. If this information becomes available within the Program Year in which the grant funds were awarded, the State may submit a request to the Grant Officer to deobligate those funds it projects to be unexpended. Such funds may be reobligated by the DOL to another grantee requiring funding assistance to address a worker dislocation. When the underexpenditure is not identified until after the end of the Program Year in which the grant funds were awarded, the funds are not available for reobligation. Therefore, States may propose an effective alternative use of such funds. If the State desires to reprogram a portion of the unexpended funds originally awarded to a project, it must provide the following information.

(a) Evidence that the original target group has substantially been served, or may be served at a reduced funding level. The circumstances resulting in this assessment by the State must be explained.

(b) Documentation of the services provided to the original target group. This may follow the format of the implementation schedule in identifying activities and numbers of participants served.

(c) Evidence of expenditures for the original target group by cost category.

Note: The original project may continue to operate at a reduced level of activity and expenditure while a new subproject serving another group of targeted workers is funded and becomes operational using the projected unexpended funds.

(d) A request to extend the period of performance of the grant. Please note the time limitations pursuant to section 161(b) on authorization to expend national reserve funds.

(e) A proposal for expenditure of the projected unexpended funds must include the same information required for submittal of a grant application—identification of the target groups; dates of the dislocation; number of workers affected; an explanation of how the projected number of participants was derived; an analysis of the labor market relative to the targeted participants; identification of demand occupations in which retraining will occur; a description of the services to be provided; a cumulative quarterly implementation schedule by major services to be provided, terminations and entered employment, and projected expenditures; a detailed line item budget (including staffing information); evidence of labor consultation where appropriate, and documentation of PIC/LEO review where appropriate.

All requests must be submitted on a timely basis to allow sufficient time for the reasonable expenditure of the funds in question during the remaining statutory time limitation for the funds.

2. Requests for grant amendments will be considered in light of the general purposes of the CAETA national reserve account, the selection criteria for CAETA national reserve projects published by the Employment and Training Administration in the Federal Register, and the purposes of the original grant award. Amendments which request significant changes in the target group to be served will be reviewed on the same basis as a new proposal.

3. The Grant Officer will advise the State or national reserve grantee in writing of any approval or disapproval of the proposed grant amendments, generally within 30 days of receipt of the grant amendment request.

**Part IV. Specific Application Requirements**

*A. Clean Air Employment Transition Assistance Programs Applications*

An application for funds shall comply with the following requirements:

1. Application Rules

a. *Definitions.* In addition to the definitions contained and cited in § 631.2 of the JTPA Title III regulations, the following definitions shall apply to programs funded under this part:

(1) *Contractor* means any entity which enters into a contract, grant or agreement with a grantee.

(2) *Grantee* means an entity which receives a discretionary Clean Air Employment Transition Assistance grant directly from the DOL.

(3) *Industrywide project* means services and activities provided by a single grantee to serve workers dislocated from at least three different plants or facilities as a result of compliance with the Clean Air Act in at least two different areas of a single State or two different States.

(4) *Multistate project* means services and activities provided in more than one State by a single grantee to serve workers dislocated from one or more plants or facilities as a result of compliance with the Clean Air Act.

(5) *Subcontractor* means any entity which enters into a contract, grant or agreement with a contractor.

b. *Participant eligibility.* (1) An eligible dislocated worker, as defined by section 301(a) of the Act and § 631.3 of the regulations, shall be eligible for participation in activities under a Clean Air Employment Transition Assistance program only if such dislocated worker has been terminated or laid off or has received a notice of termination or layoff as a consequence of compliance with the Clean Air Act as amended.

Note: Such an individual is also eligible for the basic Title III dislocated worker program.

(2) An eligible dislocated worker whose termination or layoff, or notice thereof, is not directly the consequence of compliance with the Clean Air Act, as amended, is not eligible for services under a CAETA national reserve program, but may be eligible under the basic Title III dislocated worker program.

c. *Priority areas of service.* (1) Priority areas of service for CAETA national reserve programs shall be those geographic areas that have, or are projected by the DOL to have, the greatest number of dislocated individuals who meet the eligibility criteria for services as definded in b. above.

(2) In determining priority areas of service, applicants shall submit documentation that supports the assertion that the workers to be served by the application will be or were in fact, dislocated as a consequence of compliance with the Clean Air Act, as amended.

(a) Allowable activities.

(i) Allowable activities for CAETA national reserve programs shall be those activities authorized by Sections 314 and 326 (e) and (f) of the JTPA.

(ii)(*a*) Job search shall be an allowable activity only to assist a totally separated dislocated worker who meets the eligibility criteria under IV.1.b above in securing a job within the United States, and where it has been determined that the dislocated worker cannot reasonably be expected to secure suitable employment within the commuting area in which the worker resides. Procedures for determining whether a dislocated worker cannot reasonably be expected to secure suitable employment within the commuting area in which the dislocated worker resides shall be described in the grant application and shall be subject to approval by the Grant Officer.

(*b*) The cost of job search for a dislocated worker who meets the eligibility criteria under IV.1.b. above shall be an allowable readjustment cost, but shall not provide for more than 90 percent of the cost of necessary and reasonable job search expenses, and may not exceed a total of $800, unless the need for a greater amount is justified in the grant application and approved by the Grant Officer.

(*c*) These requirements shall not apply to regular job development activities and services provided to an eligible participant within the commuting area within which the eligible participant resides.

(iii)(*a*) Relocation shall be an allowable activity only where a dislocated worker who meets the eligibility criteria under IV.1.b. above cannot reasonably be expected to secure suitable employment in the commuting area in which the dislocated worker resides and has obtained suitable employment affording a reasonable expectation of long-term employment in the area in which the worker wishes to relocate, or has obtained a bona fide offer of such employment, provided that the worker is totally separated from employment at the time relocation commences.

(*b*) The cost of relocation for a dislocated worker who meets the eligibility criteria under IV.1.b. above shall not exceed an amount which is equal to the sum of 90 percent of the reasonable and necessary expenses incurred in transporting the dislocated worker and the dislocated worker's family, if any, and household effects, and a lump sum equivalent to three

times such worker's average weekly wage up to a maximum of $800 per participant, unless a greater amount is justified to the satisfaction of the Grant Officer in the grant application and is approved by the Grant Officer. Necessary expenses shall be travel expenses for the dislocated worker and the dislocated worker's family and for the transfer of household effects. Reasonable costs for such travel and transfer expenses shall be by the least expensive, most reasonable form of transportation.

(iv)(*a*) Needs-related payments shall be an allowable cost for the Clean Air Employment Transition Assistance national reserve program, and shall be provided where an eligible participant meets the requirements of this section. An application for funds to assist workers dislocated as a result of a firm's compliance with requirements of the Clean Air Act shall contain assurances that such funds shall be used to provide needs-related payments to eligible participants to enable such participants to participate in and complete training or education programs provided under the grant. In developing a budget, applicants must be aware that the funds available for payment of needs related payments are limited and that, in projecting the use of budget resources, applicants must take into account those persons who will and will not be eligible for needs-related payments. For those determined or expected to be eligible, sufficient funds must be set aside to cover any anticipated needs-related payments.

(*b*) To qualify for needs-related payments, the dislocated worker who meets the eligibility criteria shall receive, or be the member of a family that receives (at the time of eligibility determination), a total family income that, in relation to family size, does not exceed the lower living standard income level as published annually in the **Federal Register** by DOL. The latest lower living standard income level was published in the **Federal Register** on May 25, 1991.

(*c*) To receive needs-related payments, the eligible participant shall not qualify for or must have ceased to qualify for unemployment compensation. An eligible individual who has ceased to qualify for unemployment compensation shall have been enrolled in a training or education program by the end of the thirteenth week of the worker's inital unemployment compensation benefit period, or, if later, by the end of the eighth week after being informed that a short-term layoff will, in fact, exceed 6 months.

(*d*) For purposes of paragraph (c), the term *enrolled in a training or education program* means that the worker's application for training has been approved and the training institution has furnished written notice that the worker has been accepted in the approved training program beginning within 30 calendar days.

(*e*) An eligible worker who does not qualify for unemployment compensation must be participating in a training or education program (section 314(e)(1)).

(*f*) Needs-related payments shall not be provided to any participant where the program operator determines that the participant is not making satisfactory progress in the training program, not to any participant receiving trade readjustment allowances, on-the-job training, out-of-area job search allowances, or relocation allowances under chapter 2 of Title III of the Trade Act of 1974 (19 U.S.C. 2271 *et seq.*) or 20 CFR part 617.

(*g*) The level of needs-related payments to an eligible dislocated worker in CAETA national reserve programs shall be equal to the higher of:

(A) The applicable level of unemployment compensation (i.e., the average of the weekly compensation payments made to the dislocated worker during the worker's initial unemployment compensation period); or

(B) The poverty level determined in accordance with criteria published by the Department of Health and Human Services.

(*h*)(A) The weekly payment level shall be determined at the time of the eligible participant's enrollment into training, and shall be provided to all eligible participants whose family income meets the requirements of paragraph IV.1.(b).

(B) Every three months from the date of the original determination of eligibility for needs-related payments, the family income for any participant participating in a training or education program shall be redetermined. Such a redetermination shall be based on the family income for the three month period using the same criteria that were used in the intial determination process, except that any income from needs-related payments shall not be included. The total revised family income so determined shall be annualized to determine the participant's current eligibility for needs-related payments.

(C) Where the revised family income exceeds the lower living level, the eligible participant shall not be eligible for needs-related payments. Where the revised family income does not exceed the lower living standard income level, the eligible participant shall continue to receive or become eligible for needs-related payments.

(D) An eligible participant may qualify or requalify for needs-related payments during the period of the training or education program.

(*i*) For purposes of determining an individual's eligibility for needs-related payments and the amount of such payment, if any, the following definitions shall be used by eligible grantees not funded pursuant to the Secretary/Governor agreement. For grantees funded pursuant to the Secretary/Governor's agreement, these definitions may be used, but where a State definition is used, family income shall not include unemployment compensation, child support payments and welfare payments.

(A) *Family* means spouses and dependent children residing in the same domicile. An adult handicapped individual shall be considered a family of one for eligibility purposes.

(B) *Family income* means all income actually received from all sources by all members of the family for the twelve-month (or six-month, annualized, if twelve-month data are not available) period prior to application. When computing family income, income of a spouse and other family members is counted for the portion of the twelve-month (or six-month, annualized, if twelve-month data are not available) period prior to application that the person was actually a member of the family.

(*j*) For the purposes of determining an individual's eligibility for participation, family income includes:

(A) Gross wages, including wages from community service employment (CSE), work experience, and on-the-job training (OJT) paid from Job Training Partnership Act funds, and salaries (before deductions);

(B) Net self-employment income (gross receipts minus operating expenses); and

(C) Other cash income received from sources such as interests, net rents, OASI (Old Age and Survivors Insurance) social security benefits, pensions, alimony, and periodic income from insurance policy annuities, and other sources of income.

(*k*) Family income does not include:

(A) Non-cash income such as food stamps or compensation received in the form of food or housing;

(B) Imputed value of owner-occupied property, *i.e.*, rental value;

(C) Public assistance payments;

(D) Cash payments received pursuant to a State plan approved under title I,

IV, X, or XVI of the Social Security Act, or disability insurance payments received under Title II of the Social Security Act;

(E) Federal, State, or local unemployment insurance benefits;

(F) Capital gains and losses;

(G) One-time unearned income, such as, but not limited to:

(*1*) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans;

(*2*) One-time or fixed-term scholarship or fellowship grants;

(*3*) Accident, health, and casualty insurance proceeds;

(4) disability and death payments, including fixed-term (but not lifetime) life insurance annuities and death benefits;

(5) One-time awards and gifts;

(6) Inheritance, including fixed-term annuities;

(7) Fixed-term workers' compensation awards;

(8) Soil bank payments; and

(9) Agricultural crop stabilization payments;

(H) Pay or allowances that were previously received by any veteran while serving on active duty in the Armed Forces;

(I) Educational assistance and compensation payments to veterans and other eligible persons under chapters 11, 13, 31, 34, 35, and 36 of title 38, U.S. Code;

(J) Payments received under the Trade Act of 1974;

(K) Payments received under the Black Lung Benefits Act (30 U.S.C. 901 *et seq.*);

(L) Any income directly or indirectly derived from, or arising out of, any property; and services, compensation or funds provided by the United States in accordance with, or generated by, the exercise of any right guaranteed or protected by treaty; and any property distributed or income derived therefrom, or any amounts paid to or for the legatees or next of kin of any member, derived from or arising out of the settlement of an Indian claim; and

(M) Child support payments.

2. Eligible Grantees.

a. Funds available for a CAETA national reserve program shall be awarded to eligible grantees in accordance with the requirements of the Act and regulations, and the procedures, criteria and process contained in these guidelines.

b. Funds shall be distributed to eligible grantees in accordance with procedures specified in these applications.

c. Eligible grantees for CAETA programs shall be States, Title III substate grantees, employers, employer associations, and representatives of employees. However, a specific eligible grantee may not be an appropriate applicant for a particular project. The nature and extent of the proposed project will be factors in considering an application and the applicants ability to perform the work.

d. Employers, employer associations and representatives of employees may submit applications directly to the Grant Officer. Applications submitted by substate grantees must be submitted to the Grant Officer by the State.

3. Submission of Applications

a. Two types of applications may be submitted: regular full applications and emergency applications. Regular full applications shall follow the procedures and requirements as contained in this section and sections 4 and 5. a., b., c., and d below. Emergency applications shall be subject to the procedures and requirements contained in section 5e, below.

b. In the case of a multistate or industrywide project, the applicant shall submit the application directly to the Department of Labor Grant Officer at the address shown in the summary section above. In the case of an intrastate project, the application is to be submitted by or through the Governor to the Grant Officer. Each application shall contain the required certifications and assurances listed in section 4 below.

4. Assurances and Certifications

a. The following assurances shall be included with each application:

—The grantee assures that such funds shall be administered by the grantee in a manner consistent with the Act as amended, the JTPA regulations, the requirements contained in these application guidelines and in accordance with provisions specified in the proposal and amendments approved by the Grant Officer, if any, pursuant to the grant document signed by the Department of Labor Grant Officer.

—The grantee agrees to compile and maintain information on project implementation, performance and expenditures. The information shall, at a minimum, be consistent with the activities and cost categories contained in the project proposal and shall be available to the grantor as requested.

—The grantee assures that the information provided in the proposal is correct and the activities proposed conform to the Act, the Federal regulations for title III activities, and the requirements in these application guidelines.

—Following receipt of the grant approval, the grantee shall advise the Grant Officer of the projected date project operations will begin. If the date to be provided exceeds 30 days from receipt of the grant award, the grantee shall provide additional information explaining the projected implementation date.

—The grantee agrees to compile and maintain information on project implementation on a monthly, and performance and expenditures data on a quarterly, basis. The information shall, at a minimum, be consistent with the activities and cost categories contained in the project proposal and shall be available to the Department as requested, and

—The grantee agrees to review expenditures and enrollment data against the planned levels for the project and notify the Department expeditiously of any potential under-expenditure of funds.

Project proposals not accompanied by the above assurances shall not be accepted for review.

b. Each application shall also contain the following certifications:

(1) An original signature certification regarding "Drug-Free Workplace" must be submitted with the application except in the case where the applicant is a State. States may opt to submit a copy of the Statewide or agency certification required every fiscal year per Training and Employment Information Notice (TEIN) No. 15–90). This certification requirement applies only to the Federal grant applicant. The "Certification Regarding Drug-Free Workplace Requirements" form is found in appendix A.

(2) A "Certification Regarding Debarment, Suspension and Other Responsibility Matters, Primary Covered Transaction", must be submitted with all CAETA national reserve applications (except those related to national or agency-recognized emergency disasters) as required by the DOL regulations implementing Executive Order 12549, "Debarment and Suspension," 29 CFR 98.510. This certification form is found in appendix b.

(3) A "Certification Regarding Lobbying", as required by 29 CFR part 93, "New Restrictions on Lobbying." 54 FR 6736, 6751 (February 26, 1990). A suggested form incorporating the required text is found in appendix C.

(4) When the applicant is not the State JTPA entity, (i.e., subject to the JTPA

Governor/Secretary Agreement), SF 424B, Assurances—Non-Constructions Programs, with an original signature, must be submitted with the application. This assurance form is found in appendix D.

5. Application content.

Each application shall contain the following information in the format outlined below:

A. *Period of Award*: Awards will be made for an 18-month period to allow for project start-up (not to exceed 90 days), operation, and administrative closeout. If the period of operation is extended, the period of the award will be extended by an equal time period.

b. *Period of operation*: Applications should generally provide for a period of operation of 12 months but applications proposing a longer period of operation may be submitted with information supporting the need for the additional period.

c. *Synopsis of the project.* A short summary of pertinent information regarding the project shall be included and shall contain the following;

(1) The name and address of the project operator, along with the name and telephone number of a contact person for the grantee and project operator;

(2) The project locations (cities, counties, and States);

(3) The planned starting and ending dates of the project;

(4) The total amount of CAETA national reserve funds requested;

(5) The name(s) of the company(ies) from which the affected workers have been dislocated;

(6) The date(s) of employment termination and the number of workers affected;

(7) The names of the States, counties, and cities in which the affected workers reside;

(8) The total number of participants planned;

(9) The total number of placements planned;

(10) The planned cost per participant;

(11) The planned cost per entered employment; and

(12) The name, address, and telephone number of the signatory official for the project operator.

d. *Project Narrative.* The project narrative shall be a detailed explanation containing the following information, and shall not exceed 25 pages:

(1) Basic Information. A description of the need for the project and an explanation of how this need was determined. The description shall include:

(a) Information that demonstrates that the employment losses are the consequence of compliance with the Clean Air Act as amended, and that there are no prospects for reemployment in a similar industry or occupation within the commuting area in which the workers reside. Specific information must be provided to demonstrate what compliance with the Clean Air Act requirements resulted in the dislocation of the workers to be served by the proposal including as appropriate, identification of specific contracts cancelled; mines closed; plants closed; total jobs lost, jobs lost attributable to compliance with the Clean Air Act, and any other relevant information. A statement shall be included indicating how it was determined that this impact was related to compliance with the Clean Air Act. Information should be provided, as appropriate, for workers who were performing work directly at, or for, the facility impact by, and required to lay off workers, as a result of compliance with the requirements of the Clean Air Act. For example: To comply with the requirements of the Clean Air Act a utility company switches from high sulphur coal to low sulphur coal and contracts with different company to provide the low sulphur coal. The high sulphur coal mine closes. The proposal to serve the workers dislocated at the closed high sulphur coal mine must provide documentation to demonstrate that the mine was providing high sulphur coal to the particular utility, that the utility did switch to another provider for low sulphur coal and that the consequence was the closing of the high sulphur coal mine. The information shall also include documentation regarding any other causes, other than compliance with the requirements of the Clean Air Act, that contributed to the dislocations.

Proposals that do not provide adequate documentation and/or are unable to provide adequate documentation to support a decision to fund under these guidelines, shall automatically be considered for funding under the basic Title III national reserve discretionary application procedures.

(b) The schedule for layoffs and closing.

(c)(i) The number of afffected workers likely to participate in the program, taking into consideration the total number of workers affected by specific occupations, the wage levels for each occupation, the number of workers eligible to participate, the number likely to be transferred, and the number likely to be recalled. Applicants shall certify that recall within the next 12 months is highly unlikely for those dislocated workers to be served.

(ii) The number of affected workers who possess locally transferable skills, and who can be expected to find other employment with minimal or no assistance.

(iii) Where the layoff has occurred more than 4 months prior to the submittal of the application, information indicating how the applicant determined the number of affected workers who remain unemployed and in need of services, and

(d)(i) Evidence that the workers to be served are aware of and support the proposed program operator's application.

(ii) Information on the economic conditions for the State(s) and the geographic area(s) to be served as documented by the most recent unemployment rate for each State and area, or the economic and unemployment trends in the specific industry affected, to illustrate the severity of the need for such a project, and

(iii) If the proposed target group includes workers dislocated as a result of the relocation of a company plant, the city and the State to which the plant will be relocated shall be provided.

(2) *Existing Resources.* The project narrative shall explain why these dislocated workers cannot be served with existing resources, in particular State or substate grantee JTPA Title III formula funds.

(3) *Trade adjustment assistance (TAA) for workers under the Trade Act.* The application shall indicate whether an application has been made for TAA assistance, and if so, whether certification has been granted or denied for Trade Adjustment Assistance for workers. If certification has been issued, provide petition number, if available.

When a target group is certified as eligible to receive TAA including Trade Readjustment Allowances (TRA), national reserve funds may still be needed for those services not allowable under TAA such as assessment, job search assistance including job clubs, transportation assistance within the commuting area, counseling, child care and training that does not meet TAA training criteria. The coordination procedures established to track the project participants receiving TAA-funded training shall also be explained.

(4) *Employer/union assistance.* The project narrative shall explain in detail the nature and duration of any contractual obligation of, or any voluntary arrangement by, the employer(s) or union(s) to provide training-related services to terminated

employees. When applicable, severance pay arrangements shall be addressed.

(5) *Labor market information.* The project narrative shall contain a detailed discussion on available labor market data as it relates to the specific area in which dislocation services will be provided. Specific listings of demand occupations in the areas where the dislocated workers will be trained shall be included, as well as an explanation of how such occupations were identified. The narrative also shall contain a certification that the number of unemployed workers available for employment in the identified demand occupations for which retraining is planned is insufficient to meet the need.

(6) *Coordination and linkage.*

(a) Governors and substate grantees.

(i) The application shall include evidence that the Governor of each State and the appropriate Title III grantee of each substate area in which a project site is proposed have been informed of such application and given an opportunity to comment on how the proposed project would affect workers in the State or substate area.

(ii) Letters from the appropriate Governors and substate grantees shall be included to document that the opportunity was provided for review and comment of the application. Each Governor's letter shall indicate why the State has not funded the proposed project/subproject for that State as well as a description of the funding and assistance, if any, it will provide to the project/subproject. The substate area grantee letter shall indicate why the substate grantee is unable to provide sufficient services to the proposed project/subproject in the substate area, as well as a description of the funding and assistance, if any, it will provide to the project/subproject.

(b) *Private industry council (PIC)/ local elected official (LEO).* All grant applications shall provide evidence that the appropriate PICs and LEOs have been given the opportunity for review and comment.

(c) *Labor organizations.* All applications for dislocated workers projects where a substantial number (at least 20 percent) of affected workers are represented by a labor organization(s) shall provide documentation of full consultation with the appropriate local labor organization in the development of the project design. Thus, documentation is required for each union representing at least 20 percent of the affected workers. The application must describe the involvement (if any) of organized labor in the development and operation of the proposed project activities.

(d) *Others.*

(i) Each application shall show that the proposed project for dislocated workers will coordinate with other State and local agencies and related programs including, but not limited to:

(*a*) The Unemployment Compensation System;

(*b*) The State Employment Service;

(*c*) The Pell Grant program;

(*d*) Other Federal programs;

(*e*) The Trade Adjustment Assistance (TAA) program, if applicable; and

(*f*) Other appropriate State and local program resources.

(*g*) In those instances where State and other funds, such as vocational education, economic development, TAA, or special appropriations, are available to the project, the application shall include a brief discussion of the activities for which those funds will be used and their relationship to the CAETA national reserve funds requested, taking into consideration section 141(b) of JTPA.

(7) *Description of services.* All applications shall include the description of services to be provided:

(a) *Intake and eligibility determination.* Applications shall describe the procedures to be used to recruit and ensure the eligibility of each participant and shall indicate what entity shall be accountable for eligibility determination.

(b) *Basic readjustment services.* Each application shall describe how assessment, job search assistance, counseling, job development and placement services and any other activities will be coordinated with retraining activities (assessment procedures shall include the capability to determine if a participant's reading skills are below the 8th grade level). See JTPA section 314(c), 29 U.S.C. 1661c(c).

(c) *Retraining services.* Applications shall describe the retraining to be provided, including the types and lengths of retraining for various occupations or occupational areas. For classroom skill training, list the likely providers, course titles (indicate whether customized or off-the-shelf), cost of each course and the specific demand occupation in which a participant who completes training will be placed. For on-the-job training, list job title or occupation, likely provider, length of training and entry level wage. (CAETA national reserve funds shall not be provided to substitute for such activities as the employer's traditional training responsibility associated with product model changes, the introduction of new products, general employee upgrading, and other such changes.) (See JTPA section 314(d), 29 U.S.C. 1661c(d)).

(d) *Participant supportive services.* All applications shall discuss which services will be provided and how they will be coordinated with training activities, including needs-related payments. See JTPA section 314(e), 29 U.S.C. 1661c(e).

(8) *Implementation plan.* The following information regarding implementation plans shall be included.

(a) A schedule for the implementation of program activities upon receipt of funds and a discussion of initial actions taken to support implementation. Enrollment of participants normally should occur no later than 90 days following the Grant Officer's authorization to incur costs against the funds awarded. If such a time schedule cannot be met or is inappropriate, an explanation of the implementation schedule provided shall be included, and

(b) Project quarterly implementation data showing the following projected cumulative data for the overall project and for such subproject site:

(i) Enrollments for each major activity: assessment, job search assistance, classroom training, occupational skills training, on-the-job training and other training;

(ii) Total terminations;

(iii) Number of participants entering employment from each activity; and

(iv) Expenditures.

(9) *Planned outcomes.* The applications shall include project data showing the projected overall:

(a) Cost per participant;

(b) Cost per entered employment;

(c) Entered employment rate; and

(d) Average wage rate at entered employment.

(10) *Financial and management capability.* Except where the actual project operator will be the State or the substate grantee, the application shall include a two-page or less description of the fiscal and management capabilities of the prospective project operator, including how the prospective project operator (or the division which will have responsibility for this project) is or will be organized. The description shall include information demonstrating:

(a) Current or previous relevant experience in providing services to dislocated workers or in administering training and employment programs; and

(b) The capability of the project operator to maintain and report as necessary required fiscal and management information. The Department may use records of past performance to evaluate management capability.

(11) *Detailed line item budget.* (a) Costs for each item shall be allocated under the following cost categories: Administration, Basic Readjustment Services, Retraining, and Supportive Services, including needs-related payments, as classified in 20 CFR 631.13. Cost limitations under section 315 of JTPA and 20 CFR 631.13 apply to applicants who receive funds pursuant to the Secretary/Governor agreement.

(i) The budget shall provide information by both cost categories as discussed below and by line-item. The suggested format in plate I is recommended for utilization and explanation of the budget and budget narrative.

(ii) Any costs that are subcontracted shall be so noted by the name of the contractor, and activity or function to be performed. Staffing costs shall be specifically identified. Training costs for off-the-shelf training packages purchased at catalogue prices or which meet the requirements for acceptable fixed-unit price, performance based contracts as published in the **Federal Register** at 54 FR 10459 (March 13, 1989) shall be identified. Administrative costs, prorated as required by 20 CFR 629.38(e)(2), shall be identified.

(iii) For a pass-through project, where the State is not the project operator, the State may reserve 1½ percent (.015) of the total grant award or $15,000, whichever is less, for costs associated with the administration of the grant such as contract negotiation, reporting activities and project oversight. This cost is to be charged to the Administration cost category. A State requesting administrative costs that exceed the maximum set aside permitted to be reserved by this paragraph must provide a justification including the projected person-hours and functions to be performed.

(iv) Each equipment purchase or lease with a unit cost of $500 or more must be specifically listed and justified.

| | Administration | Basic readjustment | Retraining | Supportive services | Total |
|---|---|---|---|---|---|
| (1) Staff Salaries | X | X | X | | X |
| Fringe Benefits | X | X | X | | X |
| Attach supplement/narrative, listing and explaining each position, function, annual salary, no. of months charged to grant, time charge to grant). | | | | | |
| (2) Staff Travel | X | X | X | | X |
| (3) Communications | X | X | X | | X |
| (4) Facilities | X | X | X | | X |
| • Rent | X | X | X | | X |
| • Maintenance | X | X | X | | X |
| • Utilities | X | X | X | | X |
| (5) Consumable Office Supplies | X | X | | | X |
| (6)Consumable Instructional Materials | | X | X | | X |
| (7) Equipment | X | X | X | | X |
| • Lease | X | X | X | | X |
| • Purchase | X | X | X | | X |
| (Attach supplement/narrative, listing and explaining each item leased and/or purchased $500 or over). | | | | | |
| (8) Relocation (Section 314) | | X | X | | X |
| (9) Subcontracts | | | | | |
| • Tuition | | | X | | X |
| • OJT wages | | | X | | X |
| • Fixed Unit Price 20 CFR 629.38(e)(2) | | | | | X |
| • Audit | X | | | | |
| • Other (Identify) | X | X | X | | X |
| (10) Supportive Services | | | | X | X |
| • Needs Related payments | | | | X | |
| • Child Care | | | | X | |
| • Transportation | | | | X | |
| • Other | | | | X | |
| (11) Other (Identify) | X | X | X | | X |
| (12) Totals | X | X | X | | X |

Instructions: All spaces marked with an "X" must be completed, if none, show an "O". Observe paranthetical notes cited above and attach a budget supplement/narrative to explain basis for each line item. Information should make clear how line item costs were calculated, classified and allocated, especially how staff positions are assigned and justified.

(b) Where CAETA national reserve funds will be combined with funds from other sources, e.g., other JTPA funds, employer or union training funds, State formula-allotted funds, State vocational education or economic development funds, the budget shall indicate for each line item the total costs and the amount to be funded from the CAETA national reserve account and the other funding source(s).

(c) No direct costs shall be charged for any activity that is included in the indirect cost line item.

e. *Emergency application.* (1)(a) Applications for emergency funding consideration shall be submitted only to address situations where:

(i) The dislocations occur under circumstances which do not provide a reasonable period of time to develop a full proposal, that is, a sudden and unexpected event;

(ii) The number of dislocated workers who meet the eligibility criteria is such that both the JTPA Title III substate grantee and the State are unable to respond to the dislocation event with existing resources; and

(iii) The workers did not receive a 60-day notice under the Worker Adjustment and Retraining Notification Act in advance of the layoff.

(2)(a) Emergency proposals shall be considered under a two-step process. The first step shall be an initial proposal request which shall contain limited key information. The second step, which will be necessary only where there is a decision made by the Grant Officer to approve the initial request, shall be the fully documented proposal. An applicant may also, if it so wishes, submit a fully documented proposal where the Grant

Officer determines not to approve an initial emergency proposal.

(b) The applicant's initial proposal request shall not exceed two pages (plus the transmittal letter and the assurances and certifications). This initial request may be submitted by FAX. An original signed request must also be submitted, and must be on file in the Department before any funds shall be released. The initial request shall contain:

(i) An explanation of the circumstances justifying the proposal to be submitted as an emergency request;

(ii) The areas to be served by the grant;

(iii) A brief assessment of the need, including the procedures used to determine that there are limited prospects for reemployment in a similar industry or occupation within the commuting area in which the affected workers reside;

(iv) An estimate of the number of individuals impacted by the emergency who meet the eligibility criteria under these guidelines;

(v) An estimate of the number of individuals to be served by the grant;

(vi) The amount of funds being requested;

(vii) A brief summary of the activities to be conducted;

(viii) A statement that demonstrates the employment losses are the consequence of compliance with the Clean Air Act of 1990, as amended, and that there are no prospects for reemployment in a similar industry or occupation within the commuting area in which the worker resides. Specific information demonstrating that the dislocations were a consequence of compliance with the Clean Air Act of 1990, as amended, shall be provided (see section 5.(d)(1)(a) above); and

(ix) The assurances and certifications specified in section 4.

(3) A full proposal shall be submitted where the Secretary approves an initial proposal request. The full proposal shall be submitted in accordance with the requirements contained in the award letter responding to the initial proposal request and the procedures and requirements contained in section 5.(a), (b), (c) and (d) above. The full proposa1 shall be reviewed following established procedures for the selection, review and approval of discretionary grant applications contained in sections 6, 7 and 8.

(4)(a) If a decision is made to fund a proposal, an amount, not to exceed one-third of the request, shall immediately be made available to commence operations allowable under the Act, regulations, the requirements and instructions contained in this document, and the Grant Officer approval letter, and;

(b) Once the fully documented proposal has been reviewed, the Department shall determine how much, if any, additional funds to provide. The final amount provided, when combined with the initial amount awarded, shall not exceed the total initial request.

6. Selection Criteria

The following selection criteria shall be used to determine the acceptability of the fully documented proposal and the final award amount for any already approved emergency award.

a. *Overall criteria.* Grant applicants for funds under this subpart shall be evaluated and selected for funding where the Grant Officer concurs that the dislocated workers to be served by the program described in the application, as documented by the information required in section 5.d(1)(a), will be or were dislocated as a consequence of compliance with the Clean Air Act of 1990, as amended, based on the extent to which the applicant demonstrates that the proposal:

(1) Meets the requirements contained in these guidelines;

(2) Meets the purposes of the Act and the regulations;

(3) Will encourage an effective response to the dislocations;

(4) Promotes an effective use of funds; and

(5) Provides all information required for a proposal.

b. *Specific criteria.* The following specific criteria shall apply to the evaluation of applications and selection of grantees for CAETA national reserve dislocated worker projects;

(1) *Priority area.* The Grant Officer shall determine whether the application will serve eligible dislocated workers in areas which have the greatest number of eligible workers.

(2) *Severity of need.* The Grant Officer shall consider the severity of the circumstances and need, as described in the grant application (*e.g.*, the immediacy of the schedule for layoff(s) and plant closing(s), the number of individuals affected, and the local and State unemployment rates compared to the national rates).

(3) *Target group.* The Grant Officer shall consider the concentration of the eligible individuals in a specific occupation(s), plant(s), or geographic area(s). The Grant Officer shall consider the extent to which the project is focused on the affected subpopulation actually requiring retraining services in order to remain in the labor force, as shown by an analysis of the characteristics of the affected workers. The requirements of this paragraph shall be a major factor in determining the responsiveness of a proposal.

(4) *Coordination and linkages; utilization of resources.* The Grant Officer shall consider the extent to which the applicant has demonstrated that the project will be integrated with other existing program and community resources, including State/substate JTPA Title III formula-funded activities and other JTPA programs, welfare programs, and the Trade Adjustment Assistance program, where appropriate.

(5) *Services.* The Grant Officer shall consider the services to be provided and the service mix, including the degree to which the services appear to meet the needs of the target population; and the extent to which specific occupations are identified for retraining and placement. The applicant shall demonstrate that demand exists for workers to be served by the project, as well as the degree to which a proposal provides for retraining in specific occupations, either in an on-the-job or in a classroom setting or both. This demonstration shall be a major factor in determining whether to fund the application.

(6) *Management capability.* The Grant Officer shall consider the project operator's fiscal and program management capabilities to administer the proposed project and the project operator's demonstrated ability to begin program operations expeditiously in making a funding decision.

(7) *Cost effectiveness.* The Grant Officer shall consider the cost effectiveness of the project, *e.g.*, cost per participant, cost per placement, and cost per activity in relation to services provided and the outcomes projected, including expected wage levels; the level of funding designated for client services as opposed to staff support and administration; the proportion of staff costs to those costs directly attributable to client services such as tuition, and tools, and whether sufficient provision has been made for needs related payments. The Grant Officer shall also consider whether costs are necessary and reasonable. The costs effectiveness of the project shall be a major factor in determining whether to fund the application.

(8) *Other considerations.* The Grant Officer shall consider the overall effectiveness and efficiency of the proposal itself as compared to other proposals received.

(9) The Grant Officer shall consider written comments regarding the application submitted by the Governor or other interested parties.

7. Application Review

a. An application shall be reviewed and approved or rejected based upon overall responsiveness of the application's content and the application of the selection criteria, taking into consideration the extent to which funds are available.

b. An application shall be rejected when:

(1) The application proposes to assist workers who were not dislocated as a consequence of compliance with the Clean Air Act, as amended. Projects not considered for funding for this reason shall be automatically considered for funding with regular Title III discretionary funds);

(2) The application does not meet the standards established by these guidelines;

(3) Other available applications appear to be more effective in achieving the goals of this category;

(4) The information required is not provided in sufficient detail to permit adequate assessment of the proposal;

(5) The information regarding why the State and substate grantee were unable to fund the proposed project is not provided or is unsatisfactory; or

(6) The application is not consistent with statutory and/or regulatory requirements.

8. Approval

a. In the case of an award to a State or to an existing State JTPA substate area grantee, the Grant Officer shall issue an award letter and Notice of Obligation (NOO) pursuant to the Secretary/Governor Agreement. For others, an appropriate grant document shall be executed by the Grant Officer and the grant applicant's official signatory.

b. The Act, JTPA regulations, these requirements, the grant award letter/agreement, assurances, grant application and any approved amendments thereto, and the approval by the Grant Officer in writing shall govern the operation of the project.

c. The effective date for the use of the funds shall be the date of the grant award letter or grant agreement authorizing costs to be incurred against the funds awarded. No costs may be incurred against awarded funds prior to such date. The authority to incur costs immediately is given, in most cases, to permit the most timely response to the needs of the newly dislocated worker. Where authority to immediately incur costs is not provided, specific instructions will be included in the Grant Officer's award letter regarding the actions needed in order to obtain authority to incur costs.

d. Instructions regarding grant amendments required due to changes in circumstances after the grant award will be transmitted in a separate document.

Signed at Washington, DC, this 29th day of January, 1992.

**Roberts T. Jones,**

*Assistant Secretary for Employment and Training.*

**Appendix A**

*Certification Regarding Drug-Free Workplace Requirements*

A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code):

_____

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

_____

Name of Applicant Organization

_____

Name and Title of Authorized Signatory

_____

Signature and Date

**Appendix B**

*Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions*

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR part 98, § 98.510, Participants' responsibilities.

(Before Signing Certification, Read Attached Instructions Which Are an Integral Part of the Certification)

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses

enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Name of Applicant Organization

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Name and Title of Authorized Signatory

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Signature and Date

**Appendix C**

*Certification Regarding Lobbying*

*Certification for Contracts, Grants, Loans and Cooperative Agreements*

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant local, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

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Name of Applicant Organization

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Name and Title of Authorized Signatory

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Signature and Date

*Note: In these instances, "All," in the Final Rule is expected to be clarified to show that it applies to covered contract/grant transactions over $100,000 (per OMB).

**Appendix D**

*SF 424–B*

*Assurances—Non-Construction Programs*

**Note:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, personal gain.

4. Will initiate and complete the work within the applicable timeframe after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Sections 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) which prohibits discrimination on the basis of race, color, national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290dd–3 and 290ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) title VIII of the Civil Rights Act of 1968 (42 U.S.C. 36–01 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a–7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) Institution of environmental quality control measures under the national Environmental Policy Act of 1969 (Pub. L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of under ground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (Pub. L. 93–

523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (Pub. L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with Pub. L. 93–348 regarding the protection of human subjects involved in research, development , and related activities supported by this award of assistance.

15. Will comply with the Laboratory animal Welfare Act of 1966 (Pub. L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

[FR Doc. 92–2951 Filed 2–6–92; 8:45 am]
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federal register

Friday
February 7, 1992

Part V

# Environmental Protection Agency

40 CFR Part 300
National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 12

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

**[FRL-4102-5]**

## National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 12

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list.

The Environmental Protection Agency ("EPA") is proposing to add new sites to the NPL. This 12th major proposed rule includes 30 sites, of which 6 are Federal facility sites. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to access the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This proposed rule brings the number of proposed NPL sites to 52, of which 9 are Federal facility sites; 1,183 sites are on the NPL at this time, of which 116 are Federal facility sites. Proposed and final NPL sites total 1,235.

**DATES:** Comments on the Austin Avenue Radiation site, being proposed in this rule based on the health advisory criteria, must be submitted on or before March 9, 1992. Comments on all other sites must be submitted on or before April 7, 1992.

**ADDRESSES:** Mail original and three copies of comments (no facsimiles) to Larry Reed, Director, Hazardous Site Evaluation Division (Attn: NPL Staff), Office of Emergency and Remedial Response (OS-230), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. For Docket addresses and further details on their contents, see section I of the "**SUPPLEMENTARY INFORMATION**" portion of this preamble.

**FOR FURTHER INFORMATION CONTACT:** Martha Otto, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (OS-230), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or the Superfund Hotline, Phone (800) 424-9346 or (703) 920-9810 in the Washington, DC metropolitan area).

**SUPPLEMENTARY INFORMATION:**

I. Introduction.
II. Purpose and Implementation of the NPL.
III. Contents of This Proposed Rule.
IV. Regulatory Impact Analysis.
V. Regulatory Flexibility Act Analysis.

### I. Introduction

*Background*

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act") in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99-499, stat. 1613 *et seq.* To implement CERCLA, the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions, most recently on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action." As defined in CERCLA section 101(24), remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release.

Mechanisms for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") are included in the NCP at 40 CFR 300.425(c) (55 FR 8845, March 8, 1990). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which EPA promulgated as appendix A of 40 CFR part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed whether or not they score above 28.50, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority (available only at NPL sites) than to use its removal authority to respond to the release.

Based on these criteria, and pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA prepares a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is appendix B of 40 CFR part 300, is the National Priorities List ("NPL"). The discussion below may refer to the "releases or threatened releases" that are included on the NPL interchangeably as "releases," "facilities," or "sites." [1] CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo CERCLA-financed remedial action only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1).

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR

[1] CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a list of the highest priority "facilities." For ease of reference, EPA uses the term "site" to refer to all "releases" and "facilities" on the NPL.

40658). The NPL has been expanded since then, most recently on September 25, 1991 (56 FR 48438).

The NPL includes two sections, one of sites evaluated and cleaned up by EPA (the "General Superfund section"), and one of sites being addressed by other Federal agencies (the "Federal facilities section"). Under Executive Order 12580 and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score; EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal facilities section includes those facilities at which EPA is not the lead agency. The general superfund section includes 1,067 sites and the Federal facilities section includes 116 sites, for a total of 1,183 sites on the NPL.

EPA may delete sites from the NPL where no further response is appropriate, as explained in the NCP at 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 40 sites from the general superfund section of the NPL, most recently 2 sites on January 6, 1992 (57 FR 355):

John's Sludge Pond, Wichita, Kansas
Beachwood/Berkley Wells, Berkley Township, New Jersey

All 40 deleted sites are listed below.

FINAL SITES DELETED FROM NPL BECAUSE NO FURTHER RESPONSE NEEDED

[January 1992]

| St | Site name | Location |
|---|---|---|
| AR | Cecil Lindsey | Newport. |
| AS | Taputimu Farm * | Island of Tutila. |
| AZ | Mountain View Mobile Home Estates (once listed as Globe) *. | Globe. |
| CA | Jibboom Junkyard | Sacramento. |
| CM | PCB Warehouse * | Saipan. |
| DE | New Castle Steel | New Castle County. |
| FL | Parramore Surplus | Mount Pleasant. |
| FL | Tri-City Oil Conservationist, Inc. | Tampa. |
| FL | Varsol Spill (once listed as part of Biscayne Aquifer). | Miami. |
| GA | Luminous Processes, Inc. | Athens. |
| IL | Petersen Sand & Gravel | Libertyville. |
| IN | International Minerals & Chemical Corp. (Terre Haute East Plant). | Terre Haute. |
| IN | Poer Farm | Hancock County. |
| IN | Wedzeb Enterprises | Lebanon. |
| KS | Johns' Sludge Pond | Wichita. |
| MD | Chemical Metals Industries, Inc. | Baltimore. |
| MD | Middletown Road Dump | Annapolis. |
| MI | Gratiot County Golf Course. | St. Louis. |
| MI | Whitehall Municipal Wells | Whitehall. |
| MN | Morris Arsenic Dump | Morris. |
| MN | Union Scrap Iron & Metal Co. | Minneapolis. |
| MS | Walcotte Chemical Co. Warehouses. | Greenville. |
| NC | PCB Spills * | 243 Miles of Roads. |
| NJ | Beachwood/Berkeley Wells. | Ocean County. |
| NJ | Cooper Road | Voorhees Township. |
| NJ | Friedman Property (once listed as Upper Freehold Site). | Upper Freehold. |
| NJ | Krysowaty Farm | Hillsborough. |
| NJ | M&T Delisa Landfill | Asbury Park. |
| OH | Chemical & Minerals Reclamation. | Cleveland. |
| PA | Enterprise Avenue | Philadelphia. |
| PA | Lansdowne Radiation | Lansdowne. |
| PA | Lehigh Electric & Engineering Co.. | Old Forge Borough. |
| PA | Presque Isle | Erie. |
| PA | Reeser's Landfill | Upper Macungie. |
| PA | Voortman Farm | Upper Saucon. |
| PA | Wade (ABM) (once listed as ABM-Wade). | Chester. |
| TT | PCB Wastes * | Pacific Trust Terr. |
| TX | Harris (Farley Street) | Houston. |
| VA | Matthews Electroplating * | Roanoke County. |
| WA | Toftdahl Drums | Brush Prairie. |

Number of Sites Deleted: 40.
* State top-priority.

In addition, 25 sites in the general superfund section are in the "Construction Completion" category, including 13 sites added to the category on January 16, 1992 (57 FR 1872). When EPA activated the category on February 11, 1991 (56 FR 5634), it stated that the category would consist of sites awaiting deletion, sites awaiting the first 5-year review after the remedial action was completed, and sites undergoing long-term remedial action. EPA has decided to eliminate the 5-year review subcategory. On the basis of subsequent experience and analysis, EPA has determined that tying these two independent processes (5-year review and deletion) is unnecessary and potentially confusing. (December 24, 1991 (56 FR 66601)).

Thus, a total of 65 sites, all in the general superfund section, have been deleted or placed in the construction completion category.

Pursuant to the NCP at 40 CFR 300.425(c), this document proposes to add 30 sites to the NPL. Final and proposed sites now total 1,235.

*Public Comment Period*

The documents that form the basis for EPA's evaluation and scoring of sites in this rule are contained in dockets located both at EPA Headquarters and in the Regional offices. The dockets are available for viewing, by appointment only, after the appearance of this document. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday exluding Federal holidays. Please contact individual Regional Dockets for hours.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, OS-245, Waterside Mall, 401 M Street, SW., Washington, DC 20460, 202/260-3046.

Evo Cunha, Region 1, U.S. EPA Waste Management Records Center, HES-CAN 6, J.F. Kennedy Federal Building, Boston, MA 02203-2211, 617/573-5729.

Ben Conetta, Region 2, 26 Federal Plaza, 7th Floor, room 740, New York, NY 10278, 212/264-6696.

Diane McCreary, Region 3, U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597-7904.

Beverly Fulwood, Region 4, U.S. EPA Library, room G-6, 345 Courtland Street, NE., Atlanta, GA 30365, 404/347-4216.

Cathy Freeman, Region 5, U.S. EPA, Records Center, Waste Management Division 7-J, Metcalfe Federal Building, 77 West Jackson Blvd., Chicago, IL 60604, 312/886-6214.

Bart Canellas, Region 6, U.S. EPA, 1445 Ross Avenue, Mail Code 6H-MA, Dallas, TX 75202-2733, 214/665-6740.

Steven Wyman, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551-7241.

Greg Oberley, Region 8, U.S. EPA, 999 18th Street, suite 500, Denver, CO 80202-2466, 303/294-7598.

Lisa Nelson, Region 9, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744-2347.

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW-113, Seattle, WA 98101, 206/442-2103.

The Headquarters docket for this rule contains HRS score sheets for each proposed site; a Documentation Record for each site describing the information used to compute the score; pertinent information for any site affected by statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record. Each Regional docket for this rule contains all of the above information for those sites that are in that Region, and, in addition, the

technical reference documents relied upon and cited by EPA in calculating or evaluating the HRS scores for sites in that Region. Documents may be viewed, by appointment only, in the Headquarters or appropriate Regional Docket. Requests for copies may be directed to the Headquarters or appropriate Regional Docket. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

EPA considers all comments received during the comment period. During the comment period, comments are placed in the Headquarters docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters docket and in the Regional docket on an "as received" basis.

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values. See *Northside Sanitary Landfill* v. *Thomas*, 849 F. 2d 1516 (D.C. Cir. 1988). After considering the relevant comments received during the comment period, EPA will add sites to the NPL if they meet requirements set out in the NCP and any applicable listing policies.

In past rules, EPA has attempted to respond to late comments, or when that was not practicable, to read all late comments and address those that brought to the Agency's attention a fundamental error in the scoring of a site. (See, most recently, 56 FR 35840, July 29, 1991). Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments postmarked by the close of the formal comment period. EPA cannot delay a final listing decision solely to accommodate consideration of late comments.

Note that the comment period for the Austin Avenue Radiation site, which is being proposed based on the health advisory criteria and not the HRS score, is 30 days. This is based on the acute threat posed and the fact that documentation using the health advisory criteria is not nearly as complex to review as that using the HRS (all health advisory sites have 30-day comment periods). All other sites in this rule have a 60-day comment period.

## II. Purpose and Implementation of the NPL

*Purpose*

The legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d Sess. 60 (1980)) states the primary purpose of the NPL:

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation. Finally, listing a site may, to the extent potentially responsible parties are identifiable at the time of listing, serve as notice to such parties that the Agency may initiate CERCLA-financed remedial action.

*Implementation*

The NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990) limits expenditure of the Trust Fund for remedial actions to sites on the final NPL. However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990). As of the end of December 1991, EPA had conducted 2,133 removal actions, 523 of them at NPL sites. Information on removals is available from the Superfund Hotline.

EPA's policy is to pursue cleanup of NPL sites using all the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities, proceed directly with CERCLA-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. EPA will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

The ranking of sites by HRS scores does not determine the sequence in which EPA funds remedial response actions, since the information collected to develop HRS scores is not sufficient in itself to determine either the extent of contamination or the appropriate response for a particular site. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it was already underway. Thus, EPA relies on further, more detailed studies in the remedial investigation/feasibility study (RI/FS) that typically follows listing.

The RI/FS determines the nature and extent of the threat presented by the contamination (40 CFR 300.430(a)(2) (55 FR 8846, March 8, 1990). It also takes into account the amount of contaminants in the environment, the risk to affected populations and environment, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with subpart E of the NCP (55 FR 8839, March 8, 1990). After conducting these additional studies, EPA may conclude that it is not desirable to initiate a CERCLA remedial action at some sites on the NPL because of more pressing needs at other sites, or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after

further analysis that the site does not warrant remedial action.

RI/FS at Proposed Sites

An RI/FS may be performed at proposed sites (or even non-NPL sites) pursuant to the Agency's removal authority under CERCLA, as outlined in the NCP at 40 CFR 300.425(b)(1). Although an RI/FS generally is conducted at a site after it has been placed on the NPL, in a number of circumstances the Agency elects to conduct an RI/FS at a proposed NPL site in preparation for a possible CERCLA-financed remedial action, such as when the Agency believes that a delay may create unnecessary risks to public health or the environment. In addition, the Agency may conduct an RI/FS to assist in determining whether to conduct a removal or enforcement action at a site.

Facility (Site) Boundaries

The purpose of the NPL is merely to identify releases or threatened releases of hazardous substances that are priorities for further evaluation. The Agency believes that it would be neither feasible nor consistent with this limited purpose for the NPL to attempt to describe releases in precise geographical terms. The term "facility" is broadly defined in CERCLA to include any area where a hazardous substance has "come to be located" (CERCLA section 101(9)), and the listing process is not intended to define or reflect boundaries of such facilities or releases. Site names are provided for general identification purposes only. Knowledge regarding the extent of sites will be refined as more information is developed during the RI/FS and even during implementation of the remedy.

Because the NPL does not assign liability or define the geographic extent of a release, a listing need not be amended if further research into the extent of the contamination reveals new information as to its extent. This is further explained in preambles to past NPL rules, most recently February 11, 1991 (56 FR 5598).

## III. Contents of This Proposed Rule

Table 1 identifies the 24 NPL sites in the general superfund section and table 2 identifies the 6 NPL sites in the Federal facilities section being proposed in this rule. Both tables follow this preamble. All but one site are proposed based on HRS scores of 28.50 or above. One site, Austin Avenue Radiation Site, is being proposed based on the ATSDR health advisory criteria. Each proposed site is placed by score in a group corresponding to groups of 50 sites presented within the NPL. For example, a site in group 4 of this proposal has a score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

Since promulgation of the original NPL (48 FR 40660, September 8, 1983), EPA has arranged the NPL by rank based on HRS scores and presented sites on the NPL in groups of 50 to emphasize that minor differences in scores do not necessarily represent significantly different levels of risk.

EPA has proposed an alternative, and what it believes to be more useful, format for presenting NPL sites in both proposed and final rules (56 FR 35843, July 29, 1991). Under this approach, proposed and final rules would present sites in alphabetical order by State and by site name within the State, as well as identify sites in each rule by rank. Once a year the entire NPL, appendix B, would be published alphabetically by State. EPA has requested comment on that approach. Until all comments are received and considered, no final decision on the format will be made. The following table presents the 24 general superfund section sites and 6 Federal facility section sites in this rule in the proposed format.

NATIONAL PRIORITIES LIST, GENERAL SUPERFUND SECTION PROPOSED RULE #12

[By state]

| State | Site name | City/county |
|---|---|---|
| AR | Popile, Inc | El Dorado. |
| AR | West Memphis Landfill | West Memphis. |
| CA | Cooper Drum Co | South Gate. |
| CA | GBF, Inc. Dump | Antioch. |
| CA | McCormick & Baxter Creosoting Co. | Stockton. |
| CO | Smeltertown Site | Salida. |
| FL | Helena Chemical Co. (Tampa Plant). | Tampa. |
| FL | Stauffer Chemical Co. (Tampa Plant). | Tampa. |
| FL | Stauffer Chemical Co. (Tarpon Springs Plant). | Tarpon Springs. |
| IN | U.S. Smelter and Lead Refinery, Inc. | East Chicago. |
| KS | 57th and North Broadway Streets Site. | Wichita Heights. |
| LA | American Creosote Works, Inc. (Winnfield Plant). | Winnfield. |
| MA | Blackburn & Union Privileges. | Walpole. |
| MO | Big River Mine Tailings/ St. Joe Minerals Corp. | Desloge. |
| NC | General Electric Co./ Shepherd Farm. | East Flat Rock. |
| OR | Northwest Pipe & Casing Co. | Clackamas. |
| PA | Austin Avenue Radiation Site. | Lansdowne. |
| PA | Crater Resources, Inc./ Keystone Coke Co./ Alan Wood Steel Co. | Upper Merion Township. |
| PA | Foote Mineral Co | East Whiteland Township. |
| PA | Metropolitan Mirror and Glass Co., Inc. | Frackville. |
| SC | Koppers Co., Inc. (Charleston Plant). | Charleston. |
| UT | Richardson Flats Tailings | Summit County. |
| VI | Tutu Wellfield | Tutu. |
| WI | Refuse Hideaway Landfill | Middleton. |

Number of Sites Proposed for Listing: 24.

NATIONAL PRIORITIES LIST, FEDERAL FACILITIES SECTION PROPOSED RULE #12

[By state]

| State | Site name | City/county |
|---|---|---|
| CA | Concord Naval Weapons Station. | Concord. |
| CA | Jet Propulsion Laboratory (NASA). | Pasadena. |
| GU | Andersen Air Force Base | Yigo. |
| TN | Memphis Defense Depot | Memphis. |
| VA | Naval Surface Warfare Center—Dahlgren. | Dahlgren. |
| VA | Naval Weapons Station—Yorktown. | Yorktown. |

Number of Sites Proposed for Listing: 6.

*Statutory Requirements*

CERCLA section 105(a)(8)(B) directs EPA to list priority sites "among" the known releases or threatened releases of hazardous substances, pollutants, or contaminants, and section 105(a)(8)(A) directs EPA to consider certain enumerated and "other appropriate" factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of releases. Where other authorities exist, placing sites on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen not to place certain types of sites on the NPL even though CERCLA does not exclude such action. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may place them on the NPL.

The listing policies and statutory requirements of relevance to this proposed rule cover sites subject to the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901–6991i) and Federal facility sites. These policies and requirements are explained below and have been explained in greater detail in previous rulemakings (56 FR 5598, February 11, 1991).

*Releases From Resource Conservation and Recovery Act (RCRA) Sites*

EPA's policy is that sites in the general superfund section subject to RCRA Subtitle C corrective action authorities will not, in general, be placed on the NPL. However, EPA will list certain categories of RCRA sites subject to subtitle C corrective action authorities, as well as other sites subject to those authorities, if the Agency concludes that doing so best furthers the aims of the NPL/RCRA policy and the CERCLA program. EPA has explained these policies in detail in past Federal Register discussions (51 FR 21054, June 10, 1986; 53 FR 23978, June 24, 1988; 54 FR 41000, October 4, 1989; 56 FR 5602, February 11, 1991).

Consistent with EPA's NPL/RCRA policy, EPA is proposing to add three sites to the general superfund section of the NPL that are subject to RCRA subtitle C corrective action authorities. These are McCormick and Baxter Creosoting Co. in Stockton, California, U.S. Smelter and Lead Refinery, Inc. in East Chicago, Indiana, and General Electric Co./Shepherd Farm in East Flat Rock, North Carolina. Material has been placed in the public docket for the U.S. Smelter and Lead Refinery, Inc. site and the McCormick and Baxter Creosoting Co. site confirming that the owners are in bankruptcy and unable to pay for cleanup, and for the General Electric Co./Shepherd Farm site confirming its converter status.

*Releases From Federal Facility Sites*

On March 13, 1989 (54 FR 10520), the Agency announced a policy for placing Federal facility sites on the NPL if they meet the eligibility criteria (e.g., an HRS score of 28.50 or greater), even if the Federal facility also is subject to the corrective action authorities of RCRA subtitle C. In that way, those sites could be cleaned up under CERCLA, if appropriate.

In this rule, the Agency is proposing to add six sites to the Federal facilities section of the NPL.

*Austin Avenue Radiation Site*

The Austin Avenue Radiation site, Lansdowne, Pennsylvania, consists of a duplex apartment, a warehouse attached to the apartment, other residences where radioactive wastes have been deposited, and an adjacent railroad right-of-way. The warehouse is the former location of the W.L. Cummings Radium Processing Company, which operated a radium refining process from 1915 to 1925. The apartment and nearby areas are believed to have been contaminated with radium tailings and subsequent radioactive decay from the operation.

The ATSDR Public Health Advisory issued on September 6, 1991 recommends the immediate dissociation of residents from the site. Although there are no longer any residents in either the apartment or warehouse, the site has no security and ATSDR is concerned about the potential for fires, intrusion, or unauthorized events at the site. In case of a fire, the contaminants would be indiscriminantly distributed throughout the neighborhood, which would result in widespread contamination. In addition, nearby homes are contaminated with these wastes.

The health advisory and other supporting documentation have been placed in the public docket.

**IV. Regulatory Impact Analysis**

The costs of cleanup actions that may be taken at sites are not directly attributable to placement on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of today's proposal to add new sites to the NPL. EPA believes that the kinds of economic effects associated with this proposed revision are generally similar to those identified in the regulatory impact analysis (RIA) prepared in 1982 for revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes that the anticipated economic effects related to proposing to add these sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis. This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

*Costs*

This proposed rulemaking is not a "major" regulation because it does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of responses at sites in the EPA section of the NPL result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites in this rule. The proposed listing of a site on the NPL may be followed by a search for potentially responsible parties and a Remedial Investigation/Feasibility Study (RI/FS) to determine if remedial actions will be undertaken at a site. The selection of a remedial alternative, and design and construction of that alternative, follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

EPA initially bears costs associated with responsible party searches. Responsible parties may enter into consent orders or agreements to conduct or pay the costs of the RI/FS, remedial design and construction, and O&M, or EPA and the States may share costs up front and subsequently bring an action for cost recovery.

The State's share of site cleanup costs for Fund-financed actions is governed by CERCLA section 104. For privately-owned sites, as well as at publicly-owned but not publicly-operated sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs of the remedial action, leaving 10% to the State. For publicly-operated sites, the State's share is at least 50% of all response costs at the site, including the RI/FS and remedial design and construction of the remedial action selected. After the remedy is built, costs fall into two categories:

- For restoration of ground water and surface water, EPA will share in start-up costs according to the ownership criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years. 40 CFR 300.435(f)(3).
- For other cleanups, EPA will share the cost of a remedy until it is operational and functional, which generally occurs after one year. 40 CFR 300.435(f)(2), 300.510(c)(2). After that, the State assumes all O&M costs. 40 CFR 300.510(c)(1).

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average-per-site and total cost basis. EPA will continue with this approach, using the most recent (1988) cost estimates available; these estimates are presented below. However, costs for individual sites vary widely, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

| Cost category | Average total cost per site [1] |
|---|---|
| RI/FS | $1,300,00 |
| Remedial Design | 1,500,000 |
| Remedial Action | [2] 25,000,000 |
| Net present value of O&M [3] | [2] 3,770,000 |

[1] 1988 U.S. Dollars
[2] Includes State cost-share
[3] Assumes cost of O&M over 30 years, $400,000 for the first year and 10% discount rate.

Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA, Washington, DC.

Costs to States associated with today's proposed rule arise from the required State cost-share of: (1) 10% of remedial actions and 10% of first-year O&M costs at privately-owned sites and sites that are publicly-owned but not publicly-operated; and (2) at least 50% of the remedial planning (RI/FS and remedial design), remedial action, and first-year O&M costs at publicly-operated sites. States will assume the cost for O&M after EPA's participation ends. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the non-Federal sites proposed for the NPL in this rule will be privately-owned and 10% will be State- or locally-operated. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial planning and actions at all non-Federal sites in today's proposed rule, but excluding O&M costs, would be approximately $97 million. State O&M costs cannot be accurately determined because EPA, as noted above, will share O&M costs for up to 10 years for restoration of ground water and surface water, and it is not known how many sites will require this treatment and for how long. However, based on past experience, EPA believes a reasonable estimate is that it will share start-up costs for up to 10 years at 25% of sites. Using this estimate, State O&M costs would be approximately $80 million. As with the EPA share of costs, portions of the State share will be borne by responsible parties.

Placing a hazardous waste site on the NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, these effects cannot be precisely estimated. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

Economy-wide effects of this proposed amendment to the NCP are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this proposal on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

*Benefits*

The real benefits associated with today's proposal to place additional sites on the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts. Proposing sites as national priority targets also may give States increased support for funding responses at particular sites.

As a result of the additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate before the RI/FS is completed at these sites.

## VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule proposes revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. As stated above, adding sites to the NPL does not in itself require any action by any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's proposed inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses nor estimate the number of small businesses that might also be affected.

The Agency does expect that CERCLA actions could significantly affect certain industries, and firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only the firm's contribution to the problem, but also its ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

## List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

TABLE 1.—NATIONAL PRIORITIES LIST, GENERAL SUPERFUND SECTION PROPOSED RULE #12

[By group]

| NPL Gr [1] | State | Site name | City/county |
|---|---|---|---|
| 1 | CA | McCormick & Baxter Creosoting Co. | Stockton. |
| 1 | CO | Smeltertown Site | Salida. |
| 1 | FL | Stauffer Chemical Co. (Tampa Plant). | Tampa. |
| 1 | FL | Stauffer Chemical Co. (Tarpon Springs Plant). | Tarpon Springs. |
| 1 | IN | U.S. Smelter and Lead Refinery, Inc. | East Chicago. |
| 1 | MO | Big River Mine Tailings/St. Joe Minerals Corp. | Desloge. |
| 1 | NC | General Electric Co./Shepherd Farm. | East Flat Rock. |
| 4 | AR | West Memphis Landfill. | West Memphis. |
| 4 | CA | GBF, Inc. Dump | Antioch. |
| 4 | OR | Northwest Pipe & Casing Co. | Clackamas. |
| 4 | UT | Richardson Flats Tailings. | Summit County. |
| 5 | AR | Popile, Inc. | El Dorado. |
| 5 | CA | Cooper Drum Co. | South Gate. |
| 5 | KS | 57th and North Broadway Streets Site. | Wichita Heights. |

TABLE 1.—NATIONAL PRIORITIES LIST, GENERAL SUPERFUND SECTION PROPOSED RULE #12—Continued

[By group]

| NPL Gr [1] | State | Site name | City/county |
|---|---|---|---|
| 5 | LA | American Creosote Works, Inc. (Winnfield Plant). | Winnfield. |
| 5 | MA | Blackburn and Union Privileges. | Walpole. |
| 5 | PA | Crater Resources, Inc./Keystone Coke Co./Alan Wood Steel Co. | Upper Merion Twp. |
| 5 | PA | Foote Mineral Co | East Whiteland Twp. |
| 5 | SC | Koppers Co., Inc. (Charleston Plant). | Charleston. |
| 5 | VI | Tutu Wellfield | Tutu. |
| 15 | PA | Metropolitan Mirror and Glass Co., Inc. | Frackville. |
| 15 | WI | Refuse Hideaway Landfill. | Middleton. |
| 20 | FL | Helena Chemical Co. (Tampa Plant). | Tampa. |

TABLE 1.—NATIONAL PRIORITIES LIST, GENERAL SUPERFUND SECTION PROPOSED RULE #12—Continued

[By group]

| NPL Gr [1] | State | Site name | City/county |
|---|---|---|---|
| 22 | PA | Austin Avenue Radiation Site. | Lansdowne. |

Number of Sites Proposed for Listing 24.
[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

TABLE 2.—NATIONAL PRIORITIES LIST, FEDERAL FACILITIES SECTION PROPOSED RULE #12

[By group]

| NPL Gr [1] | State | Site name | City/county |
|---|---|---|---|
| 2 | TN | Memphis Defense Depot. | Memphis. |
| 5 | CA | Concord Naval Weapons Station. | Concord. |
| 5 | CA | Jet Propulsion Laboratory (NASA). | Pasadena. |

TABLE 2.—NATIONAL PRIORITIES LIST, FEDERAL FACILITIES SECTION PROPOSED RULE #12—Continued

[By group]

| NPL Gr [1] | State | Site name | City/county |
|---|---|---|---|
| 5 | GU | Anderson Air Force Base. | Yigo. |
| 5 | VA | Naval Surface Warfare Center—Dahlgren. | Dahlgren. |
| 5 | VA | Naval Weapons Station—Yorktown. | Yorktown. |

Number of Sites Proposed for Listing: 6.
[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

**Authority:** 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 11735, 38 FR 21243, E.O. 12580, 52 FR 2923.

Dated: January 27, 1992.

**Don R. Clay,**

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 92–3016 Filed 2–6–92; 8:45 am]

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federal register

Friday
February 7, 1992

Part VI

# The President

## Proclamation 6402—To Amend the Generalized System of Preferences

# Digital Logic

## Part VI

## The Pipelined Processor

Federal Register
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Friday, February 7, 1992

# Presidential Documents

Title 3—

The President

## Proclamation 6402 of February 5, 1992

## To Amend the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Pursuant to sections 501 and 502 of the Trade Act of 1974, as amended (the 1974 Act) (19 U.S.C. 2461 and 2462), and having due regard for the eligibility criteria set forth therein, I have determined that it is appropriate to designate Estonia, Latvia, and Lithuania as beneficiary developing countries for purposes of the Generalized System of Preferences (GSP).

2. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of the provisions of that Act, and of other acts affecting import treatment, and actions thereunder.

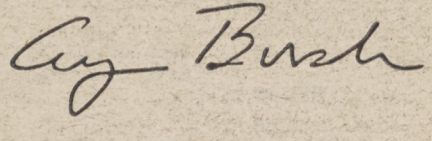
NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to title V and section 604 of the 1974 Act, do proclaim that:

(1) General note 3(c)(ii)(A) to the HTS, listing those countries whose products are eligible for benefits of the GSP, is modified by inserting "Estonia", "Latvia", and "Lithuania" in alphabetical order in the enumeration of independent countries.

(2) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this proclamation are hereby superseded to the extent of such inconsistency.

(3) The amendment made by this proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after 15 days after the date of publication of this proclamation in the **Federal Register.**

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of February, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 92-3164
Filed 2-6-92; 10:37 am]
Billing code 3195-01-M

**Editorial note:** For the President's letter to Congressional leaders on this amendment, see issue 6 of vol. 28 of the *Weekly Compilation of Presidential Documents.*

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**Note:** The List of Public Laws for the first session of the 102d Congress has been completed and will be resumed when bills are enacted into public law during the second session of the 102d Congress, which convenes on January 3, 1992. A cumulative list of Public Laws for the first session was published in Part II of the **Federal Register** on January 2, 1992.