AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

9–16–93
Vol. 58 No. 178

federal register

Thursday
September 16, 1993

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

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

9–16–93
Vol. 58 No. 178
Pages 48445–48590

federal register

Thursday
September 16, 1993

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper, 24x microfiche format and magnetic tape. The annual subscription price for the **Federal Register** paper edition is $375, or $415 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $353; and magnetic tape is $37,500. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $4.50 for each issue, or $4.50 for each group of pages as actually bound; or $1.50 for each issue in microfiche form; or $175.00 per magnetic tape. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 58 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	512–1530
Problems with public subscriptions	512–2303

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	512–1530
Problems with public single copies	512–2457

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5243
Magnetic tapes	512–1530
Problems with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 58, No. 178

Thursday, September 16, 1993

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service
See Rural Electrification Administration
See Soil Conservation Service

Animal and Plant Health Inspection Service
RULES
Interstate transportation of animals and animal products (quarantine):
Brucellosis ring test, 48445

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Census Bureau
NOTICES
Meetings:
Homeless population coverage improvement in 2000 census; research issues; conference, 48505

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Protease inhibitors in natural and biotechnological products; kits for use in separation, detection, and quantification, 48524
Meetings:
Poverty-associated retardation prevention technical assistance workshop for planning grant recipients, 48524

Coast Guard
PROPOSED RULES
Merchant marine officers and seamen:
Five-year term of validity for certificates of registry and merchant mariner's documents, 48572

Commerce Department
See Census Bureau
See Minority Business Development Agency
See National Oceanic and Atmospheric Administration

Customs Service
NOTICES
Commercial gauger:
Approval—
Saybolt, Inc., 48539

Defense Department
See Defense Logistics Agency
See Navy Department
PROPOSED RULES
Acquisition regulations:
Food, clothing, fabrics, specialty metals, and hand or measuring tools; restriction exceptions, 48484
Machine tools and powered and non-powered valves; restrictions
Correction, 48545
Civilian health and medical program of uniformed services (CHAMPUS):
Improved dependents' dental plan, 48473

Defense Logistics Agency
NOTICES
Senior Executive Service:
Performance Review Boards; membership, 48507

Education Department
PROPOSED RULES
Postsecondary education:
Strengthening institutions program, 48478
NOTICES
Grants and cooperative agreements; availability, etc.:
Children with disabilities early education program, 48548, 48554
National Education Goals Panel; report availability; news conference, 48509

Employment and Training Administration
NOTICES
Nonimmigrant aliens employed as registered nurses; attestations by facilities; list, 48534

Employment Policy, National Commission
See National Commission for Employment Policy

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Hanford Site, WA; eight surplus production reactors decommissioning, 48509

Environmental Protection Agency
RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Benomyl, etc.
Reinstatement, 48456
NOTICES
Meetings:
Environmental Policy and Technology National Advisory Council, 48521
Municipal solid waste landfill permit programs; adequacy determinations:
Oklahoma, 48516
South Carolina, 48518
Tennessee, 48519

Equal Employment Opportunity Commission
NOTICES
Meetings; Sunshine Act, 48544

Executive Office of the President
See Presidential Documents

Export-Import Bank
NOTICES
Privacy Act:
Systems of records, 48521

Federal Communications Commission
RULES
Radio services, special:
Amateur services—
Transceivers capable of reception beyond amateur service frequency allocations; federal preemption of State and local laws; declaratory ruling, 48459
Personal radio services—
Interactive video and data services applications; petition denied, 48459
NOTICES
Radio services, special:
Private radio application signature requirements; electronic filing trial, 48522

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 48544

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 48544

Federal Energy Regulatory Commission
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
Boston Edison Co. et al., 48513
Natural gas certificate filings:
Black Marlin Pipeline Co. et al., 48514
Natural Gas Policy Act:
State jurisdictional agencies tight formation recommendations; preliminary findings—
Texas Railroad Commission, 48516
Applications, hearings, determinations, etc.:
Williams Natural Gas Co., 48516

Federal Labor Relations Authority
NOTICES
Senior Executive Service:
Performance Review Board; membership, 48522

Federal Maritime Commission
NOTICES
Casualty and nonperformance certificates:
Bunnys Adventure & Cruise Shipping Co. Ltd. et al., 48522
Hanseatic Tours Reisedienst G.m.b.H., 48522

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Fifth Third Bancorp et al., 48523
First Bank System, Inc., et al., 48523
Hocking Valley Bancshares, Inc., 48523

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 48533
Meetings:
Aquatic Nuisance Species Task Force, 48533

Forest Service
NOTICES
Environmental statements; availability, etc.:
Idaho Panhandle National Forests, ID, 48503

Health and Human Services Department
See Centers for Disease Control and Prevention
See Social Security Administration

Housing and Urban Development Department
PROPOSED RULES
Mortgage and loan insurance programs:
Real estate appraisals and property valuation; minimum standards, 48556
NOTICES
State housing finance agency demonstration program; multifamily property disposition, 48528

Interior Department
See Fish and Wildlife Service
See Land Management Bureau

Justice Department
RULES
Criminal intelligence systems operating policies; revisions, 48448
PROPOSED RULES
Trustee panels membership and standing trustee appointments; qualifications, 48472
NOTICES
Pollution control; consent judgments:
Belanger, Arthur, et al., 48533

Labor Department
See Employment and Training Administration

Land Management Bureau
RULES
Public land orders:
Alaska, 48458
Alaska; correction, 48545
Oregon, 48458
NOTICES
Motor vehicle use restrictions:
Oregon, 48530
Oil and gas leases:
Utah, 48531
Realty actions; sales, leases, etc.:
California, 48531, 48532
Idaho; correction, 48532
Oregon, 48532

Minority Business Development Agency
NOTICES
Business development center program applications:
New York, 48505

National Commission for Employment Policy
NOTICES
Meetings, 48536

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Humanities Panel, 48536

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic tuna, 48464
PROPOSED RULES
Fishery conservation and management:
Gulf of Mexico reef fish, 48502

NOTICES
Meetings:
Western Pacific Fishery Management Council, 48506
Permits:
Marine mammals, 48507

National Science Foundation
NOTICES
Meetings:
Engineering Advisory Committee, 48537
Materials Research Special Emphasis Panel, 48537
Mathematical Sciences Special Emphasis Panel, 48537
Undergraduate Education Special Emphasis Panel, 48537

Navy Department
NOTICES
Meetings:
Chief of Naval Operations Executive Panel task forces, 48507
Senior Executive Service:
Performance Review Boards; membership, 48508

Nuclear Regulatory Commission
NOTICES
Meetings:
Water reactor safety information, 48537

Presidential Documents
PROCLAMATIONS
Special observances:
Commodore John Barry Day (Proc. 6589), 48585
Gold Star Mother's Day (Proc. 6590), 48587
Minority Enterprise Development Week (Proc. 6591), 48589
ADMINISTRATIVE ORDERS
Government agencies and employees:
Streamlining the bureaucracy (Memorandum of September 11, 1993), 48583

Public Health Service
See Centers for Disease Control and Prevention

Research and Special Programs Administration
RULES
Pipeline safety:
Natural gas transportation, etc.—
Compressor station buildings; gas detection and monitoring, 48460
PROPOSED RULES
Hazardous materials:
Tank car tanks; cracks, pits, corrosion, lining flaws, thermal protection flaws, and other defects; detection and repair, 48485

Rural Electrification Administration
PROPOSED RULES
Electric loans:
Discounted prepayments, 48465

Social Security Administration
NOTICES
Privacy Act:
Systems of records, 48525

Soil Conservation Service
NOTICES
Watershed projects; deauthorization of funds:
East Wenatchee Watershed, WA, 48504

State Department
RULES
Visas; immigrant documentation:
Armed Forces members; special immigrant status, 48446
Employment-based immigrants subject to numerical limitations, 48446
Immigrants subject and not subject to numerical limitations, 48446
Immigrant visa classification symbols table, etc., 48447
NOTICES
Meetings:
Shipping Coordinating Committee, 48538

Transportation Department
See Coast Guard
See Research and Special Programs Administration

Treasury Department
See Customs Service
NOTICES
Agency information collection activities under OMB review, 48538
Meetings:
National Center for State and Local Law Enforcement Training Advisory Committee, 48538
Organization, functions, and authority delegations:
Secret Service, Director, 48539

United States Information Agency
RULES
Exchange visitor program; regulatory and management practice reform
Correction, 48447
NOTICES
Grants and cooperative agreements; availability, etc.:
Armenia et al.; local government and public administration training programs, 48539
Meetings:
Public Diplomacy, U.S. Advisory Commission, 48542

Veterans Affairs Department
RULES
Health care practitioners; reporting to State licensing boards; policy, 48455
PROPOSED RULES
Adjudication; pensions, compensation, dependency, etc.:
Disability due to impaired hearing, 48483

Separate Parts In This Issue

Part II
Department of Education, 48548

Part III
Department of Education, 48554

Part IV
Department of Housing and Urban Development, 48556

Part V
Department of Transportation, Coast Guard, 48572

Part VI
The President, 48581

Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board

Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:

Memorandums:

September 11 48583

Proclamations:

6589 48585

6590 48587

6591 48589

7 CFR

Proposed Rules:

1786 48465

9 CFR

78 48445

22 CFR

42 (4 documents) 48446, 48447

514 48447

24 CFR

Proposed Rules:

200 48556

204 48556

206 48556

267 48556

28 CFR

23 48448

Proposed Rules:

58 48472

32 CFR

Proposed Rules:

199 48473

34 CFR

Proposed Rules:

607 48478

38 CFR

47 48455

Proposed Rules:

3 48483

40 CFR

185 48456

43 CFR

Public Land Orders:

6989 48545

6995 48458

6996 48458

46 CFR

Proposed Rules:

10 48572

12 48572

47 CFR

95 48459

97 48459

48 CFR

Proposed Rules:

225 (2 documents) 48484, 48545

252 (2 documents) 48484, 48545

49 CFR

192 48460

Proposed Rules:

173 48485

174 48485

180 48485

50 CFR

285 48464

Proposed Rules:

641 48502

Rules and Regulations

Federal Register
Vol. 58, No. 178
Thursday, September 16, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 93–022–2]

Brucellosis Ring Test

AGENCY: Animal and Plant Health Inspection Service, USDA

ACTION: Final rule.

SUMMARY: We are amending the regulations pertaining to brucellosis ring tests in Class Free States or areas. Currently, Class Free States or areas must conduct brucellosis ring tests at least four times per year at approximately 90-day intervals and ensure that every commercial dairy herd is included in at least three of the four tests. We are requiring instead that Class Free States or areas conduct as many brucellosis ring tests per year as are necessary to ensure that every commercial dairy herd is tested at least twice per year at approximately 6-month intervals. We have determined that the current requirement is no longer necessary to ensure adequate brucellosis surveillance in Class Free States or areas, and that the amended regulations will reduce testing requirements without increasing the risk of the interstate spread of brucellosis.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Dr. M.J. Gilsdorf, National Brucellosis Epidemiologist, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 731, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–4918.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 78 (referred to below as the regulations) govern the interstate movement of cattle, bison, and swine in order to help prevent the interstate spread of brucellosis. Under the regulations, States or areas classified as Class Free (meaning there are no cattle herds under quarantine for brucellosis and there is no known uncontrolled foci of brucellosis in any other species of domestic livestock) must conduct brucellosis ring tests (BRT) at least four times per year at approximately 90-day intervals.

On July 13, 1993, we published in the **Federal Register** (58 FR 37665–37666, Docket No. 93–022–1) a proposal to amend the regulations by requiring Class Free States or areas to conduct only as many BRT's per year as are necessary to ensure that every commercial dairy herd is tested at least twice per year at approximately 6-month intervals.

We solicited comments concerning our proposal for a 30-day comment period ending August 12, 1993. We received one comment in favor of the proposed rule from a national veterinary medical association. Their response also made suggestions regarding issues outside the scope of the proposed rule.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Only State and Federal animal health agencies will be affected by this rule; it will have no effect on the private sector. Animal health officials will need to collect and test milk samples at least twice per year instead of at least four times per year. These agencies do not charge for collecting and testing the samples.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities. Executive Order 12372.

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

Executive Order 12778

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

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 78, subpart A, is amended as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 78.1, in the definition of *Class Free State or area,* paragraph (a)(1) is revised to read as follows:

§ 78.1 Definitions.

* * * * *

Class Free State or area.

* * * * *

(a) *Surveillance*—(1) *Brucellosis ring test.* The State or area shall conduct as many brucellosis ring tests per year as

are necessary to ensure that all herds producing milk for sale are tested at least twice per year at approximately 6-month intervals.

* * * * *

Done in Washington, DC, this 9th day of September 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–22665 Filed 9–15–93; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 42

[Public Notice 1865]

Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended; Immigrants Subject to Numerical Limitations

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Final rule.

SUMMARY: This final rule is a followup to Interim Rule 1499, published at page 51170, FR 56, October 10, 1991. The Interim Rule amended part 42 of title 22, Code of Federal Regulations, to implement amendments to the Immigration and Nationality Act (INA) made by the provisions of sections 121, 152, and 162 of the Immigration Act of 1990 (IMMACT '90), Pub. L. 101–649. IMMACT '90 sections 121 and 152 relate to special immigrants designated as employment-based fourth preference immigrants. Section 152 provides for the extension of special immigrant status to certain employees, and their family members, of the Consulate General at Hong Kong. Section 162 concerns necessary conforming amendments. The new regulations contained in the Interim Rule will continue to retain the effective date of October 1, 1991.

EFFECTIVE DATE: This final rule is effective September 16, 1993.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20522–0113, (202) 663–1204.

SUPPLEMENTARY INFORMATION: Sections 121 and 162 of the IMMACT '90 relate to the provisions of INA 101(a)(27)(D) which primarily had exempted from numerical limitations certain classes of aliens designated as special immigrants. Prior to IMMACT '90, a special immigrant visa applicant would only have to satisfy the consular officer that he or she met the criteria for the specific class described in INA 101(a)(27). With the exception of two classes (returning residents and certain expatriates), IMMACT '90 designated all other special immigrant classes as employment-based fourth preference immigrants, thus subjecting such immigrants for the first time to numerical restrictions and the requirement of filing for petitions. IMMACT '90 section 162 made necessary conforming amendments.

IMMACT '90 section 152 relates to the extension of special immigrant status to certain employees of the Consulate General in Hong Kong and their family members. As a result of the changes made by section 152, the regulations at 22 CFR 42.25 were redesignated as § 42.32(d)(2) and revised to reflect those changes. Interim Rule 1499, published in the **Federal Register** at 56 FR 51170, October 10, 1991, invited interested persons to submit comments concerning the amendments therein. No comments were received.

PART 42—[AMENDED]

1. The authority citation for part 42 continues to read as follows:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1101 note; 8 U.S.C. 1153.

2. Accordingly, the Interim Rule's regulations and effective date of October 1, 1991 at 56 FR 51170 are adopted without changes.

Dated: September 3, 1993.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 93–22627 Filed 9–15–93; 8:45 am]

BILLING CODE 4710–06–M

22 CFR Part 42

[Public Notice 1862]

Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended; Immigrants Subject to Numerical Limitations

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Final rule.

SUMMARY: This final rule is a followup to Interim Rule 1513, published at page 55077, FR 56, October 24, 1991. The Interim Rule amended part 42 of title 22, Code of Federal Regulations, to implement changes made to the Immigration and Nationality Act (INA), and by the provisions of section 2 of the "Armed Forces Immigration Adjustment Act of 1991", Public Law 102–110. New § 42.32(d)(7) provides regulatory provisions for a new special immigrant class which benefits certain members of the Armed Forces. The regulation contained in the Interim Rule will continue to retain the effective date of November 29, 1991.

EFFECTIVE DATE: This final rule is effective September 16, 1993.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20522–0113, (202) 663–1204.

SUPPLEMENTARY INFORMATION: Section 2 of Public Law 102–110 amended the Immigration and Nationality Act to confer special immigrant status on members and honorably separated former members of the United States Armed Forces under certain criteria. The Interim Rule authorizes consular officers to accord fourth preference classification on such members and former members upon receipt of a petition which has been approved by the Immigration and Naturalization Service. Interim Rule 1513, published in the **Federal Register** at 56 FR 55077, October 24, 1991, invited interested persons to submit comments concerning the amendments therein. No comments were received.

PART 42—[AMENDED]

1. Authority citation for part 42 continues to read as follows:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1101 note.

2. Accordingly, the Interim Rule's regulations and effective date of November 29, 1991 at 56 FR 55077, part 42, are adopted without changes.

Dated: September 3, 1993.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 93–22628 Filed 9–15–93; 8:45 am]

BILLING CODE 4710–06–M

22 CFR Part 42

[Public Notice 1863]

Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended; Numerical Limitations

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Final rule.

SUMMARY: This final rule is a followup to Interim Rule 1491, published at page 49675, FR 56, October 1, 1991. The Interim Rule amended part 42 of title 22, Code of Federal Regulations, to

implement statutory amendments to the Immigration and Nationality Act (INA), made by the Immigration Act of 1990 (IMMACT '90), Pub. L. 101–649. Sections 101, 111, 112, 121 and 162(b)(1)(E) of IMMACT '90 restructured INA 203. Most of the changes to the regulations in the Interim Rule are editorial and relate primarily to numerical designations and citations. IMMACT '90 sections 101 and 121 amended the INA by separating family-related immigration from employment-related immigration and created new preference classes. These changes required the transfer of several regulations from subpart C of this part to subpart D, which more appropriately relates to immigrants subject to numerical limitations. In addition, the regulation at 22 CFR 42.21 was amended to add language benefiting spouses of deceased U.S. citizens entitled to immediate relative status. The regulations published with Interim Rule 1491 will continue to retain the effective date of October 1, 1991.

EFFECTIVE DATE: This final rule is effective September 16, 1993.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20522–0113, (202) 663–1204.

SUPPLEMENTARY INFORMATION: Sections 101, 111, 112, 121 and 162(b)(1)(E) of IMMACT '90 restructured section 203 of the INA. Those changes in turn affected part 42, title 22 of the Code of Federal Regulations. Consequently, former §§ 42.24–42.27 in subpart C were redesignated as §§ 42.32(d) (1) through (4) and transferred to subpart D, which pertains to aliens subject to numerical ceilings; subpart D was substantially restructured because of the additional classes relating to immigrants subject to numerical limitations formerly listed in subpart C. Sections 42.34, 42.35 and 42.36 were deleted from subpart C as no longer falling within the criteria of immigrants not subject to numerical limitations. In addition, the imposition of a petition requirement under INA 204, as amended by IMMACT '90 section 162(b)(1)(E), on certain special immigrant classes vests the Immigration and Naturalization Service with the responsibility for determining that the alien qualifies as a special immigrant. Prior to the IMMACT '90 such responsibility was vested in the consular officer. Interim Rule 1491, published in the **Federal Register** at 56 FR 49675, October 1, 1991, invited interested persons to submit comments concerning the amendments therein. No comments were received.

PART 42—[AMENDED]

1. Authority citation for part 42 continues to read as follows:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1101 note.

2. Accordingly, the Interim Rule's regulations and effective date of October 1, 1991 at part 42, FR 49675 are adopted without changes.

Dated: September 3, 1993.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 93–22629 Filed 9–15–93; 8:45 am]

BILLING CODE 4710–06–M

---

22 CFR Part 42

[Public Notice 1864]

Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended; Miscellaneous Amendments

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Final rule.

SUMMARY: This final rule is a followup to Interim Rule 1490, published at page 49678, FR 56, October 1, 1991. The Interim Rule amended part 42 of title 22, Code of Federal Regulations, to implement statutory revisions to the Immigration and Nationality Act (INA) made by the Immigration Act of 1990 (IMMACT '90), Pub. L. 101–649. Most of the amendments are editorial. In addition to the editorial changes, the Interim Rule revised a substantive procedure in § 42.83 for initiating action to terminate the registration of an alien entitled to an immigrant status. The regulations contained in the Interim Rule, § § 42.11 through 42.83, will continue to retain the effective date of October 1, 1991.

EFFECTIVE DATE: This final rule is effective September 16, 1993.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20522–0113, (202) 663–1204.

SUPPLEMENTARY INFORMATION: Except for the regulations in subpart C, relating to individual classes of aliens, subpart D, relating to special immigrants under INA 101(a)(27)(D), and subpart F, relating to numerical controls and priority dates, the Interim Rule contains all other regulations in part 42 which was affected by the Immigration Act of 1990. The majority of those changes are editorial and reflect statutory provisions mandated by Public Law 101–649.

Interim Rule 1490, published in the **Federal Register** at 56 FR 49678, October 1, 1991, invited interested persons to submit comments concerning the amendments therein. No comments were received.

PART 42—[AMENDED]

1. Authority citation for part 42 continues to read as follows:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1101 note.

2. Accordingly, the Interim Rule's regulations and effective date of October 1, 1991 at 56 FR 49678 are adopted without changes.

September 2, 1993.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 93–22630 Filed 9–15–93; 8:45 am]

BILLING CODE 4710–06–M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

[Rulemaking No. 102]

Exchange-Visitor Program

AGENCY: United States Information Agency.

ACTION: Notice of final rule; correction.

SUMMARY: The Agency issued a final rule on March 19, 1993 at 58 FR 15180–15220. This notice corrects several inadvertent administrative errors which appeared in the final rule.

DATES: March 19, 1993.

ADDRESSES: Stanley S. Colvin, Assistant General Counsel, Office of the General Counsel, room 700, United States Information Agency, 301 Fourth Street, SW., Washington, DC 20547, (202) 619–6829.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, Office of the General Counsel, room 700, United States Information Agency, 301 Fourth Street, SW., Washington, DC 20547, (202) 619–6829.

SUPPLEMENTARY INFORMATION: On March 19, 1993 the Agency published final regulations governing the administration of the Exchange Visitor Program. 58 FR 15180–15220. Upon its review of the published regulations, the Agency discovered several inadvertent typographical and other administrative

errors. The purpose of this notice is to correct those errors.

R. Wallace Stuart,

Acting General Counsel.

List of Subjects in 22 CFR Part 514

Cultural Exchange Programs.

PART 514—[AMENDED]

Accordingly, the United States Information Agency is correcting the final rule published March 19, 1993, as follows:

1. The *Supplementary Information* section dealing with Subpart B: Specific Program Provisions, which appears at 58 FR 15185, is corrected in the third column, in the first complete paragraph, by deleting the reference to 8 CFR 274.1(j) and inserting in lieu thereof "8 CFR 274a.1(j)."

2. The *Supplementary Information* section dealing with Subpart C: Status of Exchange Visitors, which appears at 58 FR 15193, is corrected by deleting the words "in INS adjudication" in the third full paragraph in the third column.

§ 514.20 [Amended]

3. Section 514.20(j)(1), appearing at 58 FR 15202, is corrected by deleting "§ 514.43(c)" in the last full line of the paragraph, and inserting in lieu thereof, "§ 514.43(b)".

4. The heading of § 514.20 Short-term scholars, appearing at 58 FR 15203, is corrected to read "§ 514.21 Short-term scholars."

§ 514.22 [Amended]

5. Section 514.22(d)(1)(iv), which appears at 52 FR 15204 is corrected by deleting the word "of" before the word "evaluation", and adding the word "of" before the word "each".

§ 514.27 [Amended]

6. Section 514.27(b)(2), which appears at 58 FR 15209, is corrected by deleting the word "Will" before the words "be able".

7. Section 514.27(e)(1), which appears at 58 FR 15209, is corrected by adding the words "as described in paragraph (b) of this section" after the word "training" and before the word "is".

§ 514.44 [Amended]

8. Section 514.44(a)(2), appearing at 58 FR 15212, is corrected by deleting the word "national" in the last line of the paragraph, and inserting in lieu thereof, the word "public."

9. Section 514.44(f)(4)(iv), appearing at 58 FR 15213, is corrected by deleting the word "Board" in the last line of the paragraph, and inserting in lieu thereof, the word "Branch."

[FR Doc. 93–22585 Filed 9–15–93; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 23

Final Revision to the Office of Justice Programs, Criminal Intelligence Systems Operating Policies

AGENCY: Office of Justice Programs, Justice.

ACTION: Final rule.

SUMMARY: The regulation governing criminal intelligence systems operating through support under title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is being revised to update basic authority citations and nomenclature, to clarify the applicability of the regulation, to define terms, and to modify a number of the regulation's operating policies and funding guidelines.

EFFECTIVE DATE: September 16, 1993.

FOR FURTHER INFORMATION CONTACT: Olga R. Trujillo, Acting General Counsel, Office of Justice Programs, 633 Indiana Ave., NW., room 1268, Washington, DC 20531, Telephone (202) 307–0790.

SUPPLEMENTARY INFORMATION: The rule which this rule supersedes had been in effect and unchanged since September 17, 1980. A notice of proposed rulemaking for 28 CFR part 23, was published in the **Federal Register** on February 27, 1992, (57 FR 6691).

The statutory authorities for this regulation are section 801(a) and section 812(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, (the Act), 42 U.S.C. 3782(a) and 3789g(c). 42 U.S.C. 3789g (c) and (d) provide as follows:

Confidentiality of Information

Sec. 812 * * *

(c) All criminal intelligence systems operating through support under this title shall collect, maintain, and disseminate criminal intelligence information in conformance with policy standards which are prescribed by the Office of Justice Programs and which are written to assure that the funding and operation of these systems furthers the purpose of this title and to assure that such systems are not utilized in violation of the privacy and constitutional rights of individuals.

(d) Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed $10,000, in addition to any other penalty imposed by law.

This statutory provision and its implementing regulation apply to intelligence systems funded under title I of the Act, whether the system is operated by a single law enforcement agency, is an interjurisdictional intelligence system, is funded with discretionary grant funds, or is funded by a State with formula grant funds awarded under the Act's Drug Control and System Improvement Grant Program pursuant to part E, subpart 1 of the Act, 42 U.S.C. 3751–3759.

The need for change to 28 CFR part 23 grew out of the program experience of the Office of Justice Programs (OJP) and its component agency, the Bureau of Justice Assistance (BJA), with the regulation and the changing and expanding law enforcement agency need to respond to criminal mobility, the National drug program, the increased complexity of criminal networks and conspiracies, and the limited funding available to State and local law enforcement agencies. In addition, law enforcement's capability to perform intelligence database and analytical functions has been enhanced by technological advancements and sophisticated analytical techniques.

28 CFR part 23 governs the basic requirements of the intelligence system process. The process includes—

1. Information submission or collection
2. Secure storage
3. Inquiry and search capability
4. Controlled dissemination, and
5. Purge and review process

Information systems that receive, store and disseminate information on individuals or organizations based on reasonable suspicion of their involvement in criminal activity are criminal intelligence systems under the regulation. The definition includes both systems that store detailed intelligence or investigative information on the suspected criminal activities of subjects and those which store only information designed to identify individuals or organizations that are the subject of an inquiry or analysis (a so-called "pointer system"). It does not include criminal history record information or identification (fingerprint) systems.

There are nine significant areas of change to the regulation:

(1) Nomenclature changes (authority citations, organizational names) are included to bring the regulation up to date.

(2) Definitions of terms (28 CFR 23.3(b)) are modified or added as appropriate. The term "intelligence system" is redefined to clarify the fact that historical telephone toll files, analytical information, and work

products that are not either retained, stored, or exchanged and criminal history record information or identification (fingerprint) systems are excluded from the definition, and hence are not covered by the regulation; the terms "interjurisdictional intelligence system", "criminal intelligence information", "participating agency", "intelligence project", and "validation of information" are key terms that are defined in the regulation for the first time.

(3) The operating principles for intelligence systems (28 CFR 23.20) are modified to define the term "reasonable suspicion" or "criminal predicate". The finding of reasonable suspicion is a threshold requirement for entering intelligence information on an individual or organization into an intelligence data base (28 CFR 23.20(c)). This determination, as well as determinations that information was legally obtained (28 CFR 23.20(d)) and that a recipient of the information has a need to know and a right to know the information in the performance of a law enforcement function (28 CFR 23.20(e)), are established as the responsibility of the project for an interjurisdictional intelligence system. However, the regulation permits these responsibilities to be delegated to a properly trained participating agency which is subject to project inspection and audit (28 CFR 23.20 (c), (d), (g)).

(4) Security requirements are established to protect the integrity of the intelligence data base and the information stored in the data base (28 CFR 23.20(g)(1) (i)–(vi)).

(5) The regulation provides that information retained in the system must be reviewed and validated for continuing compliance with system submission criteria within a 5-year retention period. Any information not validated within that period must be purged from the system (28 CFR 23.20(h)).

(6) Another change continues the general prohibition of direct remote terminal access to intelligence information in a funded intelligence system but provides an exception for systems which obtain express OJP approval based on a determination that the system has adequate policies and procedures in place to insure that access to system intelligence information is limited to authorized system users (28 CFR 23.20(i)(1)). OJP will carefully review all requests for exception to assure that a need exists and that system integrity will be provided and maintained (28 CFR 23.20(i)(1)).

(7) The regulation requires participating agencies to maintain back-up files for information submitted to an interjurisdictional intelligence system and provide for inspection and audit by project staff (28 CFR 23.20(h)).

(8) The final rule also includes a provision allowing the Attorney General or the Attorney General's designee to authorize a departure from the specific requirements of this part, in those cases where it is clearly shown that such waiver would promote the purposes and effectiveness of a criminal intelligence system while at the same time ensuring compliance with all applicable laws and protection for the privacy and constitutional rights of individuals. The Department recognizes that other provisions of federal law may be applicable to (or may be adopted in the future with respect to) certain submitters or users of information in criminal intelligence systems. Moreover, as technological developments unfold over time in this area, experience may show that particular aspects of the requirements in this part may no longer be needed to serve their intended purpose or may even prevent desirable technological advances. Accordingly, this provision grants the flexibility to make such beneficial adaptations in particular cases or classes without the necessity to undertake a new rulemaking process. This waiver authority could only be exercised by the Attorney General or designee, in writing, upon a clear and convincing showing (28 CFR 23.20 (o)).

(9) The funding guidelines (28 CFR 23.30) are revised to permit funded intelligence systems to collect information either on organized criminal activity that represents a significant and recognized threat to the population or on criminal activity that is multi-jurisdictional in nature.

Rulemaking History

On February 27, 1992, the Department of Justice, Office of Justice Programs, published a notice of proposed rulemaking in the **Federal Register** (57 FR 6691).

The Office of Justice Programs received a total of eleven comments on the proposed regulation, seven from State agencies, two from Regional Information Sharing Systems (RISS) program fund recipients, one from a Federal agency, and one from the RISS Project Directors Association. Comments will be discussed in the order in which they address the substance of the proposed regulation.

Discussion of Comments

Title—Part 23

Comment: One commentor suggested reinserting the word "Operating" in the title of the regulation to read "Criminal Intelligence Systems Operating Policies" to reflect that the regulation applies only to policies governing system operations.

Response: Agreed. The title has been changed.

Applicability—Section 23.3(a)

Comment: A question was raised by one respondent as to whether the applicability of the regulation under § 23.3(a) to systems "operating through support" under the Crime Control Act included agencies receiving any assistance funds and who operated an intelligence system or only those who received assistance funds for the specific purpose of funding the operation of an intelligence system.

Response: The regulation applies to grantees and subgrantees who receive and use Crime Control Act funds to fund the operation of an intelligence system.

Comment: Another commentor asked whether the purchase of software, office equipment, or the payment of staff salaries for a criminal intelligence system would constitute "operating through support" under the Crime Control Act.

Response: Any direct Crime Control Act fund support that contributes to the operation of a criminal intelligence system would subject the system to the operation of the policy standards during the period of fund support.

Comment: A third commentor inquired whether an agency's purchase of a telephone pen register or computer equipment to store and analyze pen register information would subject the agency or its information systems to the regulation.

Response: No, neither a pen register nor equipment to analyze telephone toll information fall under the definition of a criminal intelligence system even though they may assist an agency to produce investigative or other information for an intelligence system.

Applicability—Section 23.3(b)

Comment: Several commentors questioned whether information systems that are designed to collect information on criminal suspects for purposes of inquiry and analysis, and which provide for dissemination of such information, qualify as "criminal intelligence systems." One pointed out that the information qualifying for system submission could not be

"unconfirmed" or "soft" intelligence. Rather, it would generally have to be investigative file-based information to meet the "reasonable suspicion" test.

Response: The character of an information system as a criminal intelligence system does not depend upon the source or categorization of the underlying information as "raw" or "soft" intelligence, preliminary investigation information, or investigative information, findings or determinations. It depends upon the purpose for which the information system exists and the type of information it contains. If the purpose of the system is to collect and share information with other law enforcement agencies on individuals reasonably suspected of involvement in criminal activity, and the information is identifying or descriptive information about the individual and the suspected criminal activity, then the system is a criminal intelligence system for purposes of the regulation. Only those criminal intelligence systems that receive, store and provide for the interagency exchange and analysis of criminal intelligence information in a manner consistent with this regulation are eligible for funding support with Crime Control Act funds.

Comment: One respondent asked whether the definition of criminal intelligence system covered criminal history record information (CHRI) systems, fugitive files, or other want or warrant based information systems.

Response: No. A CHRI system contains information collected on arrests, detention, indictments, informations or other charges, dispositions, sentencing, correctional supervision, and release. It encompasses systems designed to collect, process, preserve, or disseminate such information.

CHRI is factual, historical and objective information which provides a criminal justice system "profile" of an individual's past and present involvement in the criminal justice system. A fugitive file is designed to provide factual information to assist in the arrest of individuals for whom there is an outstanding want or warrant. Criminal intelligence information, by contrast, is both factual and conjectural (reasonable suspicion), current and subjective. It is intended for law enforcement use only, to provide law enforcement officers and agencies with useful information on criminal suspects and to foster interagency coordination and cooperation. A criminal intelligence system can have criminal history record information in it as an identifier but a CHRI system would not contain the suspected criminal activity information contained in a criminal intelligence system.

This distinction provides the basis for the limitations on criminal intelligence systems set forth in the operating policies. Because criminal intelligence information is both conjectural and subjective in nature, may be widely disseminated through the interagency exchange of information and cannot be accessed by criminal suspects to verify that the information is accurate and complete, the protections and limitations set forth in the regulation are necessary to protect the privacy interests of the subjects and potential subjects of a criminal intelligence system.

Comment: Another commentor asked whether a law enforcement agency's criminal intelligence information unit, located at headquarters, which authorizes no outside access to information in its intelligence system, would be subject to the regulation.

Response: No. The sharing of investigative or general file information on criminal subjects within an agency is a practice that takes place on a daily basis and is necessary for the efficient and effective operation of a law enforcement agency. Consequently, whether such a system is described as a case management or intelligence system, the regulation is not intended to apply to the exchange or sharing of such information when it takes place within a single law enforcement agency or organizational entity. For these purposes, an operational multi-jurisdictional task force would be considered a single organizational entity provided that it is established by and operates under a written memorandum of understanding or interagency agreement. The definition of "Criminal Intelligence System" has been modified to clarify this point. However, if a single agency or entity system provides access to system information to outside agencies on an inquiry or request basis, as a matter of either policy or practice, the system would qualify as a criminal intelligence system and be subject to the regulation.

Comment: A commentor questioned whether the proposed exclusion of "analytical information and work products" from the definition of "Intelligence System" was intended to exclude all dissemination of analytical results from coverage under the regulation.

Response: No. The exceptions in the proposed definition of "Intelligence System" of modus operandi files, historical telephone toll files and analytical information and work products are potentially confusing. The exceptions reflect types of data that may or may not qualify as "Criminal Intelligence Information" depending on particular facts and circumstances. Consequently, these exceptions have been deleted from the definition of "Intelligence System" in the final rule. For example, analytical information and work products that are derived from unevaluated or bulk data (i.e. information that has not been tested to determine that it meets intelligence system submission criteria) are not intelligence information if they are returned to the submitting agency. This information and its products cannot be retained, stored, or made available for dissemination in an intelligence system unless and until the information has been evaluated and determined to meet system submission criteria. The proposed definition of "Analytical Information and Work Products" in § 23.3(b) has also been deleted.

To address the above issues, the definition of "Intelligence System" has been modified to define a "Criminal Intelligence System or Intelligence System" to mean "the arrangements, equipment, facilities, and procedures used for the receipt, storage, interagency exchange or dissemination, and analysis of criminal intelligence information."

Comment: Several commentors raised questions regarding the concept of "evaluated data" in the definition of "Criminal Intelligence Information", requesting guidance on what criteria to use in evaluating data. Another questioned whether there needed to be an active investigation as the basis for information to fall within the definition and whether information on an individual who or organization which is not the primary subject or target of an investigation or other data source, e.g. a criminal associate or co-conspirator, can qualify as "Criminal Intelligence Information."

Response: The definition of "Criminal Intelligence Information" has been revised to reflect that data is evaluated for two purposes related to criminal intelligence system submissions: (1) To determine that it is relevant in identifying a criminal suspect and the criminal activity involved; and (2) to determine that the data meets criminal intelligence system submission criteria, including reasonable suspicion of involvement in criminal activity. As rewritten, there is no requirement that an "active investigation" is necessary. Further, the revised language makes it clear that individuals or organizations who are not primary subjects or targets can be identified in the criminal intelligence information, provided that

they independently meet system submission criteria.

Comment: One commentor requested clarification of the role of the "Project" in the operation of an intelligence system, i.e. is the project required to have physical control (possession) of the information in an intelligence system or will authority over the system (operational control) suffice?

Response: Operational control over an intelligence system's intelligence information is sufficient. The regulation seeks to establish a single locus of authority and responsibility for system information. Once that principle is established, the regulation permits, for example, the establishment of remote (off premises) data bases that meet applicable security requirements.

Operating Principles—Section 23.20(c)

Comment: One respondent took the position that "Reasonable Suspicion", as defined in § 23.20(c), is not necessary to the protection of individual privacy and Constitutional rights, suggesting instead that information in a funded intelligence system need only be "necessary and relevant to an agency's lawful purposes."

Response: While it is agreed that the standard suggested is appropriate for investigative or other information files maintained for use by or within an agency, the potential for national dissemination of information in intelligence information systems, coupled with the lack of access by subjects to challenge the information, justifies the reasonable suspicion standard as well as other operating principle restrictions set forth in this regulation. Also, the quality and utility of "hits" in an information system is enhanced by the reasonable suspicion requirement. Scarce resources are not wasted by agencies in coordinating information on subjects for whom information is vague, incomplete and conjectural.

Comment: The prior commentor also criticized the proposed definition of reasonable suspicion for its specific reference to an "investigative file" as the source of intelligence system information, the potential inconsistency between the concepts of "infer" and "conclude" as standards for determining whether reasonable suspicion is justified by the information available, and the use of "reasonable possibility" rather than "articulable" or "sufficient" facts as the operative standard to conclude that reasonable suspicion exists.

Response: The reference to an "investigative file" as the information source has been broadened to encompass any information source. The information available must provide a basis for the submitter to "believe" there is a reasonable possibility of the subject's involvement in the criminal activity or enterprise. The concept of a "basis to believe" requires reasoning and logic coupled with sound judgment based on experience in law enforcement rather than a mere hunch, whim, or guess. The belief that is formed, that there is a "reasonable possibility" of criminal involvement, has been retained because the proposed standard is appropriately less restrictive than that which is required to establish probable cause.

Operating Principles—Section 23.20(d)

Comment: Section 23.20(d) prohibits the inclusion in an intelligence system of information obtained in violation of Federal, State, or local law or ordinance. Would a project be potentially liable for accepting, maintaining and disseminating such information even if it did not know that the information was illegally obtained?

Response: In addition to protecting the rights of individuals and organizations that may be subjects in a criminal intelligence system, this prohibition serves to protect a project from liability for disseminating illegally obtained information. A clear project policy that prohibits the submission of illegally obtained information, coupled with an examination of supporting information to determine that the information was obtained legally or the delegation of such authority to a properly trained participating agency, and the establishment and performance of routine inspection and audit of participating agency records, should be sufficient to shield a project from potential liability based on negligence in the performance of its intelligence information screening function.

Operating Principles—Section 23.20(h)

Comment: One commentor requested clarification of the "periodic review" requirement in § 23.20(h) and what constitutes an "explanation of decision to retain" information.

Response: The periodic review requirement is designed to insure that system information is accurate and as up-to-date as reasonably possible. When a review has occurred, the record is appropriately updated and notated. The explanation of decision to retain can be a variety of reasons including "active investigation", "preliminary review in progress", "subject believed still active in jurisdiction", and the like. When information that has been reviewed or updated and a determination made that it continues to meet system submission criteria, the information has been "validated" and begins a new retention period. The regulation limits the retention period to a maximum of five years without a review and validation of the information.

Operating Principles—Section 23.20(i)

Comment: One commentor requested a definition of "remote terminal" and asked how OJP would determine whether "adequate policies and procedures" are in place to insure the continued integrity of a criminal intelligence system.

Response: A "remote terminal" is hardware that enables a participating agency to input into or access information from a project's criminal intelligence database without the intervention of project staff. While the security requirements set forth in § 23.20(g)(1)–(5) should minimize the threat to system integrity from unauthorized access to and the use of system information, special measures are called for when direct remote terminal access is authorized.

The Office of Justice Programs will expect any request for approval of remote terminal access to include information on the following system protection measures:

1. Procedures for identification of authorized remote terminals and security of terminals;
2. Authorized access officer (remote terminal operator) identification and verification procedures;
3. Provisions for the levels of dissemination of information as directed by the submitting agency;
4. Provisions for the rejection of submissions unless critical data fields are completed;
5. Technological safeguards on system access, use, dissemination, and review and purge;
6. Physical security of the system;
7. Training and certification of system-participating agency personnel;
8. Provisions for the audit of system-participating agencies, to include: file data supporting submissions to the system; security of access terminals; and policy and procedure compliance; and
9. Documentation for audit trails of the entire system operation.

Moreover, a waiver provision has been added to ensure flexibility in adapting quickly to technological and legal changes which may impact any of the requirements contained in this regulation. See § 23.20(o).

Comment: Related to the above discussion, another commentor asked whether restrictions on direct remote terminal access would prohibit remote

access to an "index" of information in the system.

Response: Yes. The ability to obtain all information directly from a criminal intelligence system through the use of hardware based outside the system constitutes direct remote terminal access contrary to the provisions of § 23.20(i)(1), except as specifically approved by OJP. Thus, a hit/no hit response, if gleaned from an index, would bring a remote terminal within the scope of the requirement for OJP approval of direct remote terminal access.

Comment: One commentor pointed out that the requirement for prior OJP approval of "modifications to system design" was overly broad and could be read to require that even minor changes be submitted for approval. The commentor proposed a substitute which would limit the requirement to those modifications "that alter the system's identified goals in a way contrary to the requirements of (this regulation)."

Response: While it is agreed that the language is broad, the proposed limitation is too restrictive. The intent was that "modifications to system design" refer to "major" changes to the system, such as the nature of the information collected, the place or method of information storage, the authorized uses of information in the system, and provisions for access to system information by authorized participating agencies. This clarification has been incorporated in the regulation. In order to decentralize responsibility for approval of system design modifications, the proposed regulation has been revised to provide for approval of such modifications by the grantor agency rather than OJP. A similar change has been made to § 23.20(j).

Operating Principles—Section 23.20(n)

Comment: Several commentors expressed concern with the verification procedures set forth in § 23.20(n). One suggested that file information cannot "verify" the correctness of submissions but instead serves to "document" or "substantiate" its correctness. Another proposed deleting the requirements that (1) files maintained by participating agencies to support system submissions be subject to the operating principles, and (2) participating agencies are authorized to maintain such files separately from other agency files. The first requirement conflicts with the normal investigative procedures of a law enforcement agency in that all information in agency source files cannot meet the operating principles, particularly the reasonable suspicion and relevancy requirements. The important principle is that the information which is gleaned from an agency's source files and submitted to the system meet the operating principles. The second requirement has no practical value. At most, it results in the creation of duplicative files or in submission information being segregated from source files.

Response: OJP agrees with both comments. The word "documents" has been substituted for "verifies" and the provisions subjecting participating agency source files to the operating principles and authorizing maintenance of separate files have been deleted. Projects should use their audit and inspection access to agency source files to document the correctness of participating agency submissions on a sample basis.

Funding Guidelines—Section 23.30(b)

Comment: One commentor asked: Who defines the areas of criminal activity that "represent a significant and recognized threat to the population?"

Response: The determination of areas of criminal activity focus and priority are matters for projects, project policy boards and member agencies to determine, provided that the additional regulatory requirements set forth in § 23.30(b) are met.

Monitoring and Auditing of Grants—Section 23.40(a)

Comment: One commentor asked: "Who is responsible for developing the specialized monitoring and audit of awards for intelligence systems to insure compliance with the operating principles"?

Response: The grantor agency (the agency awarding a sub-grant to support an intelligence system) shall establish and approve a plan for specialized monitoring and audit of sub-awards prior to award. For the BJA Formula Grant Program, the State agency receiving the award from BJA is the grantor agency. Technical assistance and support in establishing a monitoring and audit plan is available through BJA.

Information on Juveniles

Comment: Can intelligence information pertaining to a juvenile who otherwise meets criminal intelligence system submission criteria be entered into an intelligence database?

Response: There is no limitation or restriction on entering intelligence information on juvenile subjects set forth in Federal law or regulation. However, State law may restrict or prohibit the maintenance or dissemination of such information by its law enforcement agencies. Therefore, State laws should be carefully reviewed to determine their impact on this practice and appropriate project policies adopted.

Executive Order 12291

These regulations are not a "major rule" as defined by section 1(b) of Executive Order No. 12291, 3 CFR part 127 (1981), because they do not result in: (a) An effect on the economy of $100 million or more, (b) a major increase in any costs or prices, or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

Regulatory Flexibility Act

These regulations are not a rule within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. These regulations, will not have a "significant" economic impact on a substantial number of small "entities," as defined by the Regulatory Flexibility Act.

Paperwork Reduction Act

There are no collection of information requirements contained in the regulation.

List of Subjects in 28 CFR Part 23

Administrative practice and procedure, Grant programs, Intelligence, Law enforcement.

For the reasons set out in the preamble, title 28, part 23 of the Code of Federal Regulations is revised to read as follows:

PART 23—CRIMINAL INTELLIGENCE SYSTEMS OPERATING POLICIES

Sec.

23.1 Purpose.
23.2 Background.
23.3 Applicability.
23.20 Operating principles.
23.30 Funding guidelines.
23.40 Monitoring and auditing of grants for the funding of intelligence systems.

Authority: 42 U.S.C. 3782(a); 42 U.S.C. 3789g(c).

§ 23.1 Purpose.

The purpose of this regulation is to assure that all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3711, *et seq.*, as amended (Pub. L. 90–351, as amended by Pub. L. 91–644, Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, Pub. L. 94–503, Pub. L. 95–115, Pub. L. 96–157, Pub. L. 98–473, Pub. L. 99–570, Pub. L. 100–690, and Pub. L. 101–647), are utilized in conformance with the privacy and constitutional rights of individuals.

§23.2 Background.

It is recognized that certain criminal activities including but not limited to loan sharking, drug trafficking, trafficking in stolen property, gambling, extortion, smuggling, bribery, and corruption of public officials often involve some degree of regular coordination and permanent organization involving a large number of participants over a broad geographical area. The exposure of such ongoing networks of criminal activity can be aided by the pooling of information about such activities. However, because the collection and exchange of intelligence data necessary to support control of serious criminal activity may represent potential threats to the privacy of individuals to whom such data relates, policy guidelines for Federally funded projects are required.

§23.3 Applicability.

(a) These policy standards are applicable to all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3711, *et seq.*, as amended (Pub. L. 90–351, as amended by Pub. L. 91–644, Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, Pub. L. 94–503, Pub. L. 95–115, Pub. L. 96–157, Pub. L. 98–473, Pub. L. 99–570, Pub. L. 100–690, and Pub. L. 101–647).

(b) As used in these policies: (1) *Criminal Intelligence System* or *Intelligence System* means the arrangements, equipment, facilities, and procedures used for the receipt, storage, interagency exchange or dissemination, and analysis of criminal intelligence information; (2) *Interjurisdictional Intelligence System* means an intelligence system which involves two or more participating agencies representing different governmental units or jurisdictions; (3) *Criminal Intelligence Information* means data which has been evaluated to determine that it: (i) Is relevant to the identification of and the criminal activity engaged in by an individual who or organization which is reasonably suspected of involvement in criminal activity, and (ii) meets criminal intelligence system submission criteria; (4) *Participating Agency* means an agency of local, county, State, Federal, or other governmental unit which exercises law enforcement or criminal investigation authority and which is authorized to submit and receive criminal intelligence information through an interjurisdictional intelligence system. A participating agency may be a member or a nonmember of an interjurisdictional intelligence system; (5) *Intelligence Project* or *Project* means the organizational unit which operates an intelligence system on behalf of and for the benefit of a single agency or the organization which operates an interjurisdictional intelligence system on behalf of a group of participating agencies; and (6) *Validation of Information* means the procedures governing the periodic review of criminal intelligence information to assure its continuing compliance with system submission criteria established by regulation or program policy.

§23.20 Operating principles.

(a) A project shall collect and maintain criminal intelligence information concerning an individual only if there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity.

(b) A project shall not collect or maintain criminal intelligence information about the political, religious or social views, associations, or activities of any individual or any group, association, corporation, business, partnership, or other organization unless such information directly relates to criminal conduct or activity and there is reasonable suspicion that the subject of the information is or may be involved in criminal conduct or activity.

(c) *Reasonable Suspicion* or *Criminal Predicate* is established when information exists which establishes sufficient facts to give a trained law enforcement or criminal investigative agency officer, investigator, or employee a basis to believe that there is a reasonable possibility that an individual or organization is involved in a definable criminal activity or enterprise. In an interjurisdictional intelligence system, the project is responsible for establishing the existence of reasonable suspicion of criminal activity either through examination of supporting information submitted by a participating agency or by delegation of this responsibility to a properly trained participating agency which is subject to routine inspection and audit procedures established by the project.

(d) A project shall not include in any criminal intelligence system information which has been obtained in violation of any applicable Federal, State, or local law or ordinance. In an interjurisdictional intelligence system, the project is responsible for establishing that no information is entered in violation of Federal, State, or local laws, either through examination of supporting information submitted by a participating agency or by delegation of this responsibility to a properly trained participating agency which is subject to routine inspection and audit procedures established by the project.

(e) A project or authorized recipient shall disseminate criminal intelligence information only where there is a need to know and a right to know the information in the performance of a law enforcement activity.

(f)(1) Except as noted in paragraph (f)(2) of this section, a project shall disseminate criminal intelligence information only to law enforcement authorities who shall agree to follow procedures regarding information receipt, maintenance, security, and dissemination which are consistent with these principles.

(2) Paragraph (f)(1) of this section shall not limit the dissemination of an assessment of criminal intelligence information to a government official or to any other individual, when necessary, to avoid imminent danger to life or property.

(g) A project maintaining criminal intelligence information shall ensure that administrative, technical, and physical safeguards (including audit trails) are adopted to insure against unauthorized access and against intentional or unintentional damage. A record indicating who has been given information, the reason for release of the information, and the date of each dissemination outside the project shall be kept. Information shall be labeled to indicate levels of sensitivity, levels of confidence, and the identity of submitting agencies and control officials. Each project must establish written definitions for the need to know and right to know standards for dissemination to other agencies as provided in paragraph (e) of this section. The project is responsible for establishing the existence of an inquirer's need to know and right to know the information being requested either through inquiry or by delegation of this responsibility to a properly trained participating agency which is subject to routine inspection and audit procedures established by the project. Each intelligence project shall assure that the following security requirements are implemented:

(1) Where appropriate, projects must adopt effective and technologically advanced computer software and hardware designs to prevent unauthorized access to the information contained in the system;

(2) The project must restrict access to its facilities, operating environment and documentation to organizations and personnel authorized by the project;

(3) The project must store information in the system in a manner such that it cannot be modified, destroyed, accessed, or purged without authorization;

(4) The project must institute procedures to protect criminal intelligence information from unauthorized access, theft, sabotage, fire, flood, or other natural or manmade disaster;

(5) The project must promulgate rules and regulations based on good cause for implementing its authority to screen, reject for employment, transfer, or remove personnel authorized to have direct access to the system; and

(6) A project may authorize and utilize remote (off-premises) system data bases to the extent that they comply with these security requirements.

(h) All projects shall adopt procedures to assure that all information which is retained by a project has relevancy and importance. Such procedures shall provide for the periodic review of information and the destruction of any information which is misleading, obsolete or otherwise unreliable and shall require that any recipient agencies be advised of such changes which involve errors or corrections. All information retained as a result of this review must reflect the name of the reviewer, date of review and explanation of decision to retain. Information retained in the system must be reviewed and validated for continuing compliance with system submission criteria before the expiration of its retention period, which in no event shall be longer than five (5) years.

(i) If funds awarded under the Act are used to support the operation of an intelligence system, then:

(1) No project shall make direct remote terminal access to intelligence information available to system participants, except as specifically approved by the Office of Justice Programs (OJP) based on a determination that the system has adequate policies and procedures in place to insure that it is accessible only to authorized systems users; and

(2) A project shall undertake no major modifications to system design without prior grantor agency approval.

(j) A project shall notify the grantor agency prior to initiation of formal information exchange procedures with any Federal, State, regional, or other information systems not indicated in the grant documents as initially approved at time of award.

(k) A project shall make assurances that there will be no purchase or use in the course of the project of any electronic, mechanical, or other device for surveillance purposes that is in violation of the provisions of the Electronic Communications Privacy Act of 1986, Public Law 99–508, 18 U.S.C. 2510–2520, 2701–2709 and 3121–3125, or any applicable State statute related to wiretapping and surveillance.

(l) A project shall make assurances that there will be no harassment or interference with any lawful political activities as part of the intelligence operation.

(m) A project shall adopt sanctions for unauthorized access, utilization, or disclosure of information contained in the system.

(n) A participating agency of an interjurisdictional intelligence system must maintain in its agency files information which documents each submission to the system and supports compliance with project entry criteria. Participating agency files supporting system submissions must be made available for reasonable audit and inspection by project representatives. Project representatives will conduct participating agency inspection and audit in such a manner so as to protect the confidentiality and sensitivity of participating agency intelligence records.

(o) The Attorney General or designee may waive, in whole or in part, the applicability of a particular requirement or requirements contained in this part with respect to a criminal intelligence system, or for a class of submitters or users of such system, upon a clear and convincing showing that such waiver would enhance the collection, maintenance or dissemination of information in the criminal intelligence system, while ensuring that such system would not be utilized in violation of the privacy and constitutional rights of individuals or any applicable state or federal law.

§ 23.30 Funding guidelines.

The following funding guidelines shall apply to all Crime Control Act funded discretionary assistance awards and Bureau of Justice Assistance (BJA) formula grant program subgrants, a purpose of which is to support the operation of an intelligence system. Intelligence systems shall only be funded where a grantee/subgrantee agrees to adhere to the principles set forth above and the project meets the following criteria:

(a) The proposed collection and exchange of criminal intelligence information has been coordinated with and will support ongoing or proposed investigatory or prosecutorial activities relating to specific areas of criminal activity.

(b) The areas of criminal activity for which intelligence information is to be utilized represent a significant and recognized threat to the population and:

(1) Are either undertaken for the purpose of seeking illegal power or profits or pose a threat to the life and property of citizens; and

(2) Involve a significant degree of permanent criminal organization; or

(3) Are not limited to one jurisdiction.

(c) The head of a government agency or an individual with general policy making authority who has been expressly delegated such control and supervision by the head of the agency will retain control and supervision of information collection and dissemination for the criminal intelligence system. This official shall certify in writing that he or she takes full responsibility and will be accountable for the information maintained by and disseminated from the system and that the operation of the system will be in compliance with the principles set forth in § 23.20.

(d)(1) Where the system is an interjurisdictional criminal intelligence system, the governmental agency which exercises control and supervision over the operation of the system shall require that the head of that agency or an individual with general policymaking authority who has been expressly delegated such control and supervision by the head of the agency:

(i) Assume official responsibility and accountability for actions taken in the name of the joint entity, and

(ii) Certify in writing that the official takes full responsibility and will be accountable for insuring that the information transmitted to the interjurisdictional system or to participating agencies will be in compliance with the principles set forth in § 23.20.

(2) The principles set forth in § 23.20 shall be made part of the by-laws or operating procedures for that system. Each participating agency, as a condition of participation, must accept in writing those principles which govern the submission, maintenance and dissemination of information included as part of the interjurisdictional system.

(e) Intelligence information will be collected, maintained and disseminated primarily for State and local law enforcement efforts, including efforts involving Federal participation.

§ 23.40 Monitoring and auditing of grants for the funding of intelligence systems.

(a) Awards for the funding of intelligence systems will receive specialized monitoring and audit in

accordance with a plan designed to insure compliance with operating principles as set forth in § 23.20. The plan shall be approved prior to award of funds.

(b) All such awards shall be subject to a special condition requiring compliance with the principles set forth in § 23.20.

(c) An annual notice will be published by OJP which will indicate the existence and the objective of all systems for the continuing interjurisdictional exchange of criminal intelligence information which are subject to the 28 CFR part 23 Criminal Intelligence Systems Policies.

Laurie Robinson,

Acting Assistant Attorney General, Office of Justice Programs.

[FR Doc. 93–22614 Filed 9–15–93; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 47

RIN 2900–AE27

Reporting Health Care Practitioners to State Licensing Boards

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document sets forth the policy of the Department of Veterans Affairs (VA) for reporting physicians, dentists, and other health care professionals to State licensing boards under authority of the act captioned "Veterans' Administration Health-Care Amendments of 1985" (the Act) and other authority. The intended effect of this policy is to cooperate with State licensing boards for the purpose of promoting better health care.

EFFECTIVE DATE: September 16, 1993.

FOR FURTHER INFORMATION CONTACT: Susan J. Brennan (10A2), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420.

SUPPLEMENTARY INFORMATION: VA has had a longstanding practice of reporting to State licensing boards any separated licensed health care professional whose clinical practice so significantly failed to meet generally accepted standards of clinical practice as to raise reasonable concern for the safety of patients. More recently, the Act, among other things, established a mandate for VA to conduct a program to report to State licensing boards any separated licensed health-care professional (a) who was fired or who resigned following the completion of a disciplinary action relating to such individual's clinical competence, (b) who resigned after having had such individual's clinical privileges restricted or revoked, or (c) who resigned after serious concerns about such individual's clinical competence have been raised but not resolved. VA's longstanding practice and its Congressional mandate are compatible and the purpose of this part is to establish a final rule reflecting that it is the policy of the VA to report separated health care professionals to State licensing boards consistent with its longstanding practice and its Congressional mandate.

The following are examples of actions that meet the criteria for reporting: (a) Significant deficiencies in clinical practice such as lack of diagnostic or treatment capability, errors in transcribing, administering or documenting medications, inability to perform clinical procedures considered basic to the performance of one's occupation, performing procedures not included in one's clinical privileges in other than emergency situations; (b) patient neglect or abandonment; (c) mental health impairment sufficient to cause the individual to behave inappropriately in the patient care environment or to provide unsafe patient care; (d) physical health impairment sufficient to cause the individual to provide unsafe patient care; (e) substance abuse when it affects the individual's ability to perform appropriately as a health care provider or in the patient care environment; (f) falsification of credentials; (g) falsification of medical records or prescriptions; (h) theft of drugs; (i) inappropriate dispensing of drugs; (j) unethical behavior (such as sexual misconduct toward a patient); (k) mental, physical, sexual, or verbal abuse of a patient (examples of patient abuse include intentional omission of care, willful violation of a patient's privacy, willful physical injury, intimidation, harassment, or ridicule); and (l) violation of research ethics.

Executive Order 12291 and Regulatory Flexibility Act

Executive Order 12291 requires the Department to prepare and publish an initial regulatory impact analysis for any proposed major rule. A major rule is defined as any regulation that is likely to: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Department has determined that this final rule does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. Based on experience, for purposes of this Order, it is anticipated that a relatively insignificant number of health care professionals would be reported under this final rule (significantly less than one percent). Under these circumstances, the final rule would have little direct effect on the economy or on Federal or State expenditures. Consequently, the Department has concluded that a regulatory impact analysis is not required.

Also, the Secretary certifies that this final rule does not have a significant economic impact on a substantial number of small entities, and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980. Under the circumstances explained above, the VA does not anticipate that a substantial number of small entities would be significantly affected by the final rule.

There are no applicable Catalog of Federal Domestic Assistance program numbers.

List of Subjects in 38 CFR Part 47

Health professions.

Approved: May 20, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR is amended by adding a new part 47 to read as follows:

PART 47—POLICY REGARDING REPORTING HEALTH CARE PROFESSIONALS UNDER AUTHORITY OF PUBLIC LAW 99–166 AND 38 U.S.C. 501

Subpart A—General Provisions

Sec.

47.1 Definitions.

47.2 Purpose.

Subpart B—Reporting Under Authority of Pub. L. 99–166 and 38 U.S.C. 501.

47.3 Reporting to State licensing boards.

Authority: Pub. L. 99–166, 99 Stat. 941; 38 U.S.C. 501.

Subpart A—General Provisions

47.1 Definitions.

(a) *Act* means section 204 of the act captioned "Veterans Administration Health-Care Amendments of 1985" (Pub. L. 99–166, 99 Stat. 941).

(b) *Dentist* means a doctor of dental surgery or dental medicine legally authorized to practice dental surgery or medical dentistry by a State (or any individual who, without authority, holds himself or herself out to be so authorized).

(c) *Other health care professional* means an individual other than a physician or dentist who is licensed or otherwise authorized by a State to provide health care services (or any individual who, without authority, holds himself or herself out to be so licensed or authorized).

(d) *Physician* means a doctor of medicine or osteopathy legally authorized to practice medicine or surgery by a State (or any individual who, without authority, holds himself or herself out to be so authorized).

(e) *State* means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and any other territories or possessions of the United States.

(f) *State Licensing Board* means, with respect to a physician, dentist or other health care practitioner in a State, the agency of the State which is primarily responsible for the licensing of the physician, dentist or practitioner to provide health care services.

(g) *Generally accepted standards of clinical practice* means reasonable competence in the clinical aspects of one's responsibilities, as well as the moral and ethical behavior necessary to carry out those responsibilities.

(h) *Separated licensed health care professional* means a licensed health care professional who is no longer on VA rolls, regardless of whether the individual left voluntarily or involuntarily and regardless of the reason why the individual left.

(Authority: Pub. L. 99–166, 99 Stat. 941; 38 U.S.C. 501.)

§ 47.2 Purpose.

VA has had a longstanding practice of reporting to state licensing boards any separated licensed health care professional whose clinical practice so significantly failed to meet generally accepted standards of clinical practice as to raise reasonable concern for the safety of patients. More recently, the Act, among other things, established a mandate for VA to conduct a program to report to state licensing boards any separated licensed health-care professional who was fired or who resigned following the completion of a disciplinary action relating to such individual's clinical competence, who resigned after having had such individual's clinical privileges restricted or revoked, or who resigned after serious concerns about such individual's clinical competence have been raised but not resolved. VA's longstanding practice and its Congressional mandate are compatible and the purpose of this Part is to reflect that it is the policy of VA to report separated health care professionals to state licensing boards consistent with its longstanding practice and its Congressional mandate.

(Authority: Pub. L. 99–166, 99 Stat. 941; 38 U.S.C. 501.)

Subpart B—Reporting Under Authority of Public Law 99–166 and 38 U.S.C. 501

§ 47.3 Reporting to State licensing boards.

VA will report to state licensing boards any separated licensed health-care professional in accordance with its longstanding policy and its Congressional mandate which are both specified in § 47.2 of this Part. The following are examples of actions that meet the criteria for reporting:

(a) Significant deficiencies in clinical practice such as lack of diagnostic or treatment capability, errors in transcribing, administering or documenting medications, inability to perform clinical procedures considered basic to the performance of one's occupation, performing procedures not included in one's clinical privileges in other than emergency situations;

(b) Patient neglect or abandonment;

(c) Mental health impairment sufficient to cause the individual to behave inappropriately in the patient care environment or to provide unsafe patient care;

(d) Physical health impairment sufficient to cause the individual to provide unsafe patient care;

(e) Substance abuse when it affects the individual's ability to perform appropriately as a health care provider or in the patient care environment;

(f) Falsification of credentials;

(g) Falsification of medical records or prescriptions;

(h) Theft of drugs;

(i) Inappropriate dispensing of drugs;

(j) Unethical behavior (such as sexual misconduct toward a patient);

(k) Mental, physical, sexual, or verbal abuse of a patient (examples of patient abuse include intentional omission of care, willful violation of a patient's privacy, willful physical injury, intimidation, harassment, or ridicule); and

(l) Violation of research ethics.

(Authority: Pub. L. 99–166, 99 Stat. 941; 38 U.S.C. 501.)

[FR Doc. 93–22504 Filed 9–15–93; 8:45 am]
BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 185

[OPP–260053A; FRL–4645–4]

RIN No. 2070–AB78

Reinstatement of Food Additive Regulations for Benomyl, Mancozeb, Phosmet, and Trifluralin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reinstatement of Regulations.

SUMMARY: On July 14, 1993, EPA published in the **Federal Register** a final rule revoking certain food additive regulations (58 FR 37862). Consistent with its statement in the final rule, EPA decided to stay the revocations only for such time as would be necessary to rule on petitions requesting a further stay of the effectiveness of the final rule. EPA signed a stay document on August 27, 1993. However, due to an administrative error, the stay document was not published in the **Federal Register** as intended. By this document, EPA is implementing the August 27, 1993 stay action by reinstating the food additive regulations inadvertently removed from the Code of Federal Regulations. EPA is allowing 15 days for public comment on the petitions requesting a further stay of the final rule.

DATES: The effective date of this regulation is August 30, 1993. Any affected person may submit comments on the stay requests summarized in this document on or before October 1, 1993.

ADDRESSES: Comments, identified by the document control number, OPP-260053A, may be submitted to: the Public Response and Program Resources Branch, Field Operations Division (H7506C), Environmental Protection Agency, 401 M st., SW., Washington, DC 20460. In person, comments may be submitted to, and materials related to this document may be reviewed in, the Public Docket and Freedom of Information Section, Field Opeartions Division, Office of Pesticide Programs, Enviromental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, Telephone: 703-305-5805. The docket is open from 8 a.m. to 4:30 p.m., Monday through Friday, except for legal holidays. Certain information may be subject to section 10 to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Inquiries regarding these materials may be directed to the docket staff at the telephone number given above.

FOR FURTHER INFORMATION CONTACT: Lisa Engstrom, Special Review Branch

(H7508W), Special Review and Reregistration Division, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460; Office location and telephone number: 3rd Floor, Westfield Building, 2800 Jefferson Davis Hwy., Arlington, VA, Telephone: 703-308-8031.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 14, 1993 (58 FR 37862), EPA issued a final rule removing the food additive regulations for benomyl (raisins and processed tomato products), mancozeb (raisins, bran of wheat), phosmet (cottonseed oil), and trifluralin (spearmint oil, peppermint oil) based on the determination that these food additive regulations are inconsistent with the Delaney Clause as set forth in section 409(c)(3) of the Federal Food, Drug, Cosmetic Act (FFDCA) (21 U.S.C. 348(c)(3)). In that document EPA, pursuant to its discretionary authority, set an effective date of August 30, 1993, for the revocation of the food additive regulations affected by that document.

Any person adversely affected was given a 30-day opportunity to: (1) File written objections to the order; (2) file a written request for an evidentiary hearing on the objection; and (3) file a petition for a stay of the effective date of the order. EPA stated that if any petition for a stay were received, it would exercise its discretionary authority under section 409(e) of the FFDCA and stay the August 30, 1993 effective date of the order as to the particular food additive regulations for which the stay was sought for such time as is required to review and make a determination on the stay petition(s).

The National Agricultural Chemical Association (NACA) submitted objections and a petition to stay the effective date of the revocation of all of the food additive regulations affected by the final rule. EPA also received separate objections and petitions to stay the revocation of the benomyl (DuPont), mancozeb (DuPont and The Mancozeb Task Force), and trifluralin (DowElanco) food additive regulations. In addition, DuPont filed a request for a hearing on whether benomyl concentrates and induces cancer, and DowElanco filed a request for a hearing on whether trifluralin induces cancer.

Outlined below are summaries of the petitions to stay the effective date of the July 14, 1993 order that EPA received. Full copies of the stay requests may be viewed or ordered from the OPP Docket under the document control number OPP-260053A, subject to limitations of FIFRA section 10(g).

In sum, the bases for the requests are that the registrants of each pesticide and NACA will suffer irreparable harm if a stay is not granted, the registrants' and NACA's objections to the revocation of each tolerance are not frivolous and are being pursued in good faith, sound public policy supports granting a stay of the effective date of the revocations, and a delay will not affect public health or other public interests.

Specifically, NACA argues that, as discussed in its objections, staying the effective date of the final order revoking the tolerances is appropriate because the Order is so procedurally and substantively flawed, it anticipates that EPA will be required to "cure [the] defects by withdrawing the Order, and promulgating a new Order providing an appropriate opportunity for notice and comment." NACA and the registrants argue that the APA, the United States Constitution, and EPA regulations require EPA to issue a proposed rule revoking the tolerances and requesting comments on the revocations, and no previous publications satisfy this requirement. In addition, they argue that EPA should determine whether a pesticide concentrates in a processed ready to eat food and should publish regulations discussing the criteria for determining whether a pesticide induces cancer, before it makes the "induces cancer" determination. NACA and the registrants also raise issues particular to each tolerance and argue that each issue should be resolved before finding that a pesticide induces cancer. NACA and the registrants argue that these are legitimate and significant, legal and science issues and good public policy demands that these issues be resolved before the revocations can or should be made effective.

NACA and the registrants also contend that they, growers, processors, and the general public will suffer irreparable injury from the impact resulting from a revocation of the tolerances and from labeling each pesticide as a pesticide that "induces cancer." They argue that these revocations will result in "considerable confusion" in the marketplace and, as a result, will cause replacement of the affected pesticides for uses not necessarily identified in the revocation order. NACA and the registrants maintain that the end result will generally be the use of less effective and more highly toxic pesticides, an increase of pest resistance, and a cost increase for certain commodities. In addition, NACA and the registrants argue that because EPA has stated in public notices that use of the pesticides in question pose no more than a negligible risk, a delay resulting from a stay is not outweighed by any public health or other public interest.

In accordance with its statement in the final rule, on August 27, 1993, EPA signed a stay of the effective date of the revocations pending review of the stay requests. However, due to an administrative error, the stay document was not published in the **Federal Register** as intended. As a result, the food additive regulations were removed from the Code of Federal Regulations on August 30, 1993.

EPA by this document is implementing the stay action by reinstating the food additive regulations that were inadvertently removed on August 30, 1993. This action is based on EPA's discretionary authority under section 409(e) of the FFDCA to stay the effective date of a final order. These rules are reinstated only for such time as the stay of the July 14, 1993 order, which is granted herein, is in effect. Once EPA has completed its review of the stay requests, it will publish a document in the **Federal Register** announcing a decision on the requests. If EPA denies the stay requests pertaining to any of the affected regulations, the revocation of that regulation will become effective upon publication in the **Federal Register**.

Thus, EPA is publishing this document to implement the stay action by reinstating the food additive regulations that were inadvertently removed. Until otherwise acted upon by EPA, the Code of Federal Regulations text will continue to include the full text of the food additive regulations for benomyl (raisins and processed tomato products), mancozeb (raisins, bran of wheat), phosmet (cottonseed oil), and trifluralin (spearmint oil, peppermint oil).

List of Subjects in 40 CFR Part 185

Environmental protection, Administrative practice and procedure, Food additives, Pesticides and pests, Reporting and recordkeeping requirments.

Dated: September 13, 1993.

Victor J. Kimm,

Acting Assitant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 185 is amended as follows:

PART 185—[AMENDED]

1. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

2. By reinstating §§ 185.350, 185.3950, and 185.5900, as follows:

§ 185.350 Benomyl.

Tolerances of 50 parts per million are established for combined residues of the fungicide benomyl (methyl-1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in raisins and concentrated tomato products when present therein as a result of application of the fungicide to growing grapes and tomatoes.

§ 185.3950 N-(Mercaptomethyl)phthalimide S-(O,O-dimethyl phosphorodithioate) and its oxygen analog.

Tolerances are established for residues of the insecticide *N*-(mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen anaolog *N*-(mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorothioate) in the following processed food when present therein as a result of application of the insecticide to growing cotton.

Food	Parts per million
Cottonseed oil	0.2

§ 185.5900 Trifluralin.

Tolerances are established for residues of the herbicide trifluralin in or on peppermint oil and spearmint oil at 2 parts per million when present therein as a result of application of the herbicide to the growing crops.

§ 185.6300 [Amended]

3. Section 185.6300 *Zinc ion and maneb coordination product* is amended to reinstate at the end of the section the first entry for raisins, "28 parts per million in raisins" and to reinstate the phrase ", and wheat" in the second entry for bran, "20 parts per million in the bran of barley, oats, rye, and wheat."

[FR Doc. 93–22754 Filed 9–14–93; 3:48 pm]
BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6995

[OR–943–4210–06; GP3–243; OR–19014, OR–19113, OR–19115]

Partial Revocation of the Executive Orders Dated December 12, 1917, and Secretarial Order Dated December 12, 1917; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two Executive orders and one Secretarial order insofar as they affect 240 acres of Revested Oregon and California Railroad Grant Lands withdrawn for the Bureau of Land Management's Powersite Reserve Nos. 659 and 661, and Waterpower Designation No. 14. This action will open 240 acres to such forms of disposition as may by law be made of Revested Oregon and California Railroad Grant Lands. The revocation and opening are needed to permit a land exchange. The lands have been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Donna Kauffman, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–280–7162.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Executive Order dated December 12, 1917, which established Powersite Reserve No. 659, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 17 S., R. 8W.,
Sec. 9, NW¼NE¼.

The area described contains 40 acres in Lane County.

2. The Executive Order dated December 12, 1917, which established Powersite Reserve No. 661, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 8 S., R. 6 W.,
Sec. 17, NW¼NE¼ and NW¼.

The area described contains 200 acres in Polk County.

3. The Secretarial Order dated December 12, 1917, which established Waterpower Designation No. 14, is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

T. 8 S., R. 6 W.,
Sec. 17, NW¼NE¼ and NW¼.
T. 17 S., R. 8 W.,
Sec. 9, NW¼NE¼.

The areas described aggregate 240 acres in Lane and Polk Counties.

4. At 8:30 a.m. on October 18, 1993, the lands described above will be opened to such forms of disposition as may be law be made of Revested Oregon and California Railroad Grant Lands, 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 8:30 a.m. on October 18, 1993, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: August 30, 1993.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 93–22590 Filed 9–15–93; 8:45 am]
BILLING CODE 4310–33–M

43 CFR Public Land Order 6996

[AK–932–4210–06; AA–17985]

Partial Revocation of Executive Order No. 4257, Dated June 27, 1925; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive Order insofar as it affects approximately 78 acres of public land withdrawn for use by the Coast Guard, Department of Transportation, for the Mountain Point Lighthouse. The land is no longer needed for the purpose for which it was withdrawn. This action also opens the land for selection by the State of Alaska, if such land is otherwise available. If not selected by the State, the land will be subject to Public Land Order No. 5180, as amended.

EFFECTIVE DATE: September 16, 1993.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), and by section 17(d)(1) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1616(d)(1) (1988), it is ordered as follows:

1. Executive Order No. 4257, dated June 27, 1925, which withdrew lands for lighthouse purposes, is hereby revoked insofar as it affects the following described land:

Copper River Meridian

Located within T. 59 S., R. 79 E., described as Tracts A and B of U.S. Survey No. 1722, excluding the following parcel:

Beginning at a point on low water line of Wrangell Narrows, approximately 300 feet southerly from the center of Mountain Point Beacon, at approximate

Latitude 56°44.3′ N., Longitude 132°57.3′ W;

Thence West, 300 feet;

Thence North, approximately 600 feet to an intersection with the low water line of Wrangell Narrows;

Thence southeasterly and southerly along the low water line of Wrangell Narrows to the point of beginning. This parcel contains approximately 2 acres.

The area described contains approximately 78 acres.

2. Subject to valid existing rights, the land described above is hereby opened to selection by the State of Alaska under either the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1988) or section 906(b) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(b) (1988).

3. As provided by section 6(g) of the Alaska Statehood Act, the State of Alaska is provided a preference right of selection for the land described above, for a period of ninety-one (91) days from the date of publication of this order, if such land is otherwise available. Any of the land described herein that is not selected by the State of Alaska will be subject to the terms and conditions of Public Land Order No. 5180, as amended, and any other withdrawal of record.

4. At 10 a.m. on December 16, 1993, the land described above will be opened to location and entry under the United States mining laws for metalliferous minerals, pursuant to the terms of 30 U.S.C. 49(a) (1988), subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable laws. 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: August 20, 1993.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 93–22641 Filed 9–15–93; 8:45 am]

BILLING CODE 4310–JA–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 95

[PR Docket 91–2; FCC 93–412]

Private Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Private Radio Bureau has adopted a Memorandum Opinion and Order in response to a Petition for Reconsideration filed by Larry M. Warner on behalf of John Calvin Kemmer, inter vivos trust. Warner's petition requests that Kemmer's IVDS applications, all of which were submitted to the Commission late for the filing windows concerned, be accepted *nunc pro tunc* for consideration. This action denies the petition of Warner and, in the interest of administrative efficiency, also variously denies and dismisses other Petitions for Reconsideration of certain IVDS-related staff decisions that do not arise from the GEN Docket 91–2 proceeding.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Marc S. Martin, (202) 632–7175, Private Radio Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Private Radio Bureau's Memorandum, Opinion and Order, FCC 93–412, adopted August 20, 1993; and released September 3, 1993. The full text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room 230, 1919 M Street, NW, Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, 1919 M Street, room 246, Washington, DC 20554, telephone (202) 857–3800.

Summary of Memorandum Opinion and Order

1. On January 16, 1992, the Commission adopted a Report and Order, 57 FR 8272 March 9, 1992 (Report), in this proceeding that, among other things, established a frequency allocation and service rules for IVDS. The purpose of the Report was to make available an allocation of radio spectrum that licensees could use to provide a variety of radio-based interactive services to the public. In response to six petitions which requested reconsideration of certain aspects of the Report, a Memorandum Opinion and Order, 57 FR 36372 (MO&O), variously granted and dismissed those requests. Following the adoption of the MO&O, two Petitions for Reconsideration and two requests for clarifications were filed concerning decisions taken in GEN Docket No. 91–2. The Second Memorandum Opinion and Order (2d MO&O), adopted April 13, 1993, 58 Fed. Reg. 25951 April 29, 1993, among other things, granted the request for clarification filed by the law firm of Keller and Heckman and ordered a minor change in the IVDS rules to clarify that trusts are eligible for IVDS station licenses.

2. In denying the petition of Warner, the Commission noted that the petition did not specify the decision contained in the 2nd MO&O for which petition was filed. Because the petition concerns a trust that filed IVDS applications for several markets, it did not appear that Warner contested the decision in the 2nd MO&O that clarified that trusts are eligible entities for IVDS licenses. In addition, the petition did not request reconsideration of the decision to not re-open the previously closed IVDS filing windows. Rather, the petition appeared to be merely one of several mechanisms employed by Warner to have Kemmer's late-filed IVDS applications accepted despite the fact that they were not timely filed.

3. The Warner petition did not proffer any supportive reasoning that suggested why Kemmer's late-filed IVDS applications should be accepted. The Commission noted that the mere fact that its rules were amended to clarify that trust applications may be filed is not a basis for accepting untimely trust applications for previously closed windows. In addition, the Commission noted that Kemmer chose not to file during the three previous IVDS filing windows as a trust or in any other capacity. Further, prior to filing the petition, neither Warner nor Kemmer chose to address the issue of the eligibility of trusts as parties to the GEN Docket 91–2 proceeding. Accordingly, the Commission denied the Warner petition. In the interest of administrative efficiency, the Commission also variously denied and dismissed certain Petitions for Reconsideration of certain staff decisions that did not arise from the GEN Docket 91–2 proceeding.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–22600 Filed 9–15–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 97

[PR Docket No. 91–36; FCC 93–410]

Federal Preemption of State and Local Laws Concerning Amateur Operator Use of Transceivers Capable of Reception Beyond the Amateur Service Frequency Allocations

AGENCY: Federal Communications Commission.

ACTION: Declaratory ruling.

SUMMARY: The Commission has adopted a declaratory ruling that states that

certain local and state laws are preempted by federal law where such laws prohibit the mere possession of certain amateur service transceivers that are capable of receiving frequencies assigned by the Commission for, among other things, police use. This action is necessary to prevent overly broad scanner laws from frustrating the federal goals of facilitating and encouraging amateur service activities. This action only protects the legitimate operations of amateur licensees and does not apply to narrowly tailored state and local laws that prohibit the use of such radios for criminal purposes, such as the flight from law enforcement.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Marc S. Martin, (202) 632–7175, Private Radio Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Declaratory Ruling, FCC 93–410, adopted August 20, 1993; and released September 3, 1993. The full text of this Declaratory Ruling is available for inspection and copying during normal business hours in the FCC Reference Center, room 230, 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, 1919 M Street, room 246, Washington, DC. 20554, telephone (202) 857–3800.

Summary of Declaratory Ruling

1. In this proceeding, the American Radio Relay League (ARRL) filed a petition for a declaratory ruling requesting that the Commission preempt certain state and local laws that prohibit the possession of transceivers that have the capability of, among other things, receiving police radio frequencies (hereafter "scanner laws"). In its petition, ARRL makes two arguments in support of preemption. First, it states that amateur service transceivers typically allow for incidental reception of adjacent frequencies in order to, among other things, ensure the adequate reception of the entire amateur radio service band. Second, ARRL contends that amateur operators have special needs for out-of-band reception, and that the marketplace has long recognized this by offering transceivers that accommodate these needs. Therefore, according to ARRL, such scanner laws have the potential to frustrate the legitimate uses of amateur radio stations by licensed operators. The vast majority of comments and reply comments in this proceeding were in favor of the subject ARRL petition.

2. The Commission noted that there are approximately 600,000 amateur stations in the United States, many of which are used in mobile operations. Therefore, the Commission agreed with ARRL that while such scanner laws are not directed specifically at amateur operators, their effect is to prevent such licensees from using their equipment for authorized amateur transmissions and reception on amateur frequencies. Therefore, the Commission stated that such scanner laws are preempted by federal law. The Commission's preemption decision only protects the legitimate operations of amateur licensees and does not apply to narrowly tailored state and local laws that prohibit the use of such radios for criminal purposes, such as the flight from law enforcement.

List of Subjects in 47 CFR Part 97

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–22599 Filed 9–15–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS–100; Amdt. 192–69]

RIN AB–49

Gas Detection and Monitoring in Compressor Station Buildings

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule requires that each compressor building in a gas pipeline compressor station have a fixed gas detection and alarm system by September 16, 1996, unless the building has at least 50 percent of its upright side area permanently open, or is in an unattended field compressor station of 1,000 horsepower or less. The history of reported incidents at compressor stations shows a potential for leaking gas to accumulate undetected inside compressor buildings. The purpose of the gas detection and alarm systems is to detect mixtures of gas in air and warn persons before a mixture reaches the flammable range.

EFFECTIVE DATE: This amendment takes effect October 18, 1993.

FOR FURTHER INFORMATION CONTACT: L.M. Furrow, (202) 366–2392, regarding changes to safety standards, or the Dockets Unit, (202) 366–4453, for copies of this final rule or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1982, a compressor engine in a compressor station operated by the Trunkline Gas Company in Bonicord, Tennessee began leaking natural gas. The gas accumulated and exploded in the building that housed the compressor. Three workers in the building were killed, two others were injured, and the building was severely damaged.

The National Transportation Safety Board (NTSB) investigated the accident. In its report of the investigation, issued July 14, 1983, NTSB concluded that the building's ventilation system, which had adjustable vent louvers, had been set in a position that allowed leaking gas to accumulate in the building. Also, NTSB found that the operator had not equipped the building with a gas detection and alarm system, although it had scheduled one for installation. After the investigation, NTSB made the following Safety Recommendation to RSPA:

> Amend 49 CFR 192.173, regarding compressor station building ventilation systems equipped with restrictive devices, to require the installation of gas detection equipment that will alert employees to hazardous gas accumulations and automatically open fully all restrictive devices when accumulations of gas are detected. (Class II, Priority Action) (P–83–20)

As a result of the NTSB recommendation, RSPA considered the need for safety regulations governing fixed gas detection and alarm systems in compressor buildings. We reviewed reports of incidents at compressor stations that operators had submitted under 49 CFR part 191. A significant number of these incidents appeared to involve gas leakage inside compressor buildings. Based on this finding and the Bonicord accident, we concluded that the history of incidents involving compressor buildings showed a potential for harm to pipeline workers that safety regulations could reduce.

We published an Advance Notice of Proposed Rulemaking (ANPRM) (53 FR 10906, April 4, 1988) concerning the problem of leaking gas accumulating in compressor buildings. We sought comments on alternatives to reduce the potential for personal injury and property damage. NTSB's recommendation was among these alternatives.

Thirty-six persons submitted comments on the ANPRM. More than 75

percent of these commenters supported the first alternative in the ANPRM. This alternative was to require operators to install gas detection and alarm systems in compressor buildings. Our analysis of the comments and the alternatives in the ANPRM also supported the first alternative. We decided, therefore, that fixed gas detection and alarm systems would provide the most practical and effective means to reduce the potential for harm from leaking gas accumulating in compressor buildings.

Following publication of the ANPRM, we published a notice of proposed rulemaking (NPRM) (55 FR 30724, July 27, 1990) regarding fixed gas detection and monitoring in compressor buildings. We proposed to establish a new gas pipeline safety standard, § 192.736, "Compressor stations: Gas detection." This new standard would require operators to install a gas detection and alarm system in each compressor building that has 50 percent or more of its wall area enclosed. The system would have to be designed to warn persons entering or in the building of any hazardous accumulation of gas in the building. Also, under the proposed standard, operators would have to maintain the system to function properly and periodically test its performance.

Comments on NPRM

We received letters from 23 persons commenting on the NPRM. The distribution of these commenters is as follows:

State agency	1
Federal agency	2
Standards organization	1
Testing laboratory	1
Pipeline trade association	2
Pipeline operator	16

General comments. The majority of commenters either supported the proposed rule or did not protest it. A minority, however, saw no need to change the current rules, but did not oppose the concept of the proposal. These commenters said a single accident provides an insufficient basis for rulemaking. They also said the current part 192 rules are adequate because they allow operators flexibility to decide the best method for safe operations.

We do not find the arguments against rulemaking persuasive. The Bonicord accident was merely the first to call public attention to the need for fixed gas detection and alarm systems at compressor buildings. The RSPA record of gas pipeline accidents is replete with reported accidents involving fires and explosions at compressor stations. Viewed together, these accidents show a significant potential for harm that compliance with the final rule can diminish.

As for the adequacy of current rules, we reported in the NPRM that more than 75 percent of the comments on the ANPRM supported the installation of gas detection and alarm systems for safety. Yet, the record of this proceeding shows that up to 20 percent of gas pipeline compressor buildings do not have such systems in place. We believe this statistic confirms that the current part 192 rules are not adequate to ensure safe operation of compressor buildings.

Adjustable vents. NTSB, one of the two Federal agencies that commented on the NPRM, stated that the proposed rule was deficient because it did not address adjustable vents. NTSB essentially repeated its recommendation set forth above. It said that in compressor buildings with adjustable vents, gas detection and alarm systems should open the vents fully when sensors detect a hazardous accumulation of gas. According to NTSB, this opening would prevent small amounts of gas from accumulating to an explosive mixture. Regarding our concern (expressed in both the ANPRM and NPRM) that automatic vent opening would interfere with fire suppressants, NTSB said there would not be any interference if, after opening, the vents shut when the fire suppression system starts.

As we stated in the NPRM, the comments we received on the ANPRM suggested that operators commonly do not install gas detection and alarm systems that automatically open vent louvers upon detection of a significant accumulation of gas. Some commenters considered such systems impractical and unreliable. Others said the automatic ventilation feature is not easy to install. It requires a separate power line unaffected by the emergency shutdown system, and explosion-proof electrical equipment to guard against accidental ignition.

We also pointed out in the NPRM that the comments on the ANPRM supported our reservations about the automatic-venting aspect of NTSB's recommendation. Our primary concern was that automatic, fully open, rapid ventilation could hinder the use of the most efficient or effective fire suppression systems (e.g., Halon, CO_2) in compressor buildings. These systems operate best in enclosed environments. Another concern was that the benefit of an automatic system would be limited to small leaks, since large leaks could overcome the venting capacity. In view of the added installation costs of the systems, their potentially adverse effect on fire suppressants, the lack of use history data, and their limited usefulness, this final rule does not require that operators install automatic venting systems.

Alarm setting. Two pipeline operators commented that the words, "hazardous accumulations of gas," in proposed § 192.736(a) were too vague or indefinite. They suggested the rule require monitoring for the presence of gas in air at concentrations not exceeding 25 percent of the lower explosive limit (LEL) of the gas. Upon further consideration, we agree that the proposed language is not specific enough to assure that alarms will be set to warn persons of accumulating gas well before it becomes a flammable mixture. Twenty-five percent of LEL is widely used as a maximum setting to actuate alarms for this purpose. For example, under 49 CFR 193.2819, this setting applies to alarms connected to gas detection systems at liquefied natural gas (LNG) plants. In addition, almost all operators who reported installing gas detection systems said they link them to alarms that actuate at 15 to 30 percent of the LEL of natural gas, and then to emergency shutdown devices that actuate at 50 to 75 percent of LEL. Given this common practice in the industry and the existing RSPA rule for LNG plants, we believe that adopting the commenters' suggested change would be in the interest of safety. We also believe existing settings that are above 25 percent of LEL can be adjusted readily to the new level. Therefore, the final rule requires that alarms be set to actuate at concentrations of gas in air of not more than 25 percent of LEL.

Building design. The New York Public Service Commission (NYPSC) suggested that we designate the final rule as § 192.171(f) instead of § 192.736 as proposed. This change would put the final rule among the requirements in part 192 governing the design of compressor stations. We did not adopt this comment because the final rule governs the monitoring of compressor buildings, not their design.

Detailed specifications. The Minerals Management Service (MMS) of the United States Department of the Interior thought the language of the proposed rule was too general to be effective. MMS suggested we adopt the standards in 30 CFR 250.123(b)(9) instead. These standards apply to gas and fire detection systems on offshore production platforms. They are more specific than § 192.736 regarding the types of gas detection systems that may be used and where sensors must be placed. Nevertheless, the available pipeline

safety data do not suggest that the type and placement of gas systems in compressor buildings are matters in need of more detailed RSPA safety requirements.

Furthermore, a careful comparison shows that the MMS standards contain exceptions that are not in § 192.736. In particular, the MMS standards require gas detection systems only in areas that are inadequately ventilated, while § 192.736 requires gas detection and alarm systems without regard to the adequacy of ventilation in a building. Also, unlike § 192.736, the MMS standards allow gas odorant to serve as an alternative to gas detection and alarm systems in continuously staffed areas. Section 192.736 requires gas detection and alarm systems in buildings handling odorized gas to warn personnel of accumulating gas before they enter the building. We believe the record of this proceeding shows that these exceptions in the MMS standards are not appropriate for compressor buildings covered by § 192.736. Therefore, we did not adopt the MMS comment.

Downtime. One pipeline operator suggested the words, "continuously monitored," in proposed § 192.736(a) should be deleted to permit periodic system replacements or repairs. We did not intend to disallow these functions. Nor did we intend for operators to install redundant systems so that monitoring might continue during the downtime for maintenance. The final rule excepts the time necessary for maintenance.

Frequency of system tests. In the NPRM, we proposed to require that operators maintain their gas detection and alarm systems to function properly (proposed § 192.736(b)). We also proposed to emphasize in the rule that operators must include performance tests as part of that maintenance. Although we did not propose a specific frequency of testing, we sought comments on whether the final rule should set a minimum frequency. This issue drew the most comments of all the issues commenters raised about the NPRM. Most commenters suggested minimum testing frequencies, ranging from weekly to annually. They especially preferred the latter frequency, because it is the minimum frequency at which operators must test remote control shutdown devices installed in compressor stations (§ 192.731(c)). In contrast, a few pipeline operators and a trade association thought the proposed maintenance rule was broad enough to require testing without including it in the language of the rule. These commenters essentially argued that maintenance would not be adequate to assure a properly functioning system unless it included periodic performance tests. One operator and a trade association urged us to allow operators to decide the appropriate test intervals for their systems. They said operators need this discretion because instruments and devices are not alike in all systems and operating conditions vary among stations.

We agree that operators should have discretion in deciding how frequently to test their systems. Gas detection and alarm systems and operating conditions vary. A uniform minimum test frequency may not be suitable for every operator's system. In addition, the available safety data do not suggest that testing frequencies now in use are inadequate.

We also agree with those commenters who said that periodic performance tests are essential to an adequate maintenance program for fixed gas detection and alarm systems. Because testing is essential but is not conventionally included within the concept of maintenance, we believe the final rule should explicitly require testing. Thus, we have adopted the final rule as proposed in regard to testing.

The New York Public Service Commission recommended that we establish a weekly inspection interval for gas detection and alarm systems. We do not believe a uniform, periodic inspection interval is appropriate for the same reasons we did not adopt a uniform testing frequency.

Hazardous liquid pipelines. NTSB also thought the NPRM was deficient because we did not propose to establish a rule in 49 CFR part 195 for hazardous liquid pipelines that would be comparable to proposed § 192.736. In the ANPRM we said, "The Department's safety standards for hazardous liquid pipelines require that pump station buildings (which present risks similar to those presented by gas compressor station buildings) be constructed to include both ventilation and devices warning occupants of the presence of hazardous vapors (49 CFR 195.262(a))." (See 53 FR 10906.) We realize that, unlike § 192.736, the rule in § 195.262(a) does not apply to buildings in existence when the rule took effect, but the two rules are comparable. As part of our continuing effort to make parts 192 and 195 consistent where appropriate, we will examine the need to apply § 195.262(a) to all pump station buildings.

Lead time for compliance. In the NPRM, we proposed to allow operators 2 years after publication of a final rule to install gas detection and alarm systems. Operators could use this time for planning and to obtain equipment, electrical contractors, and, where necessary, a power line.

Several pipeline operators and a trade association said that 2 years was not enough time to complete the work. Some operators have many old stations in which to install systems. These commenters also argued that 2 years would not permit orderly budgeting and scheduling of work.

Commenters suggested alternatives of 3 and 5 years as a reasonable period to fulfill the installation requirements of the final rule. In view of the comments, we believe that 3 years is a more appropriate period for achieving compliance than 2 years. Therefore, the final rule requires operators to have their gas detection and alarm systems operational not later than 3 years from today.

Processing plants. A pipeline operator asked us to clarify that the term "compressor building" does not include buildings that house compressors in gas processing plants. The compressor buildings to which the proposed rule applies are those in gas compressor stations used in the transportation of gas by pipeline. These are the same compressor stations that the current part 192 rules cover under §§ 192.729 through 192.735. Such compressor stations are normally not found in gas processing plants. For clarity, the final rule refers to compressor buildings in compressor stations.

Unattended field compressor stations of 1,000 horsepower or less. About half the industry commenters suggested we except unattended field compressor stations of 1,000 horsepower or less from the final rule. These stations typically are temporary installations in rural areas. They are designed to operate without the attendance of personnel. Operators may move the station several times over the life of the compressor, which usually is mounted on skids for that purpose. Upon each move, operators construct a new building to house the compressor. The areas in which operators use these stations usually have no electricity available from a public utility to power a gas detection and alarm system. The commenters argued that under these conditions it is not practical to install fixed gas detection and alarm systems in the buildings.

The commenters also argued that because the stations are not attended during normal operation, there is limited risk to personnel. To support this position, they noted that under § 192.167(a), unattended field compressor stations of 1,000

horsepower or less are not required to have emergency shutdown systems. They said that personnel are aware of the potential for hazardous accumulations of gas in field compressor buildings and use portable gas detectors. One commenter recommended we require additional ventilation in the buildings instead of fixed gas detection and alarm systems.

In light of these comments, we have reexamined the need to require operators to provide additional protection against the threat of hazardous accumulations of gas in unattended field compressor stations of 1000 horsepower or less. Based on the comments in this proceeding and the experience of our field enforcement staff, we believe the potential risk to personnel is less at these stations than at the larger permanent ones. The buildings are smaller and provide fewer places for any leaking gas to accumulate, making ventilation and the use of hand-held gas detectors more effective. The fact that personnel are not routinely present at these small stations also reduces the potential for harm.

We have also looked at whether the proposed rule is appropriate for the small field stations. Because operators would have to install a fixed system each time they move such a station, the cost of compliance would be out of proportion to the size of the station. If electricity is not available from a local utility, which the commenters suggest is often the case, operators would have to use power from other sources to run the systems. These alternative sources are not practical at remote unattended field locations, because no one is routinely present to maintain a gas generator, batteries need recharging often, and solar energy is suitable only in sunny regions.

We conclude, therefore, that for the small field stations, the proposed rule is unnecessary. Thus, the final rule excepts unattended field compressor stations of 1,000 horsepower or less.

Wall area. A pipeline operator questioned the significance of applying the proposed rule only to buildings with 50 percent or more of their wall area enclosed. This commenter said gas accumulation is more dependent upon a building's shape or ventilation than the percentage of wall area enclosed. The commenter suggested we apply the proposed rule to any building in which a hazardous accumulation of gas could occur.

Our decision to limit the proposed rule to buildings with 50 percent or more of wall area enclosed was based on the common practice in the industry regarding the installation of gas monitoring systems in compressor buildings. In response to the ANPRM, the Interstate Natural Gas Association of America (INGAA) polled its members and found that they commonly do not install gas detection and alarm systems in semi-enclosed buildings. INGAA defined these buildings as buildings with an enclosed wall area that is less than 50 percent of the total wall area. In such semi-enclosed buildings, natural ventilation minimizes the concern about hazardous accumulations of leaking gas.

Restating this aspect of the final rule in performance terms, as the commenter suggested, would not adequately accomplish the objective of the proposed rule. The science of determining whether leaking gas could accumulate to a hazardous level in a building, considering its shape and ventilation system, is problematic. Thus, with performance language, we could have great difficulty confirming or challenging an operator's decision not to install a gas detection and alarm system. Also, an incorrect decision by the operator could expose personnel and property to an unexpected, unnecessary risk. Thus, the final rule continues the specification approach used in the NPRM.

Because of possible confusion over the meaning of "wall area enclosed," we have revised the language of the final rule to exclude any building constructed so that "at least 50 percent of its upright side area is permanently open." Under this revised language, if a rectangular-shaped building has only three outside walls, the side without a wall is still part of the building's upright side area. Vertical windows and doors are part of upright side area. But, if they can be closed, they would not qualify as permanently open area, even if normally left open. The roof of a lean-to is not upright side area. We believe this new language is a clearer statement of what we intended the 50-percent test to cover in the proposed rule.

Advisory Committee Review

We presented the NPRM for consideration by the Technical Pipeline Safety Standards Committee (TPSSC) at a meeting in Washington, DC on February 20, 1991. The TPSSC is RSPA's statutory advisory committee for gas pipeline safety. It comprises 15 members, representing industry, government, and the public, who are technically qualified to evaluate gas pipeline safety. The TPSSC's report on the NPRM is available in the docket of this proceeding.

The TPSSC voted unanimously to find the proposed rule technically feasible, reasonable, and practicable on condition that (1) the final rule excepts unattended field compressor stations of 1,000 horsepower or less; and (2) if the final rule prescribes a test frequency, it is the frequency at which remote control shutdown devices must be tested under § 192.731(c). The TPSSC's rationale for these conditions resembled the views of commenters who argued for similar changes to the proposed rule, as discussed above. The final rule meets both conditions; it excepts the small field stations and does not prescribe a frequency for performance testing.

Rulemaking Analyses

E. O. 12291 and DOT Regulatory Policies and Procedures. Operators have installed gas detection and alarm systems in a large number of compressor buildings during construction. In addition, many operators are retrofitting their remaining compressor buildings with such systems. The American Gas Association (AGA) estimated that operators have equipped 80 percent of their compressor buildings with gas detection and alarm systems. Retrofitting the remaining 20 percent would cost between $6 and 12 million, AGA said. INGAA's retrofitting estimate also fell in this range.

The actual cost of complying with the final rule should be less than these industry estimates. The estimates were based on the NPRM and do not reflect exclusion from this final rule of unattended field compressor stations of 1,000 horsepower or less. Also, since many operators are already retrofitting their compressor buildings, the cost they would have incurred to do so over the next 3 years in the absence of the final rule cannot fairly be attributed to the final rule. Unfortunately, our data do not allow us to estimate the amount of either of these cost reductions.

Compared with the work already done or planned, the effort needed to install gas detection and alarm systems in the remaining compressor buildings to which the final rule applies is not large. We believe the potential threat to personnel warrants the additional expenditure. Preventing only one compressor station accident involving deaths, injuries, and serious property damage could result in savings greater than the cost of retrofitting the remaining buildings. For instance, one recent compressor station incident resulted in property damage of $4,000,000. Although leaking natural gas was not a factor in that incident, the high property damage is indicative of the value of compressor station property. Had the incident involved several deaths and injuries, total damages would have been far greater.

Therefore, this final rule is not major under Executive Order 12291 (46 FR 13193, February 19, 1981). Also, it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Regulatory Flexibility Act. Small entities that operate gas pipeline systems almost always receive gas from their suppliers in a state ready for further transportation without additional compression. Consequently, small entities are unlikely to have compressor buildings that are subject to the final rule. Therefore, I certify under section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that this final rule will not have a significant economic impact on a substantial number of small entities.

E. O. 12612. We have analyzed this final rule under the criteria of Executive Order 12612 (52 FR 41685, October 30, 1987). We find it does not warrant preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 192

Alarms, Compressors, Gas detectors, Pipeline safety.

For the reasons set forth above, RSPA hereby amends 49 CFR part 192 as follows:

PART 192—[AMENDED]

1. The authority citation for part 192 continues to read as follows:

Authority: 49 App. U.S.C. 1672 and 1804; 49 CFR 1.53.

2. Section 192.736 is added to read as follows:

§ 192.736 Compressor stations: Gas detection.

(a) Not later than September 16, 1996, each compressor building in a compressor station must have a fixed gas detection and alarm system, unless the building is—

(1) Constructed so that at least 50 percent of its upright side area is permanently open; or

(2) Located in an unattended field compressor station of 1,000 horsepower or less.

(b) Except when shutdown of the system is necessary for maintenance under paragraph (c) of this section, each gas detection and alarm system required by this section must—

(1) Continuously monitor the compressor building for a concentration of gas in air of not more than 25 percent of the lower explosive limit; and

(2) If that concentration of gas is detected, warn persons about to enter the building and persons inside the building of the danger.

(c) Each gas detection and alarm system required by this section must be maintained to function properly. The maintenance must include performance tests.

Issued in Washington, DC, on September 10, 1993.

Rose A. McMurray,

Acting Administrator, Research and Special Programs Administration.

[FR Doc. 93–22552 Filed 9–15–93; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 081993B]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure of the Harpoon category fishery.

SUMMARY: NMFS closes the fishery for Atlantic bluefin tuna conducted by vessels permitted in the Harpoon category and fishing for large medium and giant Atlantic bluefin tuna. Closure of this segment of the fishery is necessary because it has been determined that the annual quota for this category has been attained.

EFFECTIVE DATE: The closure is effective from 0001 hours local time on September 18, 1993, through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Kevin B. Foster at 508–281–9260, or Aaron E. King at 301–713–2347.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971–971h) regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction appear at 50 CFR part 285.

Section 285.22(b) of the regulations provides for an annual quota of 53 metric tons (mt) of large medium and giant Atlantic bluefin tuna to be harvested from the Regulatory Area by vessels permitted in the Harpoon category. In addition, on August 25, 1993, (58 FR 44776), pursuant to authority under § 285.22(f), 7 mt from the reserve was transferred to the Harpoon category for economic and biological data collection purposes. The Assistant Administrator for Fisheries, NOAA (AA) is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The AA is further authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the category of gear subject to the quotas.

Based on landings reports, the AA has determined that the quota of Atlantic bluefin tuna allocated for the Harpoon category will be attained as of September 17, 1993. Fishing for, catching, possessing or landing large medium and giant Atlantic bluefin tuna by vessels in the Harpoon category must cease at 0001 hours September 18, 1993.

Classification

This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

16 U.S.C. 971 *et seq.*

Dated: September 10, 1993.

David S. Crestin,

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

[FR Doc. 93–22619 Filed 9–10–93; 4:48 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 58, No. 178
Thursday, September 16, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1786

Discounted Prepayments on REA Electric Loans

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to allow electric borrowers to prepay their REA notes at a discounted present value. The new subpart establishes policies and procedures to implement the provisions of the Rural Electrification Administration Improvement Act of 1992, and will provide application guidelines to REA borrowers who wish to prepay REA loans at a discounted present value.

DATES: Comments concerning this proposed rule must be received by REA or bear a postmark or its equivalent no later than October 18, 1993.

ADDRESSES: Submit written comments to William E. Davis, Director, Program Support Staff, U.S. Department of Agriculture, Rural Electrification Administration, room 2234-S, 14th and Independence Avenue, SW., Washington, DC 20250–1500. REA requests an original and three copies of all comments (7 CFR part 1700). All comments received will be made available for inspection at room 2234-S (address as above) between 8:30 a.m. and 5 p.m. (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Patrick Shea, Financial Analyst, Program Support Staff, at the address listed above, telephone number (202) 720–0736.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation as established by the Order.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If adopted, this proposed rule:

(1) Will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule;

(2) Will not have any retroactive effect; and

(3) Will not require administrative proceedings before any parties may file suit challenging the provisions of this rule.

Regulatory Flexibility Act Certification

This action does not fall within the scope of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implements the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504 of that Act, a portion of the information collection and recordkeeping requirements contained in this proposed rule have been approved by OMB under control number 0572–0088. The uncleared portion of the information collection requirements have been submitted to OMB for review. Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, room 3201, NEOB, Washington, DC 20503.

National Environmental Policy Act Certification

The Administrator has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under number 10.850 Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A Notice of Final Rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts REA loans from coverage under this Order.

Background

REA is proposing to add a new subpart F to part 1786 to implement Public Law 102–428 cited as the Rural Electrification Administration Improvement Act of 1992. Section 2 of Public Law 102–428 amended Section 306B of the Rural Electrification Act of 1936 (RE Act)(7 U.S.C. 901 *et seq.*) to enable a borrower of REA electric loans to prepay its REA direct and insured loans at the lesser of: (A) The outstanding principal balance of the loan or; (B) the present value of the loan discounted from the face value of each payment at maturity at the rate established by the Administrator. The discount rate applicable to the prepayment of a loan shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan. Before this new legislation was enacted a direct or insured loan made under the Act could not be sold or prepaid at a value that was less than the outstanding principal balance on the loan.

A prior law (Pub. L. 99–509) allowed for a prepayment of REA electric and telephone loans at a discounted present value, but that prepayment had to take place prior to October 1, 1987. Only twenty-nine REA electric borrowers took advantage of that prepayment law. Later, another amendment (Pub. L. 101–624) was passed allowing borrowers that had merged with one of the twenty-nine previous borrowers of electric loans who had prepaid, to prepay at a discounted present value. This prepayment had to take place within one year of the merger. This new law (Pub. L. 102–428) is less restrictive than the prior laws and does not have any

deadline or expiration date. The regulations implementing the prior prepayment programs required that borrowers prepay all of their outstanding REA debt obligations and agree not to apply for any additional REA financial assistance, unless they first repaid the amount of the discount, plus interest.

Public Law 102–428 allows borrowers who prepay at a discount to remain eligible for REA financial assistance, other than direct or insured loans, including rural development loans and grants and loan guarantees. Borrowers may prepay at a discount all, or a portion of, outstanding REA debt provided the loan funds were advanced prior to May 1, 1992, or have been advanced for not less than two years. Borrowers may apply for direct or insured loans 120 months after the date of the most recent prepayment. During the 120-month period, the Administrator may consider providing such a loan if: (1) The loan is necessary to assure repayment of, or to protect, the security for any outstanding Government direct loans, insured loans, or loan guarantees (as defined herein, such direct loans, insured loans, and loan guarantees are those made by the United States, acting through the Administrator, pursuant to Sections 4, 305, and 306 of the RE Act, and thus do not include loans and loan guarantees made pursuant to other authority—e.g., the Farm Credit Act); or (2) the borrower's system has suffered severe physical plant related damage due to conditions beyond its control and the borrower is unable to obtain financing to restore the system from non-REA sources (including the Federal Emergency Management Agency) and is unable to borrow from private sources. This new law also allows those borrowers who prepaid under the prior laws to remain eligible for financial assistance under the RE Act in the same manner as other borrowers who may take advantage of this new law, subject to certain conditions. The most important of these requires that those borrowers who prepaid at a discount based on the average rate on utility bonds bearing a rating of "Aa" as set forth in Moody's Public Utility News Reports pay the difference between that discount and the amount of discount that would have been allowed using the discount rate specified in this regulation which is based on the cost of funds to the U.S. Treasury at the time of prior prepayment plus interest on said difference from the date of that prepayment.

Finally, this regulation sets out the procedure for borrowers who wish to take advantage of this prepayment program.

List of Subjects in 7 CFR Part 1786

Accounting, Administrative practice and procedure, Electric utilities.

For reasons set forth in the preamble, REA proposes to amend Title 7 of the Code of Federal Regulations to add a new subpart F to 7 CFR part 1786 to read as follows:

PART 1786—PREPAYMENT OF REA GUARANTEED AND INSURED LOANS TO ELECTRIC AND TELEPHONE BORROWERS

Subpart F—Discounted Prepayments on REA Electric Loans

Sec.

1786.150 Purpose.
1786.151 Definitions and rules of construction.
1786.152 Prepayments of REA loans.
1786.153 Discounted present value.
1786.154 Qualified Notes.
1786.155 Eligible borrower.
1786.156 Application procedure.
1786.157 Approval of applications.
1786.158 Terms and conditions of prepayment agreement.
1786.159 Outstanding loan documents.
1786.160 Existing wholesale power contracts.
1786.161 Loan fund audit.
1786.162 Records.
1786.163 Approvals.
1786.164 Restrictions to additional REA financing.
1786.165 Borrowers who prepaid under this part prior to October 21, 1992.

Subpart F—Discounted Prepayments on REA Electric Loans

Authority: 7 U.S.C. 901 *et seq.*; Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23, Delegation of Authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72.

§ 1786.150 Purpose.

This subpart sets forth the policies and procedures of REA whereby borrowers may prepay, with private financing or internally generated funds, outstanding REA Notes evidencing electric loans at the discounted present value of the REA Notes, pursuant to the provisions of section 306(B) of the RE Act as amended by Public Law 102–428, 106 Stat. 2183, adopted October 21, 1992.

§ 1786.151 Definitions and rules of construction.

(a) *Definitions.* As used in this subpart:

Administrator means the Administrator of the Rural Electrification Administration (REA).

Borrower means any organization which has an outstanding note(s) evidencing electric loans made by REA, or has previously prepaid such notes under subparts C and E of this part.

Closing shall mean the closing of the prepayment of the Qualified Notes prescribed by the prepayment agreement.

Closing date shall mean any business day identified as such by the Government in its notice delivered to the Company pursuant to § 1786.158.

Construction Fund Account means the Cash—Construction Fund—Trustee Account, maintained by the borrower pursuant to the terms of the outstanding REA Loan Contract.

Direct loan means a loan made pursuant to section 4 of the RE Act.

Discounted present value shall have the meaning set forth in § 1786.153.

Distribution borrower means a borrower that sells electric power and energy at retail in rural areas.

Electric loan means a Direct loan or an Insured loan made for the purpose of furnishing electric energy to persons in rural areas.

Government means the United States of America, acting through the Administrator of the Rural Electrification Administration.

Insured loan means a loan made pursuant to Section 305 of the RE Act.

Lien accommodation means the sharing of the government's (REA's) lien on property, usually all property, covered by the lien of the REA Mortgage.

Loan guarantee means a loan guarantee under Section 306 of the RE Act.

Power supply borrower means a borrower that sells or intends to sell electric power at wholesale to distribution or power supply borrowers pursuant to REA wholesale power contracts.

Prepayment agreement shall have the meaning set forth in § 1786.158.

Qualified Notes shall have the meaning set forth in § 1786.154.

RE Act means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

REA means the Rural Electrification Administration, an agency of the United States Department of Agriculture.

REA Loan Contract means the agreement, as amended, supplemented, or restated from time to time, between a borrower and REA providing for loans or loan guarantees pursuant to the RE Act.

REA Mortgage means collectively those mortgages and security agreements made by and among the borrower, the Government, and third

parties, if appropriate securing indebtedness evidencing electric loans or loan guarantees made pursuant to the RE Act.

Rural development loans means loans or grants made pursuant to Rural development programs.

Rural development programs means loan or grant programs under the authority of the Administrator pursuant to Sections 313, 501, and 502 of the RE Act.

Supplemental lender means a private lender whose loan to the borrower is secured by the REA mortgage.

Tax exempt financing means borrowing evidenced by bonds, notes and other evidence of indebtedness the income of which is excluded from gross income for the purposes of Chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C ch. 1).

(b) *Rules of construction.* Unless the context shall otherwise indicate, the terms defined in § 1786.151 (a) include the plural as well as the singular, and the singular as well as the plural. The words "herein," "hereof" and "hereunder", and words of similar import, refer to this subpart as a whole.

§1786.152 Prepayments of REA loans.

An electric loan made under the RE Act shall not be sold or prepaid at a value that is less than the outstanding principal balance, except that, on request of a borrower, an electric loan made under the RE Act, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be prepaid by the borrower at the lesser of the outstanding principal balance of the loan or the discounted present value thereof.

§1786.153 Discounted present value.

(a) The discounted present value shall be calculated by summing the present values of all remaining payments on all Qualified Notes to be prepaid according to the following formula and adjusted as provided in paragraph (b) of this section if tax exempt financing is used.

Present Value =

$$\sum_{k=1}^{n} \frac{P_k}{\prod_{i=1}^{k}\left[1.0+\left(\frac{D1_i}{365}+\frac{D2_i}{366}\right)I\right]}$$

Where:

The Greek letter, Sigma (Σ) means the sum of the following terms.

The Greek letter, Pi (Π) means the product of the following terms.

P_k = Total payment, including interest due on the K^{th} payment date following the prepayment date.

n = Total number of remaining payment dates.

$D1_i$ = Number of days in the i^{th} payment period that are in a non-leap year (365-day year).

$D2_i$ = Number of days in the i^{th} payment period that are in a leap year (366-day year).

I = The discount rate applied to each transaction will be ascertained by using data specified in the "Federal Reserve Statistical Release" (H.15 (519)), which is published each Monday. The availability of release will be announced when the information is available on (202) 452-3206. See adjustment for tax exempt refinancing at paragraph (b) of this section. The specific discount rate will be based on the discount rate(s) specified in the "Treasury Constant Maturities" section of this publication *eight working days* prior to the closing and will be interpolated from that information as follows:

Remaining maturity of REA loan:		Treasury Constant Maturities
At least	But less than	
# years	# years	
0	2	1-year
2	3	2-year
3	4	3-year
4	5	(1)
5	6	5-year
6	7	(2)
7	8	7-year
8	9	(3)
9	10	(3)
10	11	10-year
11	30	(4)
30	35	30-year

Notes: (1) The arithmetic mean between the 3-year and 5-year Treasury Constant Maturities; i.e., if 3-year rate is 3.00% and the 5-year rate is 4.00% then the rate used would be 3.5%.

(2) The arithmetic mean between the 5-year and 7-year Treasury Constant Maturities computed as above.

(3) A straight line interpolated rate between the 7-year rate and the 10-year rate. (See formula below)

(4) A straight line interpolated rate between the 10-year note and the 30-year Bond using the following formula:

$$I = B + \frac{((C - E)(A - B))}{(F - E)}$$

Where:

I = The discount rate interpolated from the cost of money to the Treasury.

A = The Treasury rate for the most recently published maturity greater than the borrowers remaining maturity. i.e., (if the note to be prepaid has a maturity of more than 10 years then this rate is the 30-year Treasury rate)

B = The Treasury rate for the most recently published maturity less than the borrowers remaining maturity. i.e., (if the note to be prepaid has a maturity of more than 10 years then this term is the 10-year Treasury rate)

C = The remaining full years to maturity of the borrowers note. Drop all fractions of a year and use the remaining full years.

E = The published Treasury term in years for the published term less than the remaining term in years to maturity of the borrowers note. i.e., (if the note to be prepaid has remaining years to maturity between 10 and 30 years then this term would be 10).

F = the published Treasury term in years for the published term greater than the remaining term in years to maturity of the borrowers note, i.e., (if the note to be prepaid has remaining years to maturity between 10 and 30 years then this term would be 30).

Note: The percentage terms used in the above formula will be truncated to two decimal places. For the purpose of the terms A, B, E, and F above the published Treasury rate and term shall mean the Treasury Constant Maturities from the Federal Reserve Statistical Release for 7 years, 10 years, and 30 years.

(b)(1) In the event that the borrower prepays a loan under paragraph (a) of this section using direct or indirect tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is no greater than the benefit the borrower would receive if the borrower used financing that was not tax exempt. The borrower shall certify in writing whether the financing will be tax exempt.

(2) The discount rate established in paragraph (a) of this section shall be adjusted by subtracting from that rate the difference between the state and local bonds interest rate in the most recently published Federal Reserve Statistical Release from the most recently published A utility rate in that publication. The following formula will be used:

$$I_t = I - (A - T_e)$$

Where:

I_t = The tax exempt adjusted discount rate.

I = The discount rate for taxable refinancing.

A = The single A utility rate most recently published with the "Federal Reserve Statistical Release."

T_e = The state & local bonds interest rate most recently published with the "Federal Reserve Statistical Release."

Note: The I_t term calculated above as the tax exempt adjusted discount rate will be substituted for the I term in the Present Value formula in paragraph (a) of this section. If the result of the above adjustment results in the borrower prepaying more than the principal outstanding on the note to be prepaid, the principal amount outstanding will be the required prepayment. See § 1786.152.

§ 1786.154 Qualified Notes.

An eligible borrower may prepay Qualified Notes hereunder at the discounted present value. A Qualified Note is a note evidencing an REA electric loan, all advances of which were made prior to May 1, 1992, or for not less than 2 years prior to the date of prepayment. See § § 1786.155(d) and 1786.158 (h) and (j).

§ 1786.155 Eligible borrower.

To be eligible to prepay an electric loan hereunder, the borrower must be in compliance with the following:

(a) The borrower shall be current on all payment obligations on outstanding loans made or guaranteed by REA. For the purpose of determining eligibility for prepayment, a default by a power supply borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower;

(b) There shall exist no material defaults under the borrower's REA Loan Contract and Mortgage;

(c) The borrower shall not have had any indebtedness representing loans made or guaranteed by REA restructured;

(d) The borrower shall have expended all funds advanced pursuant to the REA Loan Contract for the purposes for which such funds were advanced. A borrower will not be eligible to prepay hereunder if it has any funds advanced pursuant to the REA Loan Contract in its Construction Fund Account; and

(e) The borrower shall be current on all obligations under any wholesale power contract with an REA financed power supply borrower.

§ 1786.156 Application procedure.

Any borrower seeking to prepay Qualified Notes under this subpart should apply to the appropriate REA Regional Director or the Director of the Power Supply Division not less than 60 days prior to the projected closing date. The application shall provide the following:

(a) Borrower's REA designation;

(b) Borrower's name and address;

(c) A certified copy of a resolution of the board of directors of the borrower that the borrower wishes to enter into a prepayment agreement providing for the prepayment of all or a portion of its Qualified Notes;

(d) Listing of each Qualified Note to be prepaid by loan designation, REA account number, advance date, maturity date, original amount, and outstanding balance;

(e) Evidence that the borrower has the ability to obtain the financing necessary to prepay its Qualified Notes listed in paragraph (d) of this section and identification of the source of financing and the need if any of obtaining a lien accommodation from REA; and

(f) Such additional information as the Administrator may request.

§ 1786.157 Approval of applications.

(a) The applications will ordinarily be reviewed and, the borrower will be notified promptly as to whether its application has been approved. If the application has not been approved, the borrower will be informed as to the reasons. If the application is approved the borrower shall thereafter be provided with a prepayment agreement for execution, and a closing will be scheduled pursuant to the terms of the prepayment agreement.

(b) The Administrator may limit the number of applications approved and closings scheduled from time to time, taking into account, among other matters, administrative considerations of the REA.

§ 1786.158 Terms and conditions of prepayment agreement.

Upon receipt of a satisfactory application, REA shall provide to the borrower for its execution a prepayment agreement, in form and substance satisfactory to REA which may include the following:

(a) Provide for the prepayment of one or more Qualified Notes from time to time, but no more than two closings may be scheduled in any calendar year unless a third closing is for the prepayment of all outstanding electric loans of the borrower;

(b) Set forth procedures and forms pursuant to which the borrower will notify REA not less than 60 days nor more than 90 days before a prepayment. The notice will identify the REA Qualified Note(s) and a requested closing date, which shall be a scheduled monthly or quarterly payment date;

(c) Reserve to the Administrator the right to reschedule closing dates to meet administrative considerations;

(d) Set forth closing requirements identifying the location and manner of payment, and all documentation and information to be delivered at closing, including opinions of counsel and certificates from the borrower;

(e) Provide for notice to be given by REA to the borrower not more than 8 nor less than 3 business days before scheduled closing date of the amount to be paid at closing which shall include all accrued interest and the discounted present value of the Qualified Notes to be prepaid;

(f) Provide for notice of the 120 month period during which the borrower's eligibility for direct or insured loans will be restricted;

(g) Set forth representations and warranties;

(h) Require the borrower to prepay each Qualified Note specified in full;

(i) Require the borrower to identify the source of the financing that will be used directly or indirectly to refinance the Qualified Notes. If the source is other than internally generated funds, the borrower must certify in writing whether such financing will be tax exempt, and if tax exempt financing will be used, furnish all information on the terms and conditions of the financing as REA may require;

(j) Require the borrower to rescind the unadvanced balance of all outstanding electric loans as of the date of its application for prepayment;

(k) Require the borrower, if it is a party to a wholesale power contract with a power supply borrower, to provide the Administrator with such assurances as the Administrator may require that it is in compliance with and will continue to comply with its obligation to such power supply borrower;

(l) Provide REA, if the Administrator determines it necessary, with security for all outstanding rural development loans and amendments to any outstanding rural development loan agreements in form and substance satisfactory to REA;

(m) Prescribe remedies for violating the terms and conditions of the prepayment agreement;

(n) Provide for termination by REA of the right for the borrower to prepay thereunder;

(o) Provide evidence that any approvals required from any supplemental lender have been obtained; and

(p) Set forth such other terms and conditions as the Administrator shall deem appropriate.

§ 1786.159 Outstanding loan documents.

(a) Except as expressly provided in this subpart, the borrower shall comply with all provisions of its REA Loan

Contract, its outstanding notes issued to REA, and the REA Mortgage.

(b) Nothing in this subpart shall affect any rights of supplemental lenders under the REA Mortgage, or other creditors of the borrower.

(c) Nothing in this subpart shall prohibit a borrower from making prepayments of any loans pursuant to the RE Act in accordance with the terms thereof.

§ 1786.160 Existing wholesale power contracts.

(a) If the borrower is a party to a wholesale power contract with a power supply borrower financed pursuant to the RE Act the Administrator may require that the borrower and the power supply borrower enter into a supplement to the outstanding wholesale power contract providing substantially as follows:

So long as any of the notes evidencing secured loans of the power supply borrower are outstanding, the borrower will not, without the approval in writing of the power supply borrower and the Administrator, take or suffer to be taken any steps for reorganization or to consolidate with or merge into any corporation, or to sell, lease or transfer (or make any agreement therefor) all or a substantial portion of its assets, whether now owned or hereafter acquired. The power supply borrower will not unreasonably withhold or condition its consent to any such, reorganization, consolidation, or merger, or to any such sale, lease or transfer (or any agreement therefor) of assets. The power supply borrower will not withhold or condition such consent except in cases where to do otherwise would result in rate increases for the other members of the power supply borrower or impair the ability of the power supply borrower to repay its secured loans in accordance with their terms. Notwithstanding the foregoing, the borrower may take or suffer to be taken any steps for reorganization or to consolidate with or merge into any corporation or to sell, lease or transfer (or make any agreement therefor) all or a substantial portion of its assets, whether now owned or hereafter acquired without the power supply borrower's consent, so long as the borrower shall pay such portion of the outstanding indebtedness on the power supply borrower's notes as shall be determined by the power supply borrower with the prior written consent of the Administrator and shall otherwise comply with such reasonable terms and conditions as the Administrator and power supply borrower may require either:

(1) To eliminate any adverse effect that such action seems likely to have on the rates of the other members of the power supply borrower, or

(2) To assure that the power supply borrower's ability to repay the secured loans and other obligations of the power supply borrower in accordance with their terms is not impaired.

(b) Any payment owed under clause (1) in paragraph (a) of this section which represents a portion of the power supply borrower's indebtedness on notes shall be paid by the borrower directly to the holders of such notes for application by them as prepayments in accordance with the loan documents relating thereto.

§ 1786.161 Loan fund audit.

In the event that a borrower shall prepay all its outstanding electric loans REA shall have the right to audit within six (6) months of closing transactions involving the REA Construction Fund Account established and maintained by the borrower pursuant to the terms of the REA Loan Contract and to inspect all books, records, accounts, and other documents and papers of the borrower. Should REA determine that the borrower has made disbursements of funds advanced pursuant to the REA Loan Contracts which do not comply with the requirements thereof, the borrower shall be required to pay the REA an amount equal to the difference between the amount which the borrower prepaid hereunder with respect to such advances, and the amount which the borrower would otherwise have been required to return to the REA as a result of noncompliance if the borrower had not prepaid such advances, plus interest. (See 7 CFR Part 1721, Post—Loan Policies and Procedures for Insured Electric Loans.)

§ 1786.162 Records.

(a) If a borrower with outstanding rural development loans, shall prepay all outstanding electric loans, the records of such borrower, including records relating to rural development loans, shall be subject to the auditing procedures prescribed in 7 CFR part 1773, for so long as such rural development loans remain outstanding. REA reserves the right to review the records of the borrower relating to rural development loans to determine if the borrower is in compliance with REA guidelines.

(b) Borrowers who prepay all loans made or guaranteed by REA and are considering applying for other financial assistance pursuant to the RE Act are encouraged to file the end-of-year operating report, REA Form 7.

§ 1786.163 Approvals.

The borrower shall be responsible for obtaining all approvals necessary to consummate the transaction as required by the prepayment agreement, including such approvals as may be required by regulatory bodies and other lenders.

§ 1786.164 Restrictions to additional REA financing.

(a) No borrower that prepays its electric loan at a discount as provided hereunder may apply for or receive direct or insured loans during the 120 months from the most recent closing date, except at the discretion of the Administrator. During the 120 month period the Administrator may consider providing a direct or insured loan if:

(1) It is necessary to assure repayment of or to protect the security for any outstanding Government direct loans, insured loans, or loan guarantees; or

(2) The borrower's system has suffered severe physical plant related damage due to conditions beyond its control and the borrower is unable to obtain financing to restore the system from non-REA sources, including the Federal Emergency Management Agency, and is unable to borrow from private sources.

(b) Upon expiration of the 120 months, such borrowers may apply for direct or insured loans in the same manner as other borrowers provided that such borrowers may not apply for direct or insured loans for facilities, construction of which commenced prior to the expiration of the 120 months.

(c) Borrowers that prepay their direct or insured REA loans under this subpart remain eligible for certain types of financial assistance under the RE Act, including loan guarantees and rural development loans.

§ 1786.165 Borrowers who prepaid under this part prior to October 21, 1992.

(a) A borrower that had prepaid, prior to the date of enactment of Public Law 102–428 (106 Stat. 2183) on October 21, 1992, at a discount rate as provided at part 1786, subpart C:

(1) Shall not be eligible except as stated in § 1786.164(a), to apply for or receive direct or insured loans during the 180-month period beginning on the date of the prepayment; and

(2) Shall not be eligible to apply for or receive direct or insured loans from REA until the borrower has repaid to the REA the sum of:

(i) The amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury as calculated at § 1786.153 of this subpart at the time of the prepayment; and

(ii) Interest on the amount described in paragraph (a)(2)(i) of this section for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the

average annual cost of borrowing by the Department of the Treasury. This rate will be calculated first on the date of prepayment and at one year intervals from that date based on the same U.S. Treasury issues published in the Federal Reserve Statistical Release closest to that date. The Treasury rate of interest to be applied for each year will be the rate for the Treasury issue of comparable maturity to the number of years from the prepayment date to the repayment date and at one year intervals thereafter.

(b) Effect on existing agreements. If a borrower and the Administrator have entered into an agreement with respect to a prepayment occurring before October 21, 1992, this section (§ 1786.165) shall supersede any provision in the agreement relating to the restoration of eligibility for loans under the RE Act.

(c) Borrowers who prepaid prior to October 1, 1987, will have to meet the requirements of paragraph (a)(2) of this section to be eligible for assistance under the RE Act in the same manner as other borrowers with respect to loan guarantees and the rural development loans.

(d) During the 180 month period described in paragraph (a)(1) of this section the Administrator may consider providing an insured loan, if, the conditions described in § 1786.164(a) exist.

(e) Borrowers may not apply for direct or insured loans for facilities, construction of which commenced prior to the expiration of the 180 month period described in paragraph (a)(1) of this section.

Dated: September 9, 1993.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

NOTE: This appendix will not appear in the Code of Federal Regulations.

Appendix A to This Proposed Rule—Federal Reserve Statistical Release and Sample Interpolation

Sample for Information Only

FEDERAL RESERVE STATISTICAL RELEASE

These data are released each Monday. The availability of the release will be announced when the information is available on (202) 452–3206.

H.15 (519)

For immediate release February 16, 1993.

SELECTED INTEREST RATES

[Yields in percent per annum]

Instruments	1993 Feb 8	1993 Feb 9	1993 Feb 10	1993 Feb 11	1993 Feb 12	Week ending Feb 12	Week ending Feb 5	1993 Jan
Federal funds (effective)[1 2 3]	2.94	2.90	2.88	2.97	2.95	2.95	3.15	3.02
Commercial paper[3 4 5]								
1-month	3.14	3.13	3.14	3.14	3.16	3.14	3.16	3.21
3-month	3.18	3.18	3.18	3.19	3.19	3.18	3.21	3.25
6-month	3.27	3.27	3.27	3.28	3.27	3.27	3.31	3.35
Finance paper placed directly[3 4 6]								
1-month	3.17	3.17	3.18	3.19	3.21	3.18	3.20	3.25
3-month	3.27	3.28	3.28	3.29	3.28	3.28	3.29	3.32
6-month	3.21	3.21	3.22	3.23	3.22	3.22	3.22	3.29
Bankers acceptances (top rated)[3 4 7]								
3-month	3.05	3.08	3.08	3.05	3.05	3.06	3.09	3.14
6-month	3.15	3.18	3.20	3.15	3.15	3.17	3.18	3.23
CDs (secondary market)[3 8]								
1-month	3.07	3.08	3.08	3.08	3.09	3.08	3.08	3.14
3-month	3.10	3.13	3.13	3.13	3.11	3.12	3.14	3.19
6-month	3.23	3.22	3.26	3.27	3.24	3.24	3.26	3.33
Eurodollar deposits (London)[3 9]								
1-month	3.06	3.00	3.00	3.00	3.06	3.03	3.05	3.09
3-month	3.13	3.13	3.13	3.13	3.13	3.13	3.18	3.22
6-month	3.25	3.25	3.25	3.31	3.25	3.26	3.29	3.37
Bank prime loan[2 3 10]	6.00	6.00	6.00	6.00	6.00	6.00	6.00	6.00
Discount window borrowing[2 11]	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00
U.S. government securities								
Treasury bills								
Auction average[3 4 12]								
3-month	2.94					2.94	2.97	3.06
6-month	3.09					3.09	3.10	3.17
1-year						3.32		3.52
Auction average (investment)[12]								
3-month	3.00					3.00	3.04	3.13
6-month	3.18					3.18	3.19	3.27
Secondary market [3 4]								
3-month	2.92	2.93	2.94	2.92	2.93	2.93	2.92	3.00
6-month	3.09	3.10	3.13	3.09	3.09	3.10	3.10	3.14
1-year	3.30	3.34	3.36	3.31	3.30	3.32	3.26	3.35
Treasury constant maturities[13]								
1-year	3.43	3.47	3.50	3.44	3.43	3.45	3.41	3.50
2-year	4.16	4.20	4.27	4.20	4.20	4.21	4.19	4.39
3-year	4.64	4.72	4.79	4.72	4.70	4.71	4.70	4.93
5-year	5.49	5.55	5.63	5.58	5.57	5.56	5.55	5.83
7-year	5.93	5.98	6.06	6.02	6.00	6.00	5.98	6.26
10-year	6.37	6.41	6.40	6.37	6.35	6.38	6.40	6.60

SELECTED INTEREST RATES—Continued

[Yields in percent per annum]

Instruments	1993 Feb 8	1993 Feb 9	1993 Feb 10	1993 Feb 11	1993 Feb 12	Week ending Feb 12	Week ending Feb 5	1993 Jan
30-year	7.18	7.20	7.26	7.15	7.13	7.18	7.21	7.34
Composite								
Over 10 years (long term)[14]	6.94	6.96	7.02	6.98	6.97	6.97	6.98	7.17
Corporate bonds								
Moody's seasoned								
AAA	7.77	7.76	7.76	7.74	7.71	7.75	7.78	7.91
BAA	8.49	8.49	8.52	8.50	8.44	8.49	8.50	8.67
A-utility[15]					7.85	7.85	7.88	8.13
State & local bonds[16]				5.97		5.97	6.04	6.16
Conventional mortgages[17]					7.75	7.75	7.80	8.02

1. The daily effective federal funds rate is a weighted average of rates on trades through N.Y. brokers.
2. Weekly figures are averages of 7 calendar days ending on Wednesday of the current week; monthly figures include each calendar day in the month.
3. Annualized using a 360-day year or bank interest.
4. Quoted on a discount basis.
5. An average of offering rates on commercial paper placed by several leading dealers for firms whose bond rating is AA or the equivalent.
6. An average of offering rates on paper directly placed by finance companies.
7. Representative closing yields for acceptances of the highest rated money center banks.
8. An average of dealer offering rates on nationally traded certificates of deposits.
9. Bid rates for Eurodollar deposits at 11 a.m. London time.
10. One of several base rates used by banks to price short-term business loans.
11. Rate for the Federal Reserve Bank of New York.
12. Auction date for daily data; weekly and monthly averages computed on an issue-date basis.
13. Yields on actively traded issues adjusted to constant maturities. Source: U.S. Treasury.
14. Unweighted average of rates on all outstanding bonds neither due nor callable in less than 10 years.
15. Estimate of the yield on a recently offered, A-rated utility bond with maturity of 30 years and call protection of 5 years; Friday quotations.
16. Bond Buyer Index, general obligation, 20 years to maturity, mixed quality; Thursday quotations.
17. Contract interest rates on commitments for fixed-rate first mortgages. Source: FHLMC.

Note: Weekly and monthly figures are averages of business days unless otherwise noted.

Description of the Treasury Constant Maturity Series

Yields on Treasury securities at constant maturity are interpolated by the U.S. Treasury from the daily yield curve. This curve, which relates the yield on a security to its time to maturity, is based on the closing market bid yields on actively traded Treasury securities in the over-the-counter market. These market yields are calculated from composites of quotations reported by five leading U.S. Government securities dealers to the Federal Reserve Bank of New York. The constant maturity yield values are read from the yield curve at fixed maturities, currently 1, 2, 3, 5, 7, 10, and 30 years. This method provides a yield for a 10-year maturity, for example, even if no outstanding security has exactly 10 years remaining to maturity.

Sample for Information Only

SAMPLE INTERPOLATION

INTEREST RATE AND DEBT SERVICE

RTB Loans for the week of: 02/16/93
10-Yr Treasury Constant Maturity: 6.38%
30-Yr Treasury Constant Maturity: 7.18%

Loan Term	Amort. Period	Interest Rate	Debt Service	Payment/$1,000
13	11	6.50%	12.744%	$10.62
14	12	6.53%	12.036%	$10.03
15	13	6.58%	11.460%	$9.55
16	14	6.62%	10.980%	$9.15
17	15	6.66%	10.560%	$8.80
18	16	6.70%	10.200%	$8.50
19	17	6.74%	9.900%	$8.25
20	18	6.78%	9.636%	$8.03
21	19	6.82%	9.408%	$7.84
22	20	6.86%	9.204%	$7.67
23	21	6.90%	9.024%	$7.52
24	22	6.94%	8.880%	$7.40
25	23	6.98%	8.748%	$7.29
26	24	7.02%	8.628%	$7.19
27	25	7.06%	8.532%	$7.11
28	26	7.10%	8.436%	$7.03
29	27	7.14%	8.364%	$6.97
30	28	7.18%	8.304%	$6.92
31	29	7.18%	8.208%	$6.84
32	30	7.18%	8.124%	$6.77

INTEREST RATE AND DEBT SERVICE—Continued

RTB Loans for the week of: 02/16/93
10-Yr Treasury Constant Maturity: 6.38%
30-Yr Treasury Constant Maturity: 7.18%

Loan Term	Amort. Period	Interest Rate	Debt Service	Payment/$1,000
33	31	7.18%	8.052%	$6.71
34	32	7.18%	7.992%	$6.66
35	33	7.18%	7.932%	$6.61

DATE	30-YEAR RATE	10-YEAR RATE
01/11/93	7.38%	6.57%
01/19/93	7.43%	6.68%
01/25/93	7.31%	6.59%
02/01/93	7.23%	6.46%
02/08/93	7.21%	6.40%
02/16/93	7.18%	6.38%

[FR Doc 93–22623 Filed 9–15–93; 8:45 am]
BILLING CODE 3410–15–F

DEPARTMENT OF JUSTICE

28 CFR Part 58

Qualifications for Trustees

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice is proposing to amend the qualifications required for membership on panels of trustees and for appointment as a standing trustee. In addition, the Department is proposing to make certain technical amendments to 28 CFR part 58.

DATES: Written comments must be submitted on or before October 18, 1993.

ADDRESSES: Please submit written comments to the General Counsel, Executive Office for the United States Trustees, 901 E Street, NW., room 780, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Patrick Tinker, Attorney-advisor, telephone (202) 307–1399. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The United States Trustees ("U.S. Trustees") appoint private trustees to serve in bankruptcy cases filed under title 11 of the United States Code. Pursuant to 28 U.S.C. 586(d), the Attorney General is required to prescribe by rule qualifications for membership on panels from which the U.S. Trustees appoint trustees to serve in specific bankruptcy cases filed under chapter 7 of the Bankruptcy Code (11 U.S.C. 701–766). In addition, the Attorney General is required to prescribe by rule qualifications for appointment as a standing trustee in cases filed under chapters 12 and 13 of the Bankruptcy Code (11 U.S.C. 1201–1231, 1301–1330). The qualifications prescribed by the Attorney General pursuant to 28 U.S.C. 586(d) are found at 28 CFR 58.3, 58.4. The proposed rule amends these qualifications by adding a requirement that the applicant have three years of either bankruptcy experience or experience as a fiduciary. In addition, the proposed rule clarifies that the U.S. Trustees have authority not only to establish panels of trustees in the first instance, but also to revise and periodically reconstitute such panels. Last, the proposed rule sets forth certain technical amendments to 28 CFR part 58.

The information collection requirements contained in this proposed rule have been forwarded to the Office of Management and Budget, under the provisions of the Paperwork Reduction Act, for review and clearance.

List of Subjects in 28 CFR Part 58

Bankruptcy, Trusts and trustees.

For the reasons set forth in the preamble, the Department of Justice proposes to amend 28 CFR part 58 as follows:

PART 58—REGULATIONS RELATING TO THE BANKRUPTCY REFORM ACT OF 1978

1. The authority citation for part 58 is revised to read as follows:

Authority: 28 U.S.C. 509, 510, 586.

2. Section 58.1 is amended by revising paragraph (a) to read as follows:

§ 58.1 Authorization to establish panels of private trustees.

(a) Each U.S. Trustee is authorized to establish, revise, and periodically reconstitute a panel of private trustees (the "panel") pursuant to 28 U.S.C. 586(a)(1).

* * * * *

3. Section 58.3 is revised to read as follows:

§ 58.3 Qualification for membership on panels of private trustees.

(a) To be eligible for appointment to the panel and to retain eligibility therefor, an individual must possess the qualifications described in paragraph (b) of this section in addition to any other statutory qualifications. A corporation or partnership may qualify as an entity for appointment to the private panel. However, each person who, in the opinion of the U.S. Trustee and the Director, performs duties as trustee on behalf of a corporation or partnership must individually meet the standards described in paragraph (b) of this section.

(b) In order to qualify for membership on the panel, a person must:

(1) Possess integrity and good moral character;

(2) Be physically and mentally able to satisfactorily perform a trustee's duties;

(3) Be courteous and accessible to all parties with reasonable inquiries or comments about a case for which such individual is serving as private trustee;

(4) Be free of prejudices against any individual, entity, or group of individuals or entities that would interfere with unbiased performance of a trustee's duties;

(5) Be unrelated by affinity or consanguinity within the degree of first cousin to any employee of the Executive Office for United States Trustees, or to any employee of the office of the U.S. Trustee for the district in which he or she is applying;

(6)(i) Be a member in good standing of the bar of the highest court of a state or of the District of Columbia;

(ii) Be a certified public accountant;

(iii) Hold a bachelor's degree from a full four-year course of study (or the equivalent) of an accredited college or university (accredited as described in Part II, Section III of Handbook X118 promulgated by the United States Office of Personnel Management) with a major in a business-related field of study or at least 20 semester-hours of business-related courses; or hold a master's or doctoral degree in a business-related field of study from such a college or university; or

(iv) Have equivalent experience as deemed acceptable by the U.S. Trustee;

(7)(i) Have a minimum of three years of bankruptcy experience that includes representation of parties in cases filed under title 11 of the United States Code or experience in the discovery and liquidation of estate assets in such cases, and demonstrate good knowledge of federal bankruptcy laws, rules and procedures; or

(ii) Have a minimum of three years of experience as a fiduciary, which includes, but is not limited to, service as executor, administrator, or guardian in the probate of estates, service as trustee, receiver, custodian, surety, or service in any other capacity in which property or funds are collected, held, and disbursed for the benefit of others; and

(8) Submit an application under oath, in the form prescribed by the Director, to the U.S. Trustee for the district in which appoint is sought.

4. Section 58.5 is amended by revising the last sentence to read as follows:

§58.5 Non-discrimination in appointment.

* * * Each U.S. Trustee shall be guided by the policies and requirements of Executive Order 11478 of August 8, 1969, as amended, relating to equal employment opportunity in the Federal Government, section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e–16), section 15 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 633a), section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the regulations of the Department of Justice relating to discrimination on the basis of handicap (28 CFR part 39), and the regulations of the Office of Personnel Management relating to equal employment opportunity (5 CFR part 720).

Dated: September 3, 1993.

Janet Reno,

Attorney General.

[FR Doc. 93–22592 Filed 9–15–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8–R]

RIN–720–AA19

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Improved Dependents' Dental Plan

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements the Civilian Health and Medical Program for the Uniformed Services. The proposed rule establishes an expanded dental program for dependents of active duty members of the Uniformed Services. The amendment specifically describes: the enhanced benefit structure; enrollment and eligibility requirements; premium cost-sharing; and benefit payment levels. We believe the provisions of this amendment will provide military families with the high quality of care they desire at an affordable price.

DATES: Written comments must be received on or before October 18, 1993.

ADDRESSES: Forward to Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Development Branch, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: David E. Bennett, Office of Program Development, OCHAMPUS, Aurora, Colorado 80045–6900, telephone (303) 361–1094.

SUPPLEMENTARY INFORMATION: The Basic Dependents' Dental Plan was implemented on August 1, 1987, allowing military personnel to voluntarily enroll their dependents in a dental health care program that includes diagnostic and preventative benefits, as well as simple restoration services. Under this program, DoD shares the cost of the premium with the military sponsor. Although the program was viewed as a major step in benefit enhancement for military families, with enrollment levels reaching as high as 60 percent, there were still complaints that the enabling legislation was too restrictive in scope and that there should be expansion of services to better meet the needs of the military family.

Congress responded to these concerns by authorizing the Secretary of Defense to develop and implement an Improved Dependents' Dental Plan (The Defense Authorization Act for Fiscal Year 1993, Pub. L. 102–484, section 701, Revisions to Dependents' Dental Program Under CHAMPUS). The provisions of this Act specified the expanded benefit source, as well as maximum monthly premiums for members and their families. Cost-sharing levels for the expanded benefits were left up to the discretion of the Secretary of Defense after consultation with the other administering Secretaries.

Coverage/Benefits

Under the current Basic Dependents' Dental Program, coverage is limited to two categories of dental benefits: (1) Diagnostic, oral examination, preventive services and palliative emergency care paid at the lower of the actual charge or 100 percent of the insurer's determined allowable charge; and (2) basic restorative services of amalgam and composite restorations and stainless steel crowns for primary teeth, and dental appliance repairs paid at 80 percent of the allowable charge. Payment to a participating provider is considered payment in full, less the 20 percent cost-share of the allowable charge for restorative services. Nonparticipating providers are paid the same amounts; however, the beneficiary is responsible for the amount of the charge for all services above the allowable charge, except when the dental plan is unable to identify a participating provider of care within 35 miles of the dependent's place of residence with appointment availability within 21 calendar days.

Under the Improved Dependents' Dental Plan, Congress has authorized a broad range of dental services, the payment levels of which are based on actuarial projections and budgeted program costs. The enhanced plan includes those services currently offered under the Basic Dependents' Dental Plan (examinations, x-rays, cleanings, sealants, fillings) along with the following expanded benefit categories and payment levels:

Covered benefits	Payment levels (percent)
• Sealants	80
• Endodontics (root canal treatment)	[1] 50
• Periodontics (treatment of gum disease)	[1] 50
• Oral Surgery (extractions)	[1] 50
• Prosthodontics (bridges and dentures)	50
• Orthodontics (braces)	50
• Crowns and Casts	50

[1] The government cost-share will not be less than 50 percent of the insurer's determined allowable charges for these categories of dental services.

Preventative and diagnostic services will continue to be paid at 100 percent of the insurer's allowable charge, with the exception of sealants which will now be paid at the 80 percent level. Basic restorative services will also remain at the current level (80 percent of the allowable). The beneficiary or sponsor will be responsible for the difference between the insurer's allowable charge and the established payment level for each category of

benefit. This cost-share amount will represent the beneficiary's or sponsor's total liability when dealing with participating providers.

The new benefit program will also be limited by an annual maximum amount of not less than $1000 per beneficiary for non-orthodontic dental care and not less than a $1000 lifetime limit per beneficiary for orthodontia.

Enrollment

The Basic Dependent's Dental Plan will terminate upon implementation of the improved plan. The effective date of this change is 30 days from date of publication of the final rule in the **Federal Register**. Enrollment in the Improved Dependents' Dental Plan will be automatic for all active duty families in the United States, Puerto Rico, Guam and the U.S. Virgin Islands, whose military sponsors are known to have at least 24 months remaining in service, and for those dependents currently enrolled in the Basic Dependents' Dental Plan regardless of their sponsors' remaining time in service. Enrollment criteria for sponsors outside the continental United States remains unchanged.

Those who intend to remain in the service for 24 or more months, whose families are not automatically enrolled in the new plan, may enroll them at their military personnel office by completing DD Form 2494, Uniformed Services Active Duty Dependent Dental Plan (DDP) Enrollment Election. DS Form 2494–1, Supplemental Uniformed Services Active Duty Dependent Dental Plan (DDP) Enrollment Form, should be used when dependents are residing in two or more physically separate locations.

Service members who want to remove their families from the new plan may do so during the one-month period before the date on which the expanded plan goes into effect, and for 4 months after the beginning date. They will receive a full refund of all premiums deducted, so long as the program has not been used following the implementation date. Use of the new plan during the disenrollment period will constitute acceptance of the plan by the military sponsor and his or her family. Once the new plan is used, the family cannot be disenrolled, and the premiums will not be refunded.

Premium Payments

Monthly premiums for the new plan are $9.65 for a single member, and $19.30 for two or more family members. Payroll deductions for the new premiums will begin a month prior to the starting date of the expanded benefit. These premium rates were selected to maximize benefits while at the same time maintaining an approximate 60 percent government/40 percent sponsor cost-share specified in congressional reports and meet appropriated budget levels. These premiums will remain in effect for a minimum of 16 months. There will be no reductions in premiums for enlisted members in pay grades E–4 and below.

Regulatory Procedures

Executive Order 12291 requires that a regulatory impact analysis be performed on any major rule. A "major rule" is defined as one which would result in an annual effect on the national economy of $100 million or more, or which would have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This proposed rule is not a major rule under Order 12291. The changes set forth in this proposed rule are minor revisions to existing regulation. In addition, this proposed rule will have very minor impact and will not significantly affect a substantial number of small entities. In light of the above, no regulatory impact analysis is required.

We also certify that this proposed rule has been reviewed under the provisions of the October 23, 1991, Executive Order on Civil Justice Reform. This proposed rule meets all applicable standards provided in that executive order.

This proposed rule does not impose information collection requirements. Therefore, it does not need to be reviewed by the Executive Office of Management and Budget under authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511.)

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military personnel.

Accordingly, 32 CFR, part 199, is proposed to be amended as follows:

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 1079, 1086.

2. Section 199.13 is proposed to be amended as follows:

a. By removing paragraphs (c)(5)(v) and (c)(5)(vi); (e)(2)(iii); and (e)(3)(iii).

b. By redesignating paragraphs (c)(5)(vii) as (c)(5)(v); (e)(2)(iv), (e)(2)(v), (e)(2)(vi), and (e)(2)(vii) as (e)(2)(viii), (e)(2)(ix), (e)(2)(x), and (e)(2)(xi); and (e)(3)(iv) and (e)(3)(v) as (e)(3)(v) and (e)(3)(vi).

c. Paragraph (b) by adding definitions "endodontics," "oral surgery," "orthodontics," "periodontics," "prosthodontics," and "sealants" and placing them in alphabetical order; by adding paragraphs (e)(2)(i)(B)(*4*); (e)(2)(iii), (e)(2)(iv), (e)(2)(v), (e)(2)(vi), and (e)(2)(vii); (e)(3)(iii) and (e)(3)(iv); and (e)(3)(vii).

d. By revising the section heading; paragraphs (c)(3) and (c)(4); (e)2)(i)(C); (e)(2)(ii); (e)(3)(i) and (e)(3)(ii); and newly redesignated (e)(3)(v) and (e)(3)(vi); (f)(1)(vi) and (f)(1)(vii) introductory text; (g)(2) and (g)(3) introductory text.

§ 199.13 Dependents' dental plan.

* * * * *

(b) * * *

Endodontics. The etiology, prevention, diagnosis, and treatment of diseases and injuries affecting the dental pulp, tooth root, and periapical tissue as further defined in paragraph (e) of this section.

* * * * *

Oral Surgery. Surgical procedures performed in the oral cavity as further defined in paragraph (e) of this section.

Orthodontics. The supervision, guidance, reduction, correction, and elimination of an existing malocclusion and its sequelae as further defined in paragraph (e) of this section.

* * * * *

Periodontics. The examination, diagnosis, and treatment of diseases affecting the supporting structures of the teeth as further defined in paragraph (e) of this section.

* * * * *

Prosthodontics. The diagnosis, planning, making, insertion, adjustment, relinement, and repair of artificial devices intended for the replacement of missing teeth and associated tissues as further defined in paragraph (e) of this section.

* * * * *

Sealants. A resinous material designed for application on the occlusal surfaces of specified teeth to seal the surface irregularities to prevent ingress of oral fluids, food, and debris.

(c) * * *

(3) *Enrollment*

(i) *Basic active duty dependents' dental benefit plan.* The dependents, dental plan is effective from August 1, 1987, up to the date of implementation of the Improved Active Duty Dependents' Dental Benefit Plan.

(A) *Initial enrollment.* Eligible dependents of members on active duty

status as of August 1, 1987 are automatically enrolled in the Active Duty Dependents' Dental Plan, except where any of the following conditions apply:

(*1*) Remaining period of active duty at the time of contemplated enrollment is expected by the active duty member or the Uniformed Service to be less than two years, except that such members' dependents may be enrolled during the initial enrollment period for benefits beginning August 1, 1987 provided that the member has at least six months remaining in the initial enlistment term. Enrollment of dependents is for a period of 24 months, subject to the exceptions provided in paragraph (c)(5) of this section.

(*2*) Active duty member has completed an election to disenroll his or her dependents from the Basic Active Duty Dependents' Dental Benefit Plan.

(*3*) Active duty member has only one dependent who is under four years of age as of August 1, 1987, and the member does not complete an election form to enroll the child.

(B) *Subsequent enrollment.* Eligible active duty members may elect to enroll their dependents for a period of not less than 24 months, provided there is an intent to remain on active duty for a period of not less than two years by the member and the Uniformed Service.

(C) *Inclusive family enrollment.* All eligible dependents of the active duty member must be enrolled if any are enrolled, except that a member may elect to enroll only those dependents who are remotely located from the member (e.g., a child living with a divorced spouse or a child in college).

(ii) *Improved active duty dependents' dental benefit plan.* The expanded dependents' dental plan is effective 30 days from the date of publication of the final rule in the **Federal Register**. The Basic Active Duty Dependents' Dental Benefit Plan terminates upon implementation of the improved plan.

(A) *Initial enrollment.* Enrollment in the Improved Active Duty Dependents' Dental Benefit Plan will be automatic for all eligible dependents of active duty members known to have at least 24 months remaining in service, and for those dependents currently enrolled in the Basic Dependents' Dental Benefit Plan regardless of the military member's remaining time in service unless the active duty member elects to disenroll his or her dependents during the one-time disenrollment option period (one-month period before the date on which the expanded plan goes into effect, and for 4 months after the beginning date). Those active duty members who intend to remain in the service for 24 months or more, whose dependents are not automatically enrolled, may enroll them at their military personnel office by completing the appropriate Uniformed Services Active Duty Dependents' Dental Plan Enrollment Election Form.

Note: Use of the new plan during the one-time disenrollment option period by a dependent currently enrolled in the Basic Dependents' Dental Benefit Plan, constitutes acceptance of the plan by the military sponsor and his or her family. Once the new plan is used, the family cannot be disenrolled, and the premiums will not be refunded.

(B) *Subsequent enrollment.* Eligible active duty members may elect to enroll their dependents for a period of not less than 24 months, provided there is an intent to remain on active duty for a period of not less than two years by the member and the Uniformed Service.

(C) *Inclusive family enrollment.* All eligible dependents of the active duty member must be enrolled if any are enrolled, except that a member may elect to enroll only those dependents who are remotely located from the member (e.g., a child living with a divorced spouse or a child in college).

(D) *Enrollment Period.* Enrollment of dependents is for a period of 24 months except when:

(*1*) The dependent's enrollment is based on his or her current enrollment in the Basic Active Duty Dependents' Dental Benefit; or

(*2*) One of the conditions for disenrollment in paragraph (c)(5) of this section is met.

(4) *Beginning dates of eligibility.*

(i) *Basic active duty dependents' dental benefit plan.*

(A) *Initial enrollment.* The beginning date of eligibility for benefits is August 1, 1987.

(B) *Subsequent enrollment.* The beginning date of eligibility for benefits is the first day of the month following the month in which the election of enrollment is completed, signed, and received by the active duty member's Service representative, except that the date of eligibility shall not be earlier than September 1, 1987.

(ii) *Improved active duty dependents' dental benefit plan.*

(A) *Initial enrollment.* The beginning date of eligibility for benefits is October 18, 1993.

(B) *Subsequent enrollment.* The beginning date of eligibility for benefits is the first day of the month following the month in which the election of enrollment is completed, signed, and received by the active duty member's Service representative, except that the date of eligibility shall not be earlier than the first of the month following the month of implementation of the expanded benefit.

* * * * *

(e) * * *

(2) * * *

(i) * * *

(B) * * *

(*4*) Sealants once per lifetime per tooth (01351).

(C) *Emergency services.* Emergency services, including palliative treatment of dental pain (09110), professional consultation (09310), professional visits (09440), drugs (09610 and 09630), and postsurgical complications (09930).

* * * * *

(ii) *Restorative.* Benefits may be extended for basic restorative services of amalgam, composite restorations, and crowns when performed directly by dentists or dental hygienists, or under orders and supervision by dentists, as authorized under paragraph (f) of this section. These services are defined (subject to the dental plan's exclusions, limitations, and benefit determination rules as adopted by OCHAMPUS) using the American Dental Association, Council on Dental Care Programs' Code on Dental Procedures and Nomenclature as follows:

(A) Amalgam restorations, including polishing of one to four or more surfaces for primary and permanent teeth and included within the range of 02110 and 02161.

(B) Silicate restorations (02210).

(C) Resin restorations (subject to accepted dental practice) of one to four surfaces and included within the range of 02330 and 02335.

(D) Metallic onlay (02540).

(E) Crowns and casts within the range of 02740 and 02810.

(F) Recementation of inlay (02910) and crown (02920).

(G) Stainless steel crowns for primary (02930) and permanent teeth (02931), with resin window (02933).

(H) Prefabricated resin crown (02932).

(I) Crown buildup/substrate (02950).

(J) Pin retention in addition to restoration (02951).

(K) Cast post and core in addition to crown (02952 and 02954).

(L) Temporary crown (02970).

(M) Crown repair (02980).

(iii) *Endodontic services.* Benefits may be extended for those dental services involved in treatment of diseases and injuries affecting the dental pulp, tooth root, and periapical tissue to include therapeutic pulpotomy/pulpectomy, root canal therapy when performed directly by dentists as authorized under paragraph (f) of this section. These services are defined (subject to the dental plan's exclusions, limitations,

and benefit determination rules as adopted by OCHAMPUS) using the American Dental Association, Council on Dental Care Programs' Code on Dental Procedures and Nomenclature as follows:

(A) Pulp cap (excluding final restoration) (03120).

(B) Therapeutic pulpotomy/pulpectomy (03220).

(C) Root canal therapy (excluding final restoration) included within the range of 03310 and 03330.

(D) Apexification/recalcification (03350).

(E) Apicoectomy/periradicular surgery included within the range of 03410 and 03426.

(F) Retrograde filling (03430).

(G) Root amputation (3450).

(H) Hemisection (not including root canal therapy) (3920).

(iv) *Periodontic services.* Benefits may be extended for those dental services involved in prevention and treatment of diseases affecting the supporting structures of the teeth to include periodontal prophylaxis, gingivectomy or gingivoplasty, gingival curettage, etc., when performed directly by dentists as authorized under paragraph (f) of this section. These services are defined (subject to the dental plan's exclusions, limitations, and benefit determination rules as adopted by OCHAMPUS) using the American Dental Association, Council on Dental Care Programs' Code on Dental Procedures and Nomenclature as follows:

(A) Gingivectomy or gingivoplasty (04210 and 04211).

(B) Gingival curettage (04220).

(C) Gingival flap procedure (04240).

(D) Crown lengthening (04249).

(E) Mucogingival surgery (04250).

(F) Osseous surgery (04260 and 04265).

(G) Guided tissue regeneration (04268).

(H) Soft tissue graft procedures (04270 and 04271).

(I) Periodontal root planing (04341).

(J) Periodontal prophylaxis (04910).

(K) Unscheduled dressing change (04920).

(v) *Prosthodontic services.* Benefits may be extended for those dental services involved in making, insertion, adjustment, relinement, and repair of artificial teeth and associated tissues to include removable complete and partial dentures, fixed crowns and bridges when performed directly by dentists as authorized under paragraph (f) of this section. These services are defined (subject to the dental plan's exclusions, limitations, and benefit determination rules as adopted by OCHAMPUS) using the American Dental Association, Council on Dental Care Programs' Code on Dental Procedures and Nomenclature as follows:

(A) Complete dentures (05110 and 05120).

(B) Immediate dentures (05130 and 05140).

(C) Partial denture included within the range 05211 and 05214.

(D) Adjustment of complete and partial dentures included within the range 05410 and 05422.

(E) Repair of dentures included within the range 05510 and 05660.

(F) Rebasing and relining of complete and partial dentures included within the range 05710 and 05721.

(G) Relining of complete and partial dentures included within the range 05730 and 05761.

(H) Temporary complete and partial-stayplate dentures included within the range 05810 and 05821.

(I) Tissue conditioning for dentures (05850 and 05851).

(J) Pontic included within the range 06210 and 06242.

(K) Onlay (6540).

(L) Retainer-cast metal for acid etch bridge (06545).

(M) Crowns included within the range 06750 and 06792.

(N) Recement of bridge (06930).

(O) Post and core in addition to bridge retainer (06970 and 06972).

(P) Retainer crown buildup (06973).

(Q) Bridge repair (06980).

(vi) *Orthodontic services.* Benefits may be extended for those dental services involved in the reduction or elimination of an existing malocclusion through the use of orthodontic procedures and devices when performed directly by dentists as authorized under paragraph (f) of this section to include in-process orthodontia. These services are defined (subject to the dental plan's exclusions, limitations, and benefit determination rules as adopted by OCHAMPUS) using the American Dental Association, Council on Dental Care Programs' Code on Dental Procedures and Nomenclature as follows:

(A) Radiographs (00290 and 00340).

(B) Diagnostic casts (00470).

(C) Removable and fixed appliance therapy (minor and interceptive treatment) included within the range 08110 and 08370.

(D) Comprehensive orthodontic treatment (transitional and permanent dentition) included within the range 08460 and 08580.

(E) Treatment of atypical or extended skeletal case (08650).

(F) Post treatment stabilization (08750).

Note: Coverage of in-process orthodontia is limited to services rendered on or after the date of enrollment in the expanded dependents' dental plan.

(vii) *Oral surgery services.* Benefits may be extended for basic surgical procedure of the extraction, reimplantation, stabilization and repositioning of teeth, alveolopasties, incision and drainage of abscesses, suturing of wounds, biopsies, etc., when performed directly by dentists as authorized under paragraph (f) of this section. These services are defined (subject to the dental plan's exclusions, limitations, and benefit determination rules as adopted by OCHAMPUS) using the American Dental Association, Council on Dental Care Programs' Code on Dental Procedures and Nomenclature as follows:

(A) Tooth extractions (07110 and 07120).

(B) Root removal—exposed roots (07130)—included in procedure 07110.

(C) Surgical removal of erupted tooth (07210).

(D) Removal of impacted teeth included within the range 07220 and 7240.

(E) Surgical removal of residual tooth roots (07250).

(F) Oral antral fistula closure (07260).

(G) Tooth reimplantation and/or stabilization of accidentally evulsed or displaced tooth and/or alveolus (07270).

(H) Alveoloplasties (07310 and 07320).

(I) Removal of exostosis—maxilla or mandible (07470).

(J) Incision and drainage of abscess (07510).

(K) Suturing of wounds included within the range 07910 and 07912.

(L) Excision of pericoronal gingiva (07971).

(M) Surgical exposure of impacted or unerupted tooth for orthodontic reasons (07280).

(N) Surgical exposure of impacted or unerupted teeth (07281).

(O) Surgical repositioning of teeth (07290).

(P) Transseptal fiberotomy (07291).

* * * * *

(3) * * *

(i) *Diagnostic, preventive, and emergency palliative services.* Enrolled dependents of active duty members or their sponsors are responsible for the payment of only those amounts which are for services rendered by nonparticipating providers of care which exceed the equivalent of the statewide or regional prevailing fee levels as established by the insurer, except in the case of sealants where the dependents or their sponsors will also be responsible for payment of 20 percent of the insurer's determined

allowable amount. Where the dental plan is unable to identify a participating provider of care within 35 miles of the dependent's place of residence with appointment availability within 21 calendar days, the dental plan will reimburse the dependent, or sponsor, or the nonparticipating provider selected by the dependent within 35 miles of the dependent's place of residence at the level of the provider's usual fees less 20 percent of the insurer's allowable amount for sealants.

(ii) *Restorative services.* Enrolled dependents of active duty members or their sponsors are responsible for payment of 20 percent of the amounts determined by the insurer for services rendered by participating providers of care, or 20 percent of these amounts plus any remainder of the charges made by nonparticipating providers of care, except in the case of crowns and casts where the dependents or their sponsors will be responsible for payment of 50 percent of the insurer's determined allowable amount. Where the dental plan is unable to identify a participating provider of care within 35 miles of the dependent's place of residence with appointment availability within 21 calendar days, dependents or their sponsors are responsible for payment of 20 percent (50 percent in case of crowns and casts) of the charges made by nonparticipating providers located within 35 miles of the dependent's place of residence.

(iii) *Endodontic, periodontic, and oral surgery services.* Enrolled dependents of active duty members or their sponsors are responsible for payment of not more than 50 percent of the amounts determined by the insurer for services rendered by participating providers of care, or not more than 50 percent of these amounts plus any remainder of the charges made by nonparticipating providers of care. Where the dental plan is unable to identify a participating provider of care within 35 miles of the dependent's place of residence with appointment availability within 21 calendar days, dependents or their sponsors are responsible for payment of not more than 50 percent of the charges made by nonparticipating providers located within 35 miles of the dependent's place of residence.

(iv) *Prosthodontic and orthodontic services.* Enrolled dependents of active duty members or their sponsors are responsible for payment of 50 percent of the amounts determined by the insurer for services rendered by participating providers of care, or 50 percent of these amounts plus any remainder of the charges made by nonparticipating providers of care. Where the dental plan is unable to identify a participating provider of care within 35 miles of the dependent's place of residence with appointment availability within 21 calendar days, dependents or their sponsors are responsible for payment of 50 percent of the charges made by nonparticipating providers located within 35 miles of the dependent's place of residence.

(v) *Services "by report".* Enrollment of active duty members or their sponsors are responsible for payment of these services in accordance with their relationship to the otherwise authorized benefit procedures. For example, home visit charges which occur primarily for the purpose of rendering restorative services require payment of 20 percent, while a home visit for purposes of dental prophylaxis does not require payment of the 20 percent except for sealants. Payment of any remaining amount in excess of the prevailing charge limits established by the insurer would be required for services rendered by nonparticipating providers in either of the examples given, subject to the exceptions for dependent lack of access to participating providers as provided in paragraphs (e)(3)(i) through (e)(3)(iv) of this section. The contracting dental insurer may recognize a "by report" condition by providing additional allowance to the primary covered procedure instead of recognizing or permitting a distinct billing for the "by report" service.

(vi) *Amounts over the dental insurer's established allowance for charges.* It is the responsibility of the dental plan insurer to determine allowable charges for the procedures identified as benefits of this plan. All Benefits of the plan are based on the insurer's determination of the allowable charges, subject to the exceptions for lack of access to participating providers as provided in paragraphs (e)(3)(i) through (e)(3)(iv) of this section.

(vii) *Maximum coverage amounts.* Enrolled dependents of active duty members are subject to an annual maximum coverage amount for non-orthodontic dental benefits and a lifetime maximum coverage amount for orthodontia as established by the Secretary of Defense or designee.

* * * * *

(f) * * *

(1) * * *

(vi) *Participating provider.* An authorized provider may elect to participate and accept the fee or charge determinations as established and made known to the provider by the dental plan insurer. The fee or charge determinations are binding upon the provider in accordance with the dental plan insurer's procedures for participation. The authorized provider may not participate on a claim-by-claim basis. The participating provider must agree to accept within one day a request for appointment, beneficiaries in need of emergency palliative treatment. Payment to the participating provider is based on the lower of the actual charge or the insurer's determination of the allowable charge. Payment is made directly to the participating provider, and the participating provider may only charge the beneficiary the percent cost share of the insurer's allowable charge for those benefit categories as specified in paragraphs (e)(2)(i) through (e)(2)(iv) of this section, in addition to the charges for any services not authorized as benefits.

(vii) *Nonparticipating provider.* An authorized provider may elect for all beneficiaries not to participate and request the beneficiary or sponsor to pay any amount of the provider's billed charge in excess of the dental plan insurer's determination of allowable charges. Neither the government nor the dental plan insurer shall have any responsibility for any amounts over the allowable charges as determined by the dental plan insurer, except where the dental plan insurer is unable to identify a participating provider of care within 35 miles of the dependent's place of residence with appointment availability within 21 calendar days. In such instances of the nonavailability of a participating provider, the nonparticipating provider located within 35 miles of the dependent's place of residence shall be paid his or her usual fees, less the percent cost share for those benefit categories specified in paragraphs (e)(2)(i) through (e)(2)(iv) of this section.

* * * * *

(g) * * *

(2) *Benefit payments made to a participating provider.* When the authorized provider has elected to participate in accordance with the arrangement and procedures established by the dental plan insurer, payment is made based on the lower of the actual charge or the insurer's determination of the allowable charge. Payment is made directly to the participating provider as payment in full, less the percent cost share of the insurer's allowable charge for those benefit categories specified in paragraphs (e)(2)(i) through (e)92)(iv) of this section.

(3) *Benefit payments made to a nonparticipating provider.* When the authorized provider has elected not to participate in accordance with the

arrangement and procedures established by the dental plan, payment is made by the insurer based on the lower of the actual charge or the insurer's determination of the allowable charge. The beneficiary is responsible for payment of a percent cost share of the insurer's allowable charge for those benefit categories specified in paragraphs (e)(2)(i) through (e)(2)(iv) of this section. Where the dental plan is unable to identify a participating provider of care within 35 miles of the dependent's place of residence with appointment availability within 21 calendar days, dependents or their sponsors are responsible for payment of a percent cost share of the charges made by nonparticipating providers located within 35 miles of the dependent's place of residence as specified in paragraphs (e)(2)(i) through (e)(2)(iv) of this section.

* * * * *

Dated: September 10, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–22596 Filed 9–15–93; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

34 CFR Part 607

RIN 1840–AB78

Strengthening Institutions Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to revise the regulations governing the Strengthening Institutions Program. These proposed regulations are needed to improve the functioning of the program and to implement changes made to the program's authorizing statute, title III, part A, of the Higher Education Act of 1965 (HEA), by the Higher Education Amendments of 1992 (1992 Amendments) (Pub. L. 102–325).

DATES: Comments must be received on or before October 18, 1993.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Louis J. Venuto, United States Department of Education, 400 Maryland Avenue, SW., Regional Office Building 3, room 3042, Washington, DC 20202–5250.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Louis J. Venuto. Telephone: (202) 708–8839. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Strengthening Institutions Program provides grants to institutions of higher education to improve their academic programs, institutional management, and fiscal stability. The purpose of the program is to increase the self-sufficiency of participating institutions and to strengthen their capacity to make a substantial contribution to the higher education resources of the nation.

The Strengthening Institutions Program is an important part of implementing the National Education Goals. Specifically, the program addresses Goal 5, that every adult American will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship, by expanding educational opportunities for students who attend the institutions that receive assistance under this program.

Summary of Major Changes

These proposed regulations do not incorporate all the statutory changes resulting from the Higher Education Amendments of 1992. The Secretary will incorporate these conforming changes in the final regulations. Rather, these proposed regulations include only (1) interpretations of certain statutory phrases used, but not explained, in the 1992 amendments; and (2) changes in rules and procedures for the program not required by statute. Commenters are requested to direct their comments to the interpretations and changes in these proposed regulations.

Section 607.3 What is an enrollment of needy students?

Under section 312(b)(1)(A) of the HEA, an institution must have "an enrollment of needy students" to qualify as an eligible institution under the Strengthening Institutions Program. Under section 312(c) of the HEA, an institution has an enrollment of needy students if (1) at least 50 percent of its degree students receive need based student financial assistance; or (2) a substantial percentage of its students receive Pell Grants. However, an institution that does not satisfy this requirement can nevertheless qualify as an eligible institution if the Secretary waives this requirement under section 352(a) of the HEA.

Prior to the Higher Education Amendments of 1992, section 352(a) of the HEA required the Secretary to waive the "needy student requirement" if the institution satisfied any one of the six criteria set forth in sections 352(a) (1) through (6). As a result of the 1992 Amendments, the Secretary now has discretion to waive the needy student requirement if the institution satisfies any one of the six criteria listed in that section. These criteria are incorporated in § 607.3(b) of the program regulations.

The criteria for waiving the needy student eligibility requirement are listed in § 607.3(b) of the current regulations. The Secretary finds waiver options one and two to be sufficiently explicit. The Secretary believes, however, that waiver options three through six could be made more explicit. The Secretary seeks public comment on how to clarify the language of these criteria.

Section 607.3(b)(3) of the current regulations permits the Secretary to waive the needy student enrollment requirement if an institution can demonstrate that it substantially increases higher education opportunities for low-income students who are also educationally disadvantaged, underrepresented in higher education, or minorities. The Secretary is considering quantifying this requirement by requiring that an applicant demonstrate that its enrollment of these students has increased by 200 or at least 20 percent, whichever is greater, at the end of three years in order to get this waiver. The Secretary requests public comment on this proposal. The Secretary also solicits comment on whether an institution could automatically satisfy this requirement if these students constitute at least 50 percent of an institution's total enrollment.

Section 607.3(b)(4) of the current regulations permits the Secretary to waive the needy student enrollment requirement if an institution can demonstrate that it substantially increases the higher education opportunities for individuals who reside in an area that is not included in a "metropolitan statistical area" and who are unserved by postsecondary institutions. The Secretary is considering quantifying this requirement by requiring that an applicant demonstrate that its enrollment of these students has increased by 200 or at least 20 percent, whichever is greater, at the end of three years. The Secretary requests public comment on this proposal. The Secretary also solicits comment on whether an institution could automatically satisfy this requirement if

these students constitute at least 50 percent of an institution's total enrollment.

The remaining two waiver criteria are future oriented in that an applicant for each waiver must demonstrate that it will increase the higher education opportunities for certain types of students if the Secretary grants a waiver. The Secretary is considering the following with regard to handling those waiver requests.

The institution would be required to provide a plan for increasing, during the next three years, its enrollment of subject students by some number or percent that would be the same for all institutions, and either maintain or put in place special programs and services designed to support these students. If an applicant for a waiver has applied for and received a waiver under these criteria in a previous year, the Secretary would base his decision to grant another waiver, in part, on whether the institution did what it said it was going to do to get the previous waiver. The Secretary requests comment on these proposals.

Section 607.4 What are low educational and general expenditures?

Under section 312(b)(1)(B) of the HEA, an institution must have average education and general expenses per full-time equivalent undergraduate student that are low in comparison to the average education and general expenses per full-time equivalent undergraduate student of institutions offering similar instruction to qualify as an eligible institution under the Strengthening Institutions Program. However, an institution that fails to meet this requirement can nevertheless qualify as an eligible institution if the Secretary chooses to waive this requirement under section 352(b) of the HEA. The conditions under which the Secretary may waive this requirement are contained in § 607.4(c) of the program regulations. The Secretary requests comment on a proposal to limit waivers of the education and general expenditure eligibility requirements under § 607.4 to institutions that do not obtain waivers of the enrollment of needy student requirement.

Section 607.8 What is a comprehensive development plan and what must it contain?

The Secretary proposes to revise this section to reduce the present nine elements of the comprehensive development plan to four elements. The Secretary has found that some of the current elements of the plan have not been particularly useful in evaluating an applicant's strategy for achieving growth and self sufficiency by strengthening its academic programs, institutional management, and fiscal stability.

Section 607.10 What activities may and may not be carried out under a grant?

The Secretary proposes to revise the allowable and unallowable activities for development grants. These changes will provide more guidance to grantees on the proper use of grant funds.

Section 607.11 What must be included in individual development grant applications?

The Secretary proposes to revise this section to provide that an application for a development grant must include a description of any activities that were funded under previous development grants awarded under the Strengthening Institutions or Special Needs Program that expired within five years of when the development grant will begin and the institution's justification for not completing the activities under the previous grant, if grant funds are requested to continue or complete the activities. This change was made to clarify that the grants identified are development grants. This change was also made to clarify that this requirement only relates to development grants that expired within five years of when the grant will begin and not to grants that expired prior to this time.

Section 607.12 What must be included in cooperative arrangement grant applications?

The Secretary proposes to revise the application procedure for cooperative arrangement grants to require members of the cooperative to select one of its members to be legally responsible for (1) the use of all grant funds; and (2) ensuring that the project is carried out by the group in accordance with Federal requirements. The Secretary has proposed this change to clarify who among the members of the cooperative has these legal responsibilities.

The proposed change to § 607.12 would in no way alter the "grantee" status of each member of the cooperative. Each individual member would remain a grantee under the program for the purposes of determining priority for a new grant and for any other purpose.

Section 607.13 How many applications for a development grant may an institution submit?

The Secretary proposes to revise this section to provide that in any fiscal year an institution may submit only one application for an individual development grant *or* one application for a cooperative arrangement grant. Currently, institutions may submit an individual development grant application and a cooperative arrangement grant application.

Requiring applicants to choose whether to apply for an individual development grant or a cooperative arrangement grant will clarify the intended purposes of these grants. A cooperative arrangement grant is intended to help each participating institution meet the goals and objectives of its comprehensive development plan better and at a lower cost than if the institution were awarded an individual development grant. Each applicant for a cooperative arrangement grant must explain why participation in a cooperative arrangement grant will enable it, at lower cost, to meet the goals and objectives of its plan than if it received an individual development grant. As a result, the Secretary believes it is not reasonable to allow an applicant to apply for an individual development grant if the grant activities are better carried out under a cooperative arrangement grant.

Section 607.20 How does the Secretary choose applications for funding?

Section 313(b) of the HEA, as amended by the Higher Education Amendments of 1992, provides that the Secretary shall give priority to applicants who are not already receiving a grant under this part. The Secretary has proposed § 607.20(b) to implement this change. As a consequence of this provision, an institution that is a grantee under a planning grant, an individual development grant, or cooperative arrangement development grant during a fiscal year will not have priority in the awarding of new development grants in that year vis-a-vis institutions that were not grantees.

Section 607.22 What are the selection criteria for development grants?

The Secretary proposes to revise the selection criteria for development grants. Specifically, the Secretary would revise the selection criteria and the maximum number of points for the quality of the applicant's comprehensive development plan, implementation strategy, evaluation plan, and budget. The Secretary believes that the proposed selection criteria and point values better reflect the purposes of the program.

Section 607.24 How does the Secretary use an applicant's performance under a previous development grant when awarding a development grant?

The Secretary proposes a new § 607.24. Under this proposed section, if the Secretary determines that an applicant did not successfully achieve the goals and objectives it set for itself under a previous development grant under the Strengthening Institutions or Special Needs Programs, the Secretary could refuse to award a new development grant, or could impose special conditions on the receipt of a new grant. However, before determining that an applicant did not successfully achieve the goals and objectives of its previous development grant, the Secretary would informally allow the institution to demonstrate that it met those goals and objectives.

Section 607.25 What priority for funding does the Secretary provide?

The Secretary proposes to add a new § 607.25 to give priority to an application for a cooperative arrangement grant that is geographically and economically sound, or will benefit the institutions applying for the grant. Currently, this priority is contained improperly in § 607.23. For a discussion of how the Secretary will administer the priority, commenters are directed to 34 CFR 75.105(c)(1) of the Education Department General Administrative Regulations (EDGAR).

Section 607.31 How does a grantee maintain its eligibility?

Section 315(b) of the HEA requires an applicant for a continuation award to demonstrate that it is making progress towards the goals described in its comprehensive development plan. The Secretary interprets section 315(b) of the HEA to require a grantee to demonstrate that the institution is making "substantial progress" toward achieving the objectives stated in its application, including, if appropriate, those objectives relating to institutionalizing practices and improvements developed under the grant. This interpretation would be included in § 607.31 of the program regulations.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are small institutions of higher education receiving Federal funds under this program. However, the regulations would not have a significant economic impact on these small institutions because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 607.12, 607.11, and 607.22 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h)).

Institutions are eligible to apply for grants under these proposed regulations. The Department needs and uses the information to make grants. Annual public reporting burden for this collection of information is estimated to average 27 hours per response for 500 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Secretary's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 3042, Regional Office Building 3, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Secretary in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 607

College and universities, Grant program-education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.031A—Strengthening Institutions Program)

Dated: September 10, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary proposes to amend part 607 of title 34 of the Code of Federal Regulations as follows:

PART 607—STRENGTHENING INSTITUTIONS PROGRAM

1. The authority citation for part 607 is revised to read as follows:

Authority: 20 U.S.C. 1057–1059c, 1066–1069f, unless otherwise noted.

2. Section 607.1 is revised to read as follows:

§ 607.1 What is the Strengthening Institutions Program?

The purpose of the Strengthening Institutions Program is to provide grants to eligible institutions of higher education to improve their academic programs, institutional management, and fiscal stability in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

(Authority: 20 U.S.C. 1057)

3. Section 607.6 is revised to read as follows:

§ 607.6 What regulations apply?

The following regulations apply to the Strengthening Institutions Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs), except 34 CFR 75.128(a)(2) and 75.129(a) in the case of applications for cooperative arrangements.

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 607.

(Authority: 20 U.S.C. 1057)

4. Section 607.7 is amended by removing the word "Project" from the list of items in paragraph (a), and by removing the definition of "Strengthening Program" and revising the definition of "Activity" in paragraph (b) to read as follows:

§ 607.7 What definitions apply?

* * * * *

(b) * * *

Activity means an action that is incorporated into an implementation plan designed to meet one or more objectives. An activity is a subpart of a project and has its own budget that is approved to carry out the objectives of that subpart.

* * * * *

5. Section 607.8 is revised to read as follows:

§ 607.8 What is a comprehensive development plan and what must it contain?

(a) A comprehensive development plan is an institution's strategy for achieving growth and self-sufficiency by strengthening its—

(1) Academic programs;

(2) Institutional management; and

(3) Fiscal stability.

(b) The comprehensive development plan must include the following:

(1) An analysis of the strengths, weaknesses, and significant problems of the institution's academic programs, institutional management, and fiscal stability.

(2) A delineation of the institution's goals for its academic programs, institutional management, and fiscal stability, based on the outcomes of the analysis described in paragraph (b)(1) of this section.

(3) Measurable objectives related to reaching each goal and timeframes for achieving the objectives.

(4) Methods and resources that will be used to institutionalize practices and improvements developed under the proposed project.

(Authority: 20 U.S.C. 1066)

6. Section 607.10 is amended by revising paragraphs (b) and (c) to read as follows:

§ 607.10 What activities may and may not be carried out under a grant?

* * * * *

(b) *Development grants—allowable activities.* Under a development grant, except as provided in paragraph (c) of this section, a grantee shall carry out activities that implement its comprehensive development plan and hold promise for strengthening the institution. Activities that may be carried out include, but are not limited to—

(1) Faculty development that provides faculty with the skills and knowledge needed to—

(i) Develop academic support services, including advising and mentoring students;

(ii) Develop academic programs or methodology, including computer-assisted instruction, that strengthen the academic quality of the institution; or

(iii) Acquire terminal degrees that are required to obtain or retain accreditation of an academic program or department;

(2) Funds and administrative management that will improve the institution's ability to—

(i) Manage financial resources in an efficient and effective manner; and

(ii) Collect, access, and use information about the institution's operations for improved decisionmaking;

(3) Developing and improving academic programs that enable the institution to—

(i) Develop new academic programs or new program options that show promise for increased student enrollment;

(ii) Provide new technology or methodology to increase student success and retention or to retain accreditation; or

(iii) Improve curriculum or methodology for existing academic programs to stabilize or increase student enrollment;

(4) Acquiring equipment for use in strengthening management and academic programs to achieve objectives such as those described in paragraphs (b)(2) and (b)(3) of this section;

(5) Establishing or increasing the joint use of facilities such as libraries and laboratories to—

(i) Eliminate the distance and high cost associated with providing academic programs and academic support; or

(ii) Provide clinical experience that is part of an approved academic program at off-campus locations; or

(6) Developing or improving student services to provide—

(i) New or improved methods to deliver student services, including counseling, tutoring, and instruction in basic skills; or

(ii) Improved strategies to train student services personnel.

(c) *Development grants—unallowable activities.* A grantee may not carry out the following activities or pay the following costs under a development grant:

(1) Activities that are not included in the grantee's approved application.

(2) Activities that are inconsistent with any State plan for higher education that is applicable to the institution, including, but not limited to, a State plan for desegregation of higher education.

(3) Activities or services that relate to sectarian instruction or religious worship.

(4) Activities provided by a school or department of divinity. For the purpose of this provision, a "school or department of divinity" means an institution, or a department of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter into some other religious vocation or to prepare them to teach theological subjects.

(5) Developing or improving non-degree or non-credit courses other than basic skills development courses.

(6) Developing or improving community-based or community services programs, unless the program provides academic-related experiences or academic credit toward a degree for degree students.

(7) Purchase of standard office equipment, such as furniture, file cabinets, bookcases, typewriters, or word processors.

(8) Payment of any portion of the salary of a president, vice president, dean, or equivalent officer at an institution to fill a position under the grant such as project coordinator or activity director.

(9) Costs of organized fund-raising, including financial campaigns,

endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions.

(10) Costs of student recruitment such as advertisements, literature, and college fairs.

(11) Services to high school students.

(12) Instruction in the institution's standard courses as indicated in the institution's catalog.

(13) Costs for health and fitness programs, transportation, and day care services.

(14) Student activities such as entertainment, cultural, or social enrichment programs, publications, social clubs, or associations.

(15) Activities that are operational in nature rather than developmental in nature.

(Authority: 20 U.S.C. 1057, 1069c)

7. Section 607.11 is amended by revising paragraph (c) to read as follows:

§ 607.11 What must be included in individual development grant applications?

* * * * *

(c) A description of any activities that were funded under previous development grants awarded under the Strengthening Institutions or Special Needs Program that expired within five years of when the development grant will begin and the institution's justification for not completing the activities under the previous grant, if grant funds are requested to continue or complete the activities;

* * * * *

(Authority: 20 U.S.C. 1066)

8. Section 607.12 is amended by adding a new paragraph (b)(4) to read as follows:

§ 607.12 What must be included in cooperative arrangement grant applications?

* * * * *

(b) * * *

(4) The name of the applicant for the group that is legally responsible for—

(i) The use of all grant funds; and

(ii) Ensuring that the project is carried out by the group in accordance with Federal requirements.

(Authority: 20 U.S.C. 1066, 1069)

9. Section 607.13 is revised to read as follows:

§ 607.13 How many applications for a development grant may an institution submit?

In any fiscal year, an institution of higher education may—

(a) Submit an application for an individual development grant; or

(b) Be part of a cooperative arrangement application.

(Authority: 20 U.S.C. 1057, 1069)

10. Section 607.20 is revised to read as follows:

§ 607.20 How does the Secretary choose applications for funding?

(a) The Secretary evaluates an application on the basis of the criteria in—

(1) Sections 607.21 and 607.23 for a planning grant; and

(2) Sections 607.22, 607.23, and 607.25 for a development grant.

(b) With regard to applicants that satisfy the requirements of paragraph (d) of this section, for each fiscal year, the Secretary awards development grants to applicants that are not, or were not, grantees under this part during the fiscal year, before the Secretary awards a development grant to any applicant that is or was a grantee under this part during the fiscal year.

(c)(1) The Secretary awards up to 100 points for the criteria in § 607.21 and up to 100 points for the criteria in § 607.22.

(2) The maximum possible score for each complete criterion is in parentheses.

(d)(1) The Secretary considers funding an application for a planning grant that scores at least 50 points under § 607.21.

(2) The Secretary considers funding an application for a development grant that—

(i) Scores at least 50 points under § 607.22;

(ii) Is submitted with a comprehensive development plan that satisfies all the elements required of such a plan under § 607.8; and

(iii) In the case of an application for a cooperative arrangement grant, demonstrates that the grant will enable each eligible participant to meet the goals and objectives of its comprehensive development plan better and at a lower cost than if each eligible participant were funded individually.

(Authority: 20 U.S.C. 1057–1059, 1066–1069f)

11. Section 607.22 is revised to read as follows:

§ 607.22 What are the selection criteria for development grants?

The Secretary uses the following criteria to evaluate applications for development grants:

(a) *Quality of the applicant's comprehensive development plan.* (Total: 30 points) The extent to which—

(1) The strengths, weaknesses, and significant problems of the institution's academic programs, institutional management, and fiscal stability are clearly and comprehensively analyzed and result from a process that involved major constituencies of the institution. (12 points);

(2) The goals for the institution's academic programs, institutional management, and fiscal stability are realistic and based on comprehensive analysis. (5 points);

(3) The objectives stated in the plan are measurable, related to institutional goals, and, if achieved, will contribute to the growth and self-sufficiency of the institution (5 points);

(4) The plan clearly and comprehensively describes the methods and resources the institution will use to institutionalize practices and improvements developed under the proposed project, including, in particular, how operational costs for personnel, maintenance, and upgrades of equipment will be paid with institutional resources (8 points).

(b) *Quality of activity objectives.* (Total: 10 points) The extent to which the objectives for each activity are—

(1) Realistic and defined in terms of measurable results (5 points); and

(2) Directly related to the problems to be solved and to the goals of the comprehensive development plan (5 points).

(c) *Quality of implementation strategy.* (Total: 25 points) The extent to which—

(1) The implementation strategy for each activity is comprehensive (10 points);

(2) The rationale for the implementation strategy for each activity is clearly described and is supported by the results of relevant studies or projects (10 points); and

(3) The timetable for each activity is realistic and likely to be attained (5 points).

(d) *Quality of key personnel.* (Total: 10 points) The extent to which—

(1) The past experience and training of key professional personnel are directly related to the stated activity objectives (7 points); and

(2) The time commitment of key personnel is realistic (3 points).

(e) *Quality of project management plan.* (Total: 10 points) The extent to which—

(1) Procedures for managing the project are likely to ensure efficient and effective project implementation (5 points); and

(2) The project coordinator and activity directors have sufficient authority to conduct the project effectively, including access to the president or chief executive officer (5 points).

(f) *Quality of evaluation plan.* (Total: 10 points) The extent to which—

(1) The data elements and the data collection procedures are clearly

described and appropriate to measure the attainment of activity objectives and to measure the success of the project in achieving the goals of the comprehensive development plan (5 points); and

(2) The data analysis procedures are clearly described and are likely to produce formative and summative results on attaining activity objectives and measuring the success of the project on achieving the goals of the comprehensive development plan (5 points).

(g) *Budget.* (Total: 5 points) The extent to which the proposed costs are necessary and reasonable in relation to the project's objectives and scope.

(Authority: 20 U.S.C. 1057–1059, 1066–1069f)

§607.23 [Amended]

12. Section 607.23 is amended by removing paragraph (c), and redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively.

13. A new § 607.24 is added to subpart C to read as follows:

§607.24 How does the Secretary use an applicant's performance under a previous development grant when awarding a development grant?

(a)(1) In addition to evaluating an application under the selection criteria in § 607.22, the Secretary evaluates an applicant's performance under any previous development grant awarded under the Strengthening Institutions and Special Needs Programs that expired within five years of the year when the development grant will begin.

(2) The Secretary evaluates whether the applicant fulfilled, or is making substantial progress toward fulfilling, the goals and objectives of the previous grant, including, but not limited to, the applicant's success in institutionalizing practices developed and improvements made under the grant.

(3) The Secretary bases the evaluation of the applicant's performance on information contained in—

(i) Performance and evaluation reports submitted by the applicant;

(ii) Audit reports submitted on behalf of the applicant; and

(iii) Other information obtained by the Secretary, including reports prepared by the Department.

(b) If the Secretary initially determines that the applicant did not fulfill the goals and objectives of a previous grant or is not making substantial progress towards fulfilling those goals and objectives, the Secretary affords the applicant the opportunity to respond to that initial determination.

(c) If the Secretary determines that the applicant did not fulfill the goals and objectives of a previous grant or is not making substantial progress towards fulfilling those goals and objectives, the Secretary may—

(1) Decide not to fund the applicant; or

(2) Fund the applicant but impose special grant terms and conditions, such as specific reporting and monitoring requirements.

(Authority: 20 U.S.C. 1066)

14. A new § 607.25 is added to Subpart C to read as follows:

§607.25 What priority does the Secretary use in awarding cooperative arrangement grants?

Among applications for cooperative arrangement grants, the Secretary gives priority to proposed cooperative arrangements that are geographically and economically sound, or will benefit the institutions applying for the grant.

(Authority: 20 U.S.C. 1057, 1069)

15. Section 607.31 is revised to read as follows:

§607.31 How does a grantee maintain its eligibility?

(a) A grantee shall maintain its eligibility under the requirements in § 607.2, except for § 607.2(a) (1) and (2), for the duration of the grant period.

(b) The Secretary reviews an institution's application for a continuation award to ensure that—

(1) The institution continues to meet the eligibility requirements described in paragraph (a) of this section; and

(2) The institution is making substantial progress toward achieving the objectives set forth in its grant application including, if applicable, the institution's success in institutionalizing practices and improvements developed under the grant.

(Authority: 20 U.S.C. 1057–1059b, 1066–1069f)

[FR Doc. 93–22607 Filed 9–15–93; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AG44

Disability Due to Impaired Hearing

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations regarding the definition of disability due to impaired hearing. This proposed amendment is necessary because the current regulation has been interpreted as overly broad with respect to determinations of service connection. The intended effect of this amendment is to limit the regulation to a definition of disability due to impaired hearing without implying that it determines whether or not a disability is service-connected.

DATES: Comments must be received by VA on or before October 18, 1993. Comments will be available for public inspection until October 26, 1993. This change is proposed to be effective 30 days after the date of publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this change to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until October 26, 1993.

FOR FURTHER INFORMATION CONTACT: Bob Seavey, Consultant, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, (202) 233–3005.

SUPPLEMENTARY INFORMATION: 38 CFR 3.385, entitled "Determination of service connection for impaired hearing," currently states that hearing loss will not be service-connected when it meets certain pure tone and speech recognition criteria. The criteria are specified as thresholds for the frequencies of 500, 1000, 2000, 3000, and 4000 Hertz all less than 40 decibels with at least three of those thresholds 25 decibels or less, and speech recognition scores using the Maryland CNC Test 94 percent or better. This section was published as a final rule in the **Federal Register** on April 3, 1990 (55 FR 12348–9) and made effective May 3, 1990.

In a recent decision the U.S. Court of Veterans Appeals noted that 38 CFR 3.385 is negative in both tone and application in that it states when service connection will not be established without determining when service connection will be established. The court also noted that the regulation "mixes apples and oranges" by using criteria for hearing loss to determine service connection rather than degree of disability.

We propose to correct these shortcomings by amending 38 CFR

3.385 to establish a standard for determining whether, for VA purposes, a disability due to impaired hearing exists. If such a disability does exist, whether or not it is service-connected is a separate determination governed by the provisions of 38 CFR 3.303–3.344. Although we are proposing to restate the pure tone and speech recognition criteria for the sake of clarity, this constitutes no substantive change to the criteria contained in the current regulation. These changes will clearly limit the regulation to a definition of disability due to impaired hearing, and no longer suggest that the rule governs service connection once a disability has been established. We are proposing corresponding changes to the title of § 3.385.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual impact on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: July 22, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is proposed to be amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 105 Stat. 386; 38 U.S.C. 501(a), unless otherwise noted.

2. Section 3.385 is revised to read as follows:

§ 3.385 Disability due to impaired hearing.

For purposes of applying the laws administered by VA, impaired hearing will be considered to be a disability when the auditory threshold in any of the frequencies 500, 1000, 2000, 3000, or 4000 Hertz is 40 decibels or greater; or when the auditory thresholds for at least three of the frequencies 500, 1000, 2000, 3000, or 4000 Hertz are 26 decibels or greater; or when speech recognition scores using the Maryland CNC Test are less than 94 percent.

[FR Doc. 93–22505 Filed 9–15–93; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

Defense Federal Acquisition Regulation Supplement; Restrictions on Food, Clothing, Fabrics, Specialty Metals and Hand or Measuring Tools

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for public comments.

SUMMARY: The Defense Acquisition Regulations Council is proposing changes to the Defense FAR Supplement to apply exceptions to the restriction on the acquisition of foreign hand and measuring tools and to remove duplicative language on agreements with foreign governments.

DATES: Comments on the proposed DFARS rule should be submitted in writing to the address shown below on or before October 18, 1993 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to the Defense Acquisition Regulations Council, ATTN: IMD 3D139, OUSD(A), 3062 Defense Pentagon, Washington, DC 20301–3062. FAX (703) 697–9845. Please cite DFARS Case 92–D020 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Mrs. Alyce Sullivan, (703) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DFARS 225.70 language on restrictions on purchases of foreign hand or measuring tools does not fully utilize the exceptions provided in Section 8005 of Public Law 102–172, for the acquisition of hand and measuring tools. Under current DFARS, only the exception for small purchases applies. Certain other exceptions which are applicable to restriction on food, clothing, fabrics, and specialty metals, should also apply to hand or measuring tools. The most significant of which is the exception for acquisitions by vessels in foreign waters.

B. Regulatory Flexibility Act

The proposed rule is not expected to have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because it applies only to contracts entered into overseas, where competition from domestic small businesses is limited. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS sections will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 93–610 in correspondence.

C. Paperwork Reduction Act

The proposed rule does not impose any reporting or recordkeeping requirements which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, it is proposed that 48 CFR parts 225 and 252 be amended as follows:

1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and FAR Subpart 1.3.

PART 225—FOREIGN ACQUISITION

225.7002 [Amended]

2. Section 225.7002 is amended by revising the section title to read: "225.7002 Restrictions on food,

clothing, fabrics, speciality metals, and hand or measuring tools."

3. Section 225.7002–1 is amended by adding paragraph (c) as follows:

225.7002–1 Restrictions.

* * * * *

(c) Do not acquire hand or measuring tools that were not produced in the United States or its possessions.

4. Section 225.7002–2 is amended by revising paragraphs (a), (d), and (i) to read as follows:

225.7002–2 Exceptions.

* * * * *

(a) Any of the items in 225.7002–1 (a) or (b), if the Secretary concerned, or designee, determines that they cannot be acquired when needed in a satisfactory quality and sufficient quantity grown or produced in the United States or its possessions at U.S. market prices.

* * * * *

(d) Acquisitions of those supplies listed in FAR 25.108(d)(1), unless the supplies are hand or measuring tools.

* * * * *

(i) Purchases of specialty metals and chemical warfare protective clothing when the acquisition furthers an agreement with a qualifying country (see 225.872).

5. Section 225.7002–4 is amended by adding an introductory paragraph before paragraph (a), and by adding paragraph (d) to read as follows:

225.7002–4 Contract clauses.

Unless an exception is known to apply—

* * * * *

(d) Use the clause at 252.225–7015, Preference for Domestic Hand or Measuring Tools, in all solicitations and contracts over $25,000 calling for delivery of hand or measuring tools.

225.7003 [Removed and Reserved]

6. Section 225.7003 is removed and reserved.

225.7003–1 [Removed]

7. Section 225.7003–1 is removed.

225.7003–2 [Removed]

8. Section 225.7003–2 is removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. Section 252.225–7012 is amended to revise paragraph (b)(1) to read as follows:

252.225–7012 Preference for certain domestic commodities.

* * * * *

(b) * * *

(1) To supplies listed in FAR 25.108(d)(1), or other supplies for which the Government has determined that a satisfactory quality and sufficient quantity cannot be acquired as and when needed at U.S. market prices;

* * * * *

10. Section 252.225–7015 is amended by revising the introductory paragraph to read as follows:

252.225–7015 Preference for domestic hand or measuring tools.

As prescribed in 225.7002–4(d), use the following clause:

* * * * *

[FR Doc. 93–22576 Filed 9–15–93; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173, 174 and 180

[Docket No. HM–201; Notice No. 93–15]

RIN 2137–AB40

Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and Other Defects of Tank Car Tanks

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: RSPA is proposing revisions to the Hazardous Materials Regulations (HMR) that would require the development and implementation of Quality Assurance Programs (QAP) at facilities that build and repair tank cars; require the use of non-destructive testing (NDT) techniques in lieu of the current periodic hydrostatic pressure tests for fusion welded tank cars to more adequately detect critical cracks; require thickness measurements of tank cars; allow the continued use of tank cars with reduced shell thicknesses; revise the inspection and test intervals for tank cars; and clarify the inspection requirements relating to tank cars prior to and during transportation. These actions are necessary to increase the confidence that critical tank car defects will be detected. The intended effect of these actions is to enhance the safe transportation of hazardous materials in tank cars.

DATES: Comments must be received on or before March 16, 1994.

ADDRESSES: Address comments to the Dockets Unit, (DHM–30), Research and Special Programs Administration, Department of Transportation, Washington, DC 20590–0001. Commenters should submit five copies identifying the docket and NPRM number. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The location of the Dockets Unit is in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Public dockets may be reviewed between the hours of 8:30 a.m., and 5 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Phil Olekszyk, (Telephone 202–366–0897), Deputy Associate Administrator for Safety, RRS–2, FRA, 400 Seventh Street SW., Washington DC 20590, Thomas A. Phemister, (Telephone 202–366–0635), Trial Attorney, Office of Chief Counsel, RCC–30, FRA, 400 Seventh Street SW., Washington, DC 20590 or James H. Rader, (Telephone 202–366–0510), Hazardous Materials Division, Federal Railroad Administration, RRS–12, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

On December 8, 1987, the Research and Special Programs Administration (RSPA) issued an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** under Docket HM–201 entitled "Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and Other Defects of Tank Cars" (52 FR 46510). The ANPRM solicited comments on the types of repairs that are likely to lead to non-detectable cracks and on non-destructive testing (NDT) techniques that are appropriate to find these and other cracks. The ANPRM also asked for comments on post-weld heat treatment and on techniques to repair cracks, pits, corrosion, lining flaws, thermal protection flaws and other defects without causing collateral damage. RSPA and the Federal Railroad Administration (FRA) hoped that the commenters would offer suggestions for rule changes to incorporate additional NDT techniques to qualify tank cars for further use.

In response to petitions for reconsideration under Docket HM–201B (55 FR 422, January 5, 1990 and 55 FR 39000, September 24, 1990), RSPA and FRA indicated that the issue of the minimum tank car shell thickness would be fully considered in this NPRM (*see* Shippers; Use of Tank Car Tanks With Localized Thin Spots; Corrections and Response to a Petition for

Reconsideration, 55 FR 39000 (September 11, 1990)). Commenters to that rule questioned RSPA and FRA's clarification that the part 179 requirement is the minimum tank car shell thickness. This NPRM addresses the comments received and proposes minimum service life shell thickness requirements and measures to ensure that those limits are observed. It also proposes to substitute NDT inspection procedures for existing hydrostatic testing requirements on all tank cars other than DOT Class 107 tank cars and on those few riveted tank cars remaining in service.

RSPA and FRA received 14 comments in response to the ANPRM from members of the various industries that own, lease, transport, or use tank cars. Following is a summary of the written comments:

1. What types of tank car repairs are likely to lead to undetected cracks (e.g., grinding, arc gouging, welding)?

Commenters stated that it is unlikely proper repairs would lead to undetected (or undetectable) cracks. The repair procedures most likely to lead to cracking are weld undercuts and jacking and pressing to restore the tank shell and head contour. Commenters suggested that in order to properly repair tank cars, companies must strictly adhere to stringent quality assurance programs, process control and personnel qualifications.

2. How effective is post weld heat treatment in reducing crack growth of existing cracks or the formation of new cracks?

Most commenters stated that post weld heat treatment is not effective in retarding growth in existing cracks, although it is effective in inhibiting the formation of new cracks by reducing residual stresses, increasing metal ductility and softening the heat affected zone near the weld.

3. What inspection techniques (e.g., ultrasonic, magnetic particle, acoustic emission and radioscopic) are appropriate to detect small cracks, pits, corrosion, lining flaws, thermal protection flaws and other defects?

Most commenters stated that all of the above techniques, alone or in combination, are reliable and each has its own inherent advantages and degree of sensitivity. The orientation and type of defect, as well as the characteristics of the material in which the defect exists, dictate the proper inspection procedure. Commenters suggested that adherence to good NDT techniques, procedures, and personnel qualifications are important to detect defects. Commenters supported the following NDT methods—

—Dye penetrant testing for surface flaws;
—Radiography testing for subsurface flaws;
—Magnetic particle testing for surface and some subsurface flaws;
—Ultrasonic testing for surface and subsurface flaws;
—Acoustic emission testing for targeting potential defective areas that will require further inspection;
—Enhanced visual imagery for surface flaws (e.g., fiberscopes and borescopes);
—Spark testing for lining flaws; and
—Infrared scanning for thermal protection flaws.

4. What techniques are appropriate to repair small cracks, pits, corrosion, lining flaws, thermal protection flaws, and other defects, without causing collateral damage?

Commenters stated that appropriate techniques for repairing small cracks, pits, and corrosion are contained in the Association of American Railroads (AAR) Manual of Standards and Recommended Practices, Specifications for Tank Cars, Specification M–1002. Repairs of lining and thermal protection flaws can be accomplished by following the manufacturer's instructions.

5. For small cracks, pits, corrosion, lining flaws, thermal protection flaws, and other defects, what alternatives to defect repair are appropriate (e.g., special handling, special train placement, and more frequent reinspection)?

Commenters stated that the only real alternative is more frequent inspection and tests.

A. Adequacy of the Hydrostatic Test

The history of the hydrostatic test predates the Department's regulations and its purpose was to find leaks associated with tank shell plates and loose rivets and to detect metal deformations (i.e., distress) in areas of reduced wall thickness. The early tank cars were of riveted or forge welded construction and the test was effective in finding imperfections associated with riveted joints, nozzles, tank anchors, and reinforcements. In the 1930s, tank car manufacturers started building fusion welded tank cars and hydrostatic tests were universally applied to these tank cars as well.

Practically all pressure vessels are given a final hydrostatic test at the time of construction. Such a test stresses the vessel with the goal of detecting flaws that can lead to crack initiation or shell deformation. If no imperfections are found, the integrity of the pressure vessel is verified. Hydrostatic testing is also required for highway cargo tanks, cylinders, portable tanks, pipelines, and stationary storage vessels. Normally, the test pressure for tank cars is the greater of 1.3 times or 133 percent of the maximum allowable working pressure (MAWP) of the tank; or, 133 percent of the maximum pressure used for loading and unloading product; or, the minimum pressure prescribed for the tank in the Federal specification (*see* 49 CFR 173.31(a)(14)).

Although widely accepted, a hydrostatic test does have notable limitations, particularly with respect to detecting fatigue cracks that are not yet extensive enough to fail at the pressures used in hydrostatic testing. For this reason, hydrostatic testing is most commonly paired with a 100 percent visual inspection of the tank shell to improve the probability of finding significant cracks.

On January 18, 1992, at Dragon, Mississippi a tank car loaded with liquefied petroleum gas split apart at a circumferential weld seam as the train began to pull out of a siding. The car was not overdue for any periodic tests or inspections. In an investigation following the Dragon incident, FRA and the National Transportation Safety Board (NTSB) subjected seven tank cars with known cracks to a hydrostatic test. (See Inspection and Testing of Railroad Tank Cars, Special Investigation Report NTSB/SIR–92–05, National Transportation Safety Board, 1992.) None of the tests showed any indication that a crack was present. In the same investigation, cracks in the circumferential welds were discovered in 39 other tank cars built to the same design. These tank cars had all passed a hydrostatic test within the last 10 years, thirteen of them within the last year, and yet radiographic and ultrasonic testing showed cracks ranging from 8.89 to 142.24 cm (3.5 to 56 inches) in length. The results of these findings parallel similar investigations where FRA found defects in tank cars that were not detected in the transportation system nor at the time of the hydrostatic test. In one recent accident, on March 25, 1992, at Kettle Falls, Washington, a tank car failed on its first post-test loaded move, one month after successfully passing the required visual inspection and the hydrostatic pressure test.

In a response to a letter from the NTSB, the Railway Progress Institute (RPI) estimated that, of the 121,000 tank cars owned or operated by RPI members, about 14,400 are hydrostatically tested each year. The RPI stated that, other than a small number of failures because of leaking seals and other components, they were

not aware of any tank cars that had failed a hydrostatic pressure test because of structural defects. Also in response to a similar letter from the NTSB, the AAR replied that tank cars appear to pass the required hydrostatic tests despite the presence of major flaws in the tanks.

Based on the ineffectiveness of the hydrostatic test in detecting significant fatigue cracking in tank cars resulting from severe loadings, stress risers, and welding defects, RSPA and FRA no longer consider the hydrostatic pressure test part of the optimum way to qualify fusion welded tank cars for continued service. This notice proposes non-destructive inspections and tests for the continued qualification of tank cars. The agencies believe that if such non-destructive tests were mandated, an incident like the one in Dragon, Mississippi might not have happened. This notice does not, however, propose to remove the requirement to perform a hydrostatic pressure test prior to certification of the tank car (e.g., *see* 179.100–18). This initial hydrostatic test substantiates the integrity of the new welded joints.

B. NDT Techniques

RSPA is proposing to require that the bottom shell of fusion welded tank cars be inspected periodically by appropriate NDT techniques, such as magnified visual imagery, ultrasonic, radiographic, magnetic particle, and dye penetrant testing methods, in lieu of hydrostatic pressure tests. In addition to the structural integrity test of all bottom shell welded attachments and of the circumferential and longitudinal welds in the bottom shell area using one of the NDT techniques, RSPA proposes to retain the requirement, now in § 173.31, for a complete visual inspection of the entire tank car, inside and out.

Such inspections may entail the removal of portions of the tank jacket when the cars are so equipped. The amount of jacket removal is dependent upon the inspection and test method employed. For example, an external inspection and test of the bottom shell may employ an industrial fiberscope that only requires inspection ports, whereas ultrasonic tests in the same areas could require complete removal of the tank jacket.

RSPA and FRA recognize that NDT techniques will be refined in the future to provide greater precision in measurement and improved ability to characterize defects. Even today, however, NDT techniques reveal considerably more about defects resulting from the severe loading conditions applied to tank cars than the current hydrostatic test. Like any testing, NDT depends on properly qualified inspectors and expert interpretation of test results. As a rule, tank car facilities using dye penetrant, magnetic particle, radiography, and enhanced visual imagery can expect about 90 per cent reliability in detecting flaws, with ultrasound somewhat lower due to the extra knowledge and skill required to interpret results. (See Reliability of Nondestructive Inspections, Final Report, San Antonio Air Logistics Center Report SA–ALC/MME 76–6–38–1, Lockheed-Georgia Company, Marietta, GA, December, 1978.) At this time, the reliability of acoustic emissions testing is not sufficient to include that NDT method in this rulemaking proposal. Even with a perfect system, some defects would remain hidden and, thus, FRA does not predict that the use of NDT techniques will always find every possible flaw in a tank car. Overall, FRA expects NDT to be 80–85 percent effective in finding significant defects. Based on the previous discussion, this is a considerable improvement over the current procedure.

With this in mind, and in keeping with the recommendations of the NTSB, RSPA and FRA will be working with the AAR Tank Car Committee to (1) conduct root cause analysis, such as defining the nature of cracking, typical loading spectra expected on the tank in actual service, crack initiation sites and mechanisms and a crack growth model; (2) determine the allowable flaw size using failure/acceptance criteria; (3) propose modifications to tank car design, such as multiple load paths and the use of materials that provide a reduced rate of crack propagation combined with high residual strength; and, (4) require the arrangement of design details, like bottom discontinuities, to reduce stress concentration points. The results of these efforts will be realized in the years ahead, but RSPA and FRA believe that NDT techniques are sufficiently advanced and dependable that the need for their use is demonstrated for tank cars.

C. Bottom Shell

Because defects are known to exist outside of the area currently defined as the "bottom shell," such as those in the attachment welds of bottom discontinuities, RSPA proposes to revise the current definition of the bottom shell by enlarging the area from 61 cm (two feet) to 122 cm (four feet) on each side of the longitudinal center line of the tank. RSPA and FRA consider this enlarged area more appropriate to qualify the tank for further use.

D. Inspection and Test Intervals

The existing periodic test requirements for tank cars list over 70 different DOT specifications (*see* the table in § 173.31(c)). Typically, tank cars have a 10-year periodic test interval, although most new tank cars used in Class 8 (corrosive) service are subject to a periodic test every 5 years up to age 10, then every 3 years up to age 22, and then every year. This is known as the 5–3–1 periodic test interval. Five DOT class tank cars (DOT–103ALW, DOT–104W, DOT–111A60W1, DOT–111AW1, and DOT–111A100W3) have a 20-year periodic test interval, based on relief granted under a petition submitted by the American Petroleum Institute in 1970 (35 FR 7120, May 5, 1970). These tank cars are in service 20 years before their first periodic test. After the 20 year inspection and test, the tank cars are inspected every 10 years (i.e., a 20–10 periodic test interval).

After reviewing the periodic test intervals and the commodities authorized in each tank, FRA found several inconsistencies:

(1) Prior to publication of a final rule under Docket HM–181 ("Performance-Oriented Packaging Standards; Changes to Classification, Hazard Communication, Packaging, and Handling Requirements Based on UN Standards and Agency Initiative," 55 FR 52402; December 21, 1990), the regulations authorized several different DOT Specification tank cars for the same material. For example, sodium hydroxide liquid or solution (Class 8) and carbolic acid (Division 6.1) are authorized in DOT 111A60W1 or 111A60W2 tank cars. If a shipper uses a new DOT 111A60W1 tank car, the tank car has a 20–10 periodic test interval; and, if the shipper uses a new DOT 111A60W2 tank car, the tank car has a 5–3–1 test interval.

(2) For some corrosive materials, the regulations specify a 5–3–1 interval based on the authorized tank specification, regardless of the rate at which the material corrodes the tank car shell.

(3) The DOT 105A500W tank car requires an inspection and test every 2 years when in chlorine service, but every 10 years when used in other hazardous materials service.

(4) The current periodic test intervals do not adequately consider the effects of fatigue on the car structure for the creation of cracks and other flaws or the proper inspection intervals to detect flaws before they reach a critical size.

These inconsistencies were compounded by certain revisions adopted under Docket HM–181 because shippers have more latitude to choose specification tank cars for specific hazardous materials, including Class 8 (corrosive) materials (*See* 55 FR 52402, 52443, December 21, 1990). In short, shippers may choose to use tank cars with a 20–10 periodic test interval even though the materials are corrosive to the tank. RSPA and FRA believe that the current approach, basing the periodic test interval on the tank specification, may lead to more frequent releases of hazardous materials through the tank shell from cracks and corrosion. As discussed below, there is a need to revise the existing periodic inspection and test intervals for tank cars and to base them on factors such as service environment, structural fatigue, crack propagation, and corrosion.

E. Inspection Intervals, Materials Not Corrosive to the Tank

Based on data collected thus far, FRA finds that cracks may reach a critical size adjacent to welds and welded attachments on the bottom shell within about 400,000 miles of railroad service (*see* "Owners of Railroad Tank Cars; Emergency Order Requiring Inspection and Repair of Stub Sill Tank Cars," 57 FR 41799 September 11, 1992). In meetings leading to the development of FRA's Emergency Order No. 17 (57 FR 41799, September 11, 1992), RPI noted that establishing the fatigue life of a structure such as a tank car required consideration of many factors, among them the commodity carried, the typical routing of the tank car, the length of the trip, accumulated mileage, and the design characteristics of the tank car, including the material used to construct it. RPI says, and AAR agrees, that the best single factor, by far, is accumulated mileage. RSPA and FRA agree that, given the current state of knowledge and the results of both research and the analysis of material gathered in this and similar proceedings, mileage is the most dependable general predictor of the onset of the effects of fatigue.

Common protocols for NDT (including Collins, J.A., Failure of Materials in Mechanical Design,©1981, John Wiley & Sons Inc., New York, p. 299) allow for two opportunities to inspect an item before predicted failure. This helps ensure against premature failure. Because tank cars travel an average of about 18,000 miles per year, an inspection and test interval of 10 years allows the recommended two inspections, with a safety factor. For the sake of efficiency, and to increase safety margins for most cars, FRA and RSPA propose to implement this 10-year inspection and test interval starting at what would otherwise be the next scheduled tank hydrostatic pressure test. This 10-year interval coincides with Rule 88 B.1. in the AAR's Field Manual of Interchange Rules. For 20–10 tank cars within the initial 20-year periodic hydrostatic test interval (i.e., Class DOT 103W, 104W, 111A60W1, 111A100W1, and 111A100W3 tank cars), it is proposed that the next inspection and test date be the date of publication of this rule, plus one-half of the remaining years to what would otherwise be the next scheduled tank hydrostatic test. After that the tank would be inspected at a 10-year interval. RSPA and FRA believe that the proposed uniform approach to tank car inspection and test is fair, safe, and enforceable.

FRA realizes, however, that some tank cars can travel in excess of the 18,000 mile annual average and, by doing so, the tank cars may reach 200,000 miles of railroad service before their first periodic inspection and 400,000 before their second. Because car owners can keep track of car miles traveled and FRA and RSPA, as a practical matter, cannot; because there are no distinguishing markings for high mileage tank cars; and because all tank cars have at least the potential to become high mileage tank cars, car owners are reminded that the proposals in this notice do not prohibit inspection and test intervals shorter than those mandated. Owners with high mileage cars should inspect their tank cars more frequently than the regulatory period proposed here and are encouraged to do so, by marking the tank car with the revised due date.

F. Inspection and Test Intervals, Materials Corrosive to the Tank

For corrosive materials in non-lined or non-coated tank cars, an inspection and test interval would be based on the lower of the corrosion rate of the tank shell or the fatigue life of the tank structure as discussed above. In this notice, FRA has developed an interval to ensure that the calculated thickness of the tank at the next inspection and test will not fall below the allowable minimum wall thickness. The inspection and test interval in this case is calculated by subtracting the actual thickness (measured at the time of construction or any subsequent inspection and test) from the allowable minimum thickness and then dividing that difference by the hazardous material's corrosion rate on the tank. As the shell thickness corrodes throughout the service-life of the tank, the inspection and test interval becomes more frequent. The test interval may not exceed ten years. Tank car operators may defer inspection and test costs by using tanks with thicker than minimum shells, by constructing tanks with a material that resists corrosion, or by using linings or coatings. If a lining or coating is used, there is no requirement in this notice for calculating the inspection and test interval based on corrosion, although inspection and testing of the lining or coating will be required as discussed below. Linings include glass and lead; coatings include organic, aluminum, and zinc materials. As a guide in determining the corrosion rate on the tank, owners of tank cars may refer to the National Association of Corrosion Engineers (NACE) Standard: "Test Method Laboratory Corrosion Testing of Metals For the Process Industries."

RSPA proposes to remove Table 1 and related footnotes from § 173.31 (c) and to move the inspection and test requirements to new subpart F of part 180.

G. Lining and Coating Inspections and Tests

RSPA proposes inspection and test requirements for tank cars with linings and coatings. This would ensure that the lining or coating is in proper condition for the transportation of hazardous materials. Since 1987, the Department's hazardous materials incident database shows that there have been 23 incidents involving lining or coating failures on tank cars that resulted in the release of hazardous material. As proposed, owners of lined or coated tank cars must determine the periodic inspection interval and inspection technique for the lining and coating, based on the owner's knowledge of the material used. The owner must also maintain all supporting documentation used to make such a determination, such as the lining or coating manufacturer's recommended inspection interval and inspection technique, at the owner's principle place of business. The supporting documentation used to make such inspection interval determinations and the inspection technique must be made available to FRA upon request.

H. Safety System Inspections

The HMR require tank cars used for transporting flammable gases and ethylene oxide to have thermal protection systems, consisting of either a thermal blanket or a thermal coating. In June 1991, General American Transportation Corporation (GATX) began an investigation into the thermal integrity of certain tank cars modified

with a "thermal blanket" to protect the tank car and the commodity within it from fire. The purpose of GATX's investigation was to determine if the thermal blanket on the top of the car remained in place after a period of several years. GATX found that the thermal blanket receded from the top of some tank cars, especially when the thermal blanket was not held in place with wire mesh or banding. Shortly after GATX's investigation, the AAR informed owners of tank cars about the findings reported by GATX. The AAR also began to investigate the extent of thermal integrity loss on tank cars by surveying several tank car owners. The results of the AAR's investigation are not complete, but preliminary data indicate that some owners have reported thermal integrity losses on some tank cars.

RSPA and FRA have stated on numerous occasions, including in a Federal Register publication, that if a tank car no longer meets the applicable specification, it may no longer be represented as meeting the specification, such as by marking the tank "DOT" (49 CFR 171.2(c)). For example, if there is a sufficient loss of thermal protection on a tank car, such that the tank car will no longer survive the pool and torch fire performance standard prescribed in § 179.105–4, the tank car may no longer be represented as a thermally protected tank car. Safety systems, that is, systems built into the car, may deteriorate after years of use. In addition to thermal protection, these systems include the manner in which a tank car was fabricated and maintained, the integrity of a tank head puncture resistance systems, and the coupler vertical restraint system, after years of use.

RSPA is proposing to add explicit requirements for the inspection of thermal protection systems, tank head puncture resistance systems, coupler vertical restraint systems, and devices used to protect discontinuities. If, after an inspection, one or more of these systems do not conform to the applicable specification requirements contained in part 179, renewal or repair of the system would be necessary to continue the qualification of the tank car. In this notice, RSPA is not proposing the use of any specific inspection method for thermal protection systems, although jacket removal, jacket inspection ports, infrared inspection techniques, and thermography are options to ensure their integrity. Nothing in the proposed regulation would preclude a tank car owner from marking a tank as meeting a less stringent specification, such as remarking a Class DOT 112J tank car to a DOT 112S or 112A tank specification when the tank car no longer conforms to the Class DOT 112J standard, or when the tank car owner chooses not to inspect the thermal protection system when the product intended for transport in the tank car does not require such a system.

I. Minimum Shell Thickness

Under the current HMR, the only requirement for measuring tank car thickness is at the time of construction or after a repair involving the removal of metal. When a metal plate is first formed into a rolled "hoop" that will become part of the tank shell, it must be the thicker of the dimension specified in a chart summarizing specification requirements (e.g., § 179.101(a) or § 179.201–1(a)) or the result of a calculation that includes the required bursting pressure, the inside diameter of the tank and the tensile strength of the material from which the shell is formed (e.g., § 179.100–6(a)). If a repair involving the removal of metal is made, the regulations, stated broadly, permit the removal of 0.158 cm (1/16-inch) over a localized area. (See § 173.31(a)(11) for more detail.) The proposals in this notice recognize that tank car shell thickness tends to degrade over time. In addition, and enabled by enhanced inspection and test procedures, the proposals in this notice clarify both a standard for new construction and a definite service life shell thickness requirement for all areas of the tank shell and heads.

Commenters to an earlier rulemaking on localized thin spots under HM–201B submitted a table entitled "Allowable Thickness Reduction from Minimum Prescribed Thickness of Carbon Steel Tank Car Tanks," prepared by the AAR, allowing shell thickness below the part 179 construction standard in certain areas. In addition, the AAR subsequently submitted additional data in a report in support of its table. (*see* Johnson and Phillips, Study of Railroad Tank Car Thickness Minimums, Report # RA–12–3–56, AAR-RPI Railway Tank Car Safety Research and Test Project, 1989, Chicago, IL). Many commenters endorsed the AAR table and, except as noted below, RSPA and FRA also concur with the AAR table.

The major differences between the allowable tank car thickness reductions in the AAR table and the proposals contained in this NPRM are as follows:

(1) The AAR table applied only to carbon steel tank cars; this NPRM expands the concept to tank cars constructed of other materials. In a letter dated March 29, 1989 to the Administrator of RSPA, the AAR explained that limited research on carbon steel was the basis for their recommendation. Although the AAR research was on carbon steel, the physical properties of stainless steel and manganese-molybdenum steel support similar standards. RSPA and FRA propose to include aluminum and nickel tank cars as well because these cars are mounted on a car structure (i.e., a center sill); and therefore, the transmission of any load (e.g., inertia, buff, draft, and vertical coupler loads) is through the sill structure and not the tank. Tank anchors on aluminum and nickel cars transfer some stresses to the tank car shell through single ended impacts, although these shell stresses are less than those encountered on tanks that form part of the car structure (i.e., stub sill tank cars). This notice proposes a conservative limit on the amount of reduced shell thickness in these stressed areas to ensure an acceptable level of safety.

(2) The AAR table did not cover nickel clad tank cars. This notice proposes to include those tank cars because they conform to the part 179 standards for carbon steel cars, but with an added nickel clad [liner] in the interior of the tank car to inhibit corrosion.

(3) The table submitted by the AAR and this NPRM differ on the definition of a permissible "localized area of thickness reduction." The AAR table would have limited the localized area to a 60.96 cm (24 inches) perimeter. This notice proposes to allow localized areas of thickness reduction to have a total cumulative surface perimeter not exceeding 182.88 cm (72 inches), consistent with the current provisions in § 173.31(a)(11)(iv). In the HM–201 rulemaking on localized shell reductions, RSPA and FRA explained that the AAR requirement to limit the maximum reduction in shell thickness perimeter to 60.96 cm (24 inches) is unduly restrictive, and this proposal follows that explanation. (see "Shippers; Use of Tank Cars with Localized Reductions in Shell Thickness;" 54 FR 8336, 8337, February 28, 1989).

J. Damage-tolerance Fatigue Evaluations

The FRA has found that the tank shell and the attachment welds in the bottom shell, generally the area within four feet of the bottom centerline, are susceptible to fatigue cracking due to repeated loading conditions. Stress concentrations in the tank shell may cause the formation of small cracks that may not be detected, even at the next inspection and test. Long cracks stand a

greater chance of detection, but cracks are short during most of their existence and, unless the inspector knows where to search for such defects, they may never be found. RSPA and FRA consider that knowledge of inspection and test methods, the sensitivity of the inspection and test technique, the minimum detectable crack depth and length, and the locations on the tank car that are likely to receive high combined loadings are essential for reliable crack detection.

In an investigation of the structural integrity of certain dual-diameter tank cars, FRA found that the bottom shell of these tank cars was susceptible to fatigue cracking. In this investigation, FRA required the owners of dual-diameter cars to inspect a sample of each design for defects using NDT techniques (*see* Owners of Railroad Tank Cars, Railroads; Emergency Order Requiring Inspection and Repair of Dual Diameter Tank Cars, 57 FR 11900 April 7, 1992.

In its previously noted 1992 report on the inspection and testing of tank cars, NTSB disclosed that many defects are not routinely detected while tank cars are in service in the transportation system and that defects may suddenly grow to a critical size and lead to failure of the tank car. The NTSB recommended in this investigation that FRA and RSPA promulgate requirements for the periodic inspection and tests of tank cars to help ensure the detection of cracks before the cracks propagate to a critical length. Such requirements would establish inspection and test intervals based on the defect size detectable by the inspection and test method used and on the stress level and crack propagation characteristics of the structural component.

"Damage-tolerance" means the ability of a structure to maintain adequate residual strength in a damaged condition. Damage-tolerance assumes that flaws exist in the structure and that the design of the structure is such that these flaws will not grow to a critical size and cause catastrophic failure to the structure within a specified period of time. In simplified terms, damage-tolerance recognizes that there are some components of a structure that can be damaged without adversely affecting the structure's ability to perform, i.e., a mildly dented fender on a car; that there are some components that can be damaged without seriously hampering the ability of the structure to perform essential activities, e.g., a broken door window on an automobile, or a single burned-out head lamp; and that there are some components that continually wear and, at some point, are no longer capable of sustaining the ability of the structure to perform, e.g., the wearing-out of tires, or the wearing of engine bearings. RSPA and FRA concur with the thrust of the NTSB's recommendation relating to improved procedures for periodic inspection and testing of railroad tank cars. In fact, many NDT techniques are currently applied under other inspection and test programs mandated by RSPA and FRA.

RSPA also proposes to allow a person to use an alternative inspection and test procedure or interval based on a damage-tolerance fatigue evaluation, when the evaluation is examined by the AAR Tank Car Committee and approved by FRA's Associate Administrator for Safety.

FRA anticipates that some tank car owners will reduce inspection and test costs by proposing an inspection and test procedure or interval on a damage-tolerance approach that incorporates: (1) In-service inspection and test using techniques such as ultrasonic or acoustic emission; (2) sampling of individual designs with a 100 percent inspection and test of the design if a crack is found; (3) inspection and test intervals unique to each tank car component; and, (4) inspection and test intervals based on the degree of risk a material poses (i.e., high risk materials have shorter inspection and test intervals than those with low risks).

K. Quality Assurance Programs (QAP)

RSPA is proposing to require that each tank car facility establish Quality Assurance Programs (QAP) to help prevent and detect non-conformities during the manufacturing, repair, or inspection and test process. A tank car facility would be defined as a facility that requires certification under appendix B of the AAR Specifications for Tank Cars.

The NTSB recommended, in a report following their investigation of an incident involving a tank car of butadiene, on September 8, 1987, in New Orleans, Louisiana, that FRA establish quality control requirements for tank car manufacturers and tank car repair shops sufficient to ensure that actions taken by persons in those entities conform to Federal regulations and with conditions established in the AAR criteria for approval of a tank car facility to manufacture, repair, or modify rail tank cars. (see Butadiene release and fire from GATX 55996 at the CSX terminal junction interchange, New Orleans, LA, September 8, 1987, NTSB/HZM–88/01, National Transportation Safety Board, 1988.) The NTSB further recommended that FRA require tank car repair shops to develop and maintain current written procedures to guide their employees in performing work on tank cars and that the repair shops train their employees on those procedures. This proposal reflects the findings of the NTSB in their investigation.

The proposed QAP requirements would require each tank car manufacturing or repair facility to develop procedures that have the means to detect any nonconformity in the manufacturing, maintenance, or repair process and that have the means to prevent its recurrence. Furthermore, the proposed Quality Assurance Program must ensure that the finished product conforms to the requirements of the applicable specification and the regulations in the HMR. Interested persons may find useful information in developing their QAP in the 1991 edition of the AAR Specifications for Quality Assurance, M–1003.

At a minimum, QAPs must have the following elements—

(1) Authority and responsibility for those in charge of the quality assurance program;

(2) An organizational chart showing the interrelationship between managers, engineers, purchasing, construction, inspection, testing, and quality control departments;

(3) Procedures that ensure that the latest applicable drawings, design calculations, specifications, and instructions are used in manufacture, inspection, and testing;

(4) Procedures to ensure that the fabrication and construction materials received are properly identified and documented;

(5) A description of the manufacture, inspection, and testing program so that an inspector can determine the period of specific inspections and test;

(6) Monitoring and control of suitable processes and product characteristics during production;

(7) Procedures for the correction of imperfections found by the inspector;

(8) Provisions indicating that the requirements of the AAR Specifications for Tank Cars apply;

(9) Qualification of personnel performing ultrasonic, radiographic, dye penetrant, magnetic particle, or other non-destructive test inspections and tests according to Appendix W of the AAR Specifications for Tank Cars;

(10) Qualifications of personnel performing magnified visual imagery inspections (including fiber optic, borescope, and videoimagescope systems). Under these requirements, the examiner must have the capability to consistently and repetitively find flaws under test conditions. Furthermore, the

requirements must include visual acuity where detectability (minimum size of a flaw that an examiner can find); resolution (minimum distance at which two flaws may be seen separately); and contrast sensitivity (minimum detectable thickness change [convolutions] over a surface area) further define the qualifications of the visual examiner;

(11) Procedures for evaluating the inspection and test technique employed, including the accessibility of the area and the sensitivity of the inspection and test technique and minimum detectable crack length;

(12) Procedures for the periodic calibration and measurement of inspection and test equipment;

(13) A system for the maintenance of records, inspections, tests and the interpretation of inspection and test results;

(14) Procedures to ensure that only personnel qualified for each non-destructive inspection and test perform that particular operation; and

(15) Written procedures for their employees to ensure that the work performed on the tank car conforms to the applicable DOT or AAR specification and the AAR approval for the tank car. Persons interested in including tank cars built to Canadian or Mexican specifications are asked to discuss the issue in their comments to this docket.

RSPA and FRA do not consider the proposal for a mandatory QAP to create an undue burden because each tank car facility that performs welding on the tank during any fabrication, alteration, conversion, or repair must already have a QAP to obtain "certified" status as an AAR approved shop.

A one year transition period is proposed for the development of the QAP and the written procedures that guide employees performing work on tank cars. Commenters are asked to submit alternative implementation schedules, with supporting justification, in response to this NPRM.

II. Overview

The proposal in this NPRM potentially affects most of the Parts of the Hazardous Materials Regulations. To aid those persons reviewing this NPRM, this Overview is included along with the Review by Section; it is intended to make further review easier by sketching the relationships between the various parts of the HMR as they are potentially affected by the proposals contained in this notice. This Overview does not treat each proposed change in detail and, therefore, interested persons are advised to read this entire notice for a more complete understanding of the changes that would be made by adoption of the rule proposed here.

The definitions in part 171 would be augmented by defining the area included in the term "bottom shell."

Part 172 contains the hazardous materials table (HMT) with section references and special provisions. Amendments to sections directly affecting tank cars in this notice are mirrored in the special provisions to the hazardous materials table.

Part 173 contains requirements for shippers; the primary impact of this NPRM would be on the standards for qualifying, maintaining, and using tank cars now found in § 173.31. The guidelines for selecting the right tank car for the commodity to be transported would stay in proposed part 173; the requirements for the pre-trip inspection that makes certain that a tank car is in proper condition for transportation would be moved to part 174; and the periodic testing requirements now in § 173.31(c) would be moved to part 180.

Requirements specific to the railroad transportation of hazardous materials are found in part 174. The proposals in this docket would move the current § 173.31(b), containing requirements for "examination before shipping" to a new § 174.68.

Essentially all of the Federal requirements for building and repairing tank cars are now in part 179. Regulations pertaining to new construction would remain in part 179 and regulations for on-going repairs, inspections, and tests would be moved to a newly created subpart F of part 180. Such a move is patterned on and indeed parallels efforts by other agencies within DOT to separate the rules for building a container for hazardous materials from the rules on keeping it safe during its useful life.

The following table lists the proposed paragraphs or sections and, where applicable, the corresponding paragraph or section contained in the current HMR. In some cases, the cross references are to provisions which are similar to, but not identical with current provisions.

New section	Old section
173.31(a)(1)	173.31(a).
173.31(a)(2)	173.31(a)(4) [except 4th and 5th sentence].
173.31(b)(1)(i)	173.31(a)(5) [except 2d sentence].
173.31(b)(1)(ii)	173.31(a)(6) [except "Effective November 15, 1990" beginning of 1st sentence].
173.31(b)(2)(i)	173.31(a)(12).
173.31(b)(2)(ii)	173.31(a)(15).
173.31(c)	173.31(a)(7) [except "Effective July 1, 1991" beginning of 1st sentence].
173.31(d)	173.31(a)(14).
173.31(e)	173.31(a)(17).
173.31(f)	173.31(a)(3).
173.319(e)	173.31(c)(13).
174.68(a)	173.31(b)(1), (2), and (3).
174.68(b)	173.24b(b).
179.7	
180.501	
180.503	
180.505	
180.507	
180.507(a)	
180.507(b)(1), (2), (3), and (4)	173.31(a)(1).
180.509	173.31(a)(2), (8), (9), and (10).
180.509(a)(2)	
180.509(a)(3)	173.31(c)(10).
180.509(b)(3)	173.31(c)(8).
180.509(b)(4)	173.31(a)(16).
180.509(b)(5)	173.31(c)(9).
	173.31(e).

New section	Old section
180.509(d)(6)..	173.31(c)(14).
180.509(f)	173.31(a)(11).
180.509(g)	173.31(a)(11) and (f).
180.509(h)(2)..	173.31(c)(6).
180.511	
180.511(a)	173.31(c)(3).
180.513	173.21(f) and 179.6.
180.515	173.31(c)(7).
180.517	173.31(c)(8).
180.517(b)	173.31(c)(8).
180.519	173.31(d).

III. Review by Section

Part 171

Section 171.8. As currently defined, "bottom shell" means

that portion of a tank car tank surface, excluding the head ends of the tank car tank, that lies within two feet, measured circumferentially, of the bottom longitudinal center line of the tank car tank.

FRA learned from its experience with Emergency Order No. 16 and other field investigations that welding flaws may exist outside of the currently defined area. Experience with finite element analysis and the mapping of stress concentrations in the tank structure under various loading conditions also shows that concentrated stresses appear outside the currently defined area. If the proposals in this notice become final regulations, the definition of the "bottom shell" would be revised to include an additional 61 cm (2 feet) on each side of the center line. The FRA believes that by thus increasing the width, inspections of the bottom shell will more completely encompass the high-stressed areas of the tank.

Part 172

Section 172.101. In the HMT, special provision "B41," appearing in column (7) of the entries for "benzyl chloride," "fluorosulfonic acid," and "titanium tetrachloride" would be removed. Also, HMT special provision "B43," appearing in column (7) of the entries for "carbon dioxide, refrigerated liquid," "hydrogen chloride, refrigerated liquid," and "vinyl fluoride, inhibited" would be removed.

Section 172.102. Special provisions "B41" and "B43" would be removed because they are unnecessary. The inspection and test intervals (i.e., 5–3–1) specified in special provision "B41" and the non-destructive tests requirements specified in special provision "B43" would be incorporated into the proposed Subpart F of Part 180.

Part 173

Section 173.31. This section would be completely revised and entitled "Use of Tank Cars," and reorganized for clarity. The provisions would not be substantially changed. Current paragraph (a) would remain in this section. In paragraph (b) pre-trip inspection and securement requirements would be moved to part 174 and referenced in this section. Paragraph (c) containing certain periodic test and inspection requirements would be moved to subpart F of part 180.

Proposed paragraph (a)(1) is current § 173.31(a) revised to correspond to the language in the HMR for cargo tanks and portable tanks (see §§ 173.32c(a) and 173.33(a)). The section would also include "AAR" specifications since the use of these tank cars for hazardous materials service is authorized in the HMR (see §§ 173.241 and 173.242). When these tank cars are used for the transportation of hazardous materials, the tank cars must meet the minimum specification for new construction as required by the AAR.

Proposed paragraph (a)(2) is current § 173.31(a)(4). The fourth sentence in current § 173.31(a)(4) would be removed since it is essentially the same as the second sentence in the same paragraph. The fifth sentence would be removed since it is essentially the same as the prohibited marking requirements in § 172.303(a).

Proposed paragraph (a)(3) would provide that no person may fill a tank car with a hazardous material when the car is overdue for periodic inspection and test. This provision will allow the movement of tank cars containing the residue of a hazardous material to a tank car facility for inspection and test. This paragraph was proposed in Docket HM–166X as § 173.31(b)(4) (56 FR 37505, August 7, 1991). It is consistent with provisions allowing similar movements for cargo tanks, portable tanks, and multi-unit tank car tanks (see §§ 173.31(d)(10), 173.32c(c), and 173.33(a)(3) respectively).

Proposed paragraph (a)(4) is added to reinforce the inspection requirements that must be fulfilled before a tank car of hazardous materials is offered for transportation. In this notice, RSPA proposes to move the requirements in the current § 173.31(b)(1)(2) and (3) to a new section 174.68.

Proposed paragraph (b)(1)(i) is current § 173.31(a)(5). The proposed paragraph would be revised by removing the reference to the compliance date, now past, for equipping DOT-specification tank cars not transporting hazardous materials with shelf couplers.

Proposed paragraph (b)(1)(ii) is current § 173.31(a)(6). The proposed paragraph would be revised by removing the reference to the compliance date, now past, for equipping non-DOT specification tank cars transporting hazardous materials with shelf couplers.

Proposed paragraph (b)(2)(i) is current § 173.31(a)(12). Proposed paragraph (b)(2)(ii) is current § 173.31(a)(15). The latter provisions would be simplified by using the term "poisonous by inhalation" (see § 171.8) in place of the defining criteria.

Proposed paragraph (c) is current § 173.31(a)(7). The requirements would be revised by removing the reference to the compliance date, now past, for welding air brake equipment support attachments to pads instead of directly to the tank shell.

Proposed paragraph (d) is current § 173.31(a)(14). The proposed paragraph would be revised by changing the term "uninsulated" to "non-insulated."

Proposed paragraph (e) is current § 173.31(a)(17). The provision would be simplified by using the current definition of "poisonous by inhalation" (see § 171.8) in place of the defining criteria.

Proposed paragraph (f) is current § 173.31(a)(3). The paragraph would be simplified by removing the specific "DOT" Class references and by explaining that any tank of the same class with a higher tank test pressure than the tank authorized in the HMR may be used. The paragraph would also be simplified by specifying the hierarchy of the letters in the specification marking that describe

special protective systems (e.g., "J" for thermally protected, jacketed cars, "T" for thermally protected, non-jacketed cars; "S" for cars with head shields but without thermal protection; and "A" for cars without protective systems).

Section 173.319. Paragraph (a)(4)(iii) is revised by removing the parenthetical reference. Current paragraph 173.31(c)(13) is redesignated as proposed paragraph § 173.319 (e). Proposed paragraph (e) would be revise for clarity and units of measurements would conform to current SI nomenclature. Furthermore, this notice proposes to change the term "stencilling" to "marking" for consistency with the terminology used throughout the HMR.

Part 174

Section 174.68. Proposed paragraph (a) is current § 173.31 (b) (1), (2), and (3). To determine if a "tank and safety appurtenances and fittings are in proper condition for the safe transportation of the lading" this section would be expanded to clarify and define the areas on the tank, safety appurtenances, and fittings needing pre-trip shipper inspection.

Proposed paragraph (b) refers to the requirement in §§ 173.24(b) and (f) that package (including tank car) closures be so designed and closed that there is no identifiable release of hazardous materials into the environment and would establish the rebuttable presumption of an improper inspection under § 174.68(a)(4) if closures are found in less than a tool-tight condition during transportation. Current § 173.31(b)(1) requires that "the shipper (offeror) must determine to the extent practicable, that * * * fittings are in proper condition * * *" FRA's experience in enforcing § 173.31(b)(1) is that, when a tank car is discovered during transportation with a loose closure, the offeror will argue that the car was inspected and that all "practicable" steps were taken to tighten the fittings. This argument ignores the clear requirement in § 173.24 that packages and fittings be designed and closed to prevent releases under conditions normally incident to transportation. As proposed in this notice, the inspection requirement in § 174.68 would be directly related to the design and operation requirements in § 173.24. RSPA and FRA believe that this alignment of the regulations will clarify requirements and that, by fostering compliance with safety standards, the proposal will improve hazardous materials transportation safety.

Part 179

Section 179.2. This section would be amended by adding a definition for "Tank car facility." A tank car facility means an entity that manufactures, repairs, inspects, or tests tank cars to ensure that the tank cars conform to Parts 179 and 180 of the regulations; it is an entity that effects the certificate of construction of the tank car or verifies that the tank car conforms to the specification.

Section 179.7. This section would be added to require tank car facilities to have a Quality Assurance Program.

Paragraph (a) would state the performance standard for the program. Paragraph (b) would require that the QAP have certain minimum requirements, as discussed in more detail earlier in this preamble under the subject heading "K. Quality Assurance Programs." Paragraph (c) would require tank car facilities to ensure that only personnel qualified for a particular non-destructive inspection and test perform that operation. Paragraph (d) would require each tank car facility to have written procedures, covering inspection, fabrication, and repair operations as appropriate, for their employees. Paragraph (e) would cross-reference the training requirements in subpart H of part 172. Section 172.702 requires that a hazmat employer, shall train each of its hazmat employees. A hazmat employer includes a person who represents, sells, offers, reconditions, tests, repairs, or modifies a packaging as qualified for the use in the transportation of hazardous materials (e.g., marking the tank car with the letters "DOT"). See definitions in § 171.8. Proposed paragraph (f) would specify the compliance date by which tank car facilities must have a quality assurance program and written procedures in effect.

Part 180

Subpart F of part 180. This subpart would contain the qualification and maintenance requirements for tank cars. The section headings, sections, and many paragraphs are similar to those for cargo tanks, currently found in Subpart E of Part 180.

Section 180.501. Paragraph (a) would specify the applicability of the proposed Subpart. Paragraph (b) would specify that any person who performs a function required by Subpart F of Part 180 must perform that function according to the regulations.

Section 180.503. This section proposes to define certain terms used throughout the subpart. For simplicity, the section makes applicable the terms currently used in Parts 171 and 179 for the construction of tank cars.

Section 180.505. This section proposes to require each tank car facility performing repair work to have a quality assurance program based on that proposed in § 179.7 for new car construction.

Section 180.507. This section would contain continuing qualifications for existing tank cars that are no longer authorized for new construction, such as a DOT 113A175W tank car. Proposed paragraph (a) is essentially current § 173.31(a)(1) except that it would be revised to include non-specification tank cars that are currently authorized for the transportation of hazardous materials. Proposed paragraphs (b) (1), (2), (3), and (4) are current § 173.31(a) (2), (8), (9), and (10).

Section 180.509. This section would specify the requirements for the periodic inspection and test of tank cars. Proposed paragraph (a)(1) would require each tank car facility to evaluate the tank according to the "Acceptable results of inspections and tests" as prescribed in proposed § 180.511. Paragraph (a)(2) would require marking each tank car passing a periodic inspection and test to indicate the date of inspection and test and the inspection and test due dates according to new § 180.515. This paragraph is similar to current § 173.31(c)(10). Proposed paragraph (a)(3) would require a written report for each tank car after it successfully passes an inspection and test. The report would contain with details of the inspections and tests conducted, the defects found, and the methods employed to repair them. The report must conform to the details specified in new § 180.517. This report is similar to current § 173.31(c)(8).

Proposed paragraph (b) would specify unusual conditions that may require an inspection and tests of tank cars, similar to § 173.32b(e) for portable tanks and § 180.407(b) for cargo tanks. Proposed paragraph (b)(1) would require an inspection and test if the tank shows evidence of abrasion, corrosion, cracks, dents, distortions, defects in welds, or any other condition unsafe for transportation. Proposed paragraph (b)(2) would require an inspection and test if the tank was in an accident and "damaged to the extent that may adversely affect its lading retention capability" (e.g., large dent or gouge in the tank shell). Proposed paragraph (b)(3) would be added to require an inspection and test if transferring the tank into or out of service that was corrosive to the tank. This paragraph is similar to the current requirements in §§ 173.31(a)(16), 173.32(i), and 180.407(b)(2) for tank car tanks, portable

tanks, and cargo tanks. Proposed paragraph (b)(4) would require an inspection and test if work was done on the tank that required welding, riveting, hot or cold forming, etc. This paragraph is similar to current § 173.31(c)(9). Proposed paragraph (b)(5) would require an inspection and test if the tank was involved in a fire. This paragraph is similar to current § 173.31(e) except that this proposal reflects that the fire repair requirements are now in § 180.513. Proposed paragraph (b)(6) would require an inspection and test, of either a single tank car or a design of tank cars, if required by FRA, based on probable cause. This paragraph is analogous to § 173.32(j) and § 180.407(b)(5) for portable tanks and cargo tanks, respectively. Probable cause may include an inspection and test where FRA discovers a crack in a welded area, a wheel burn, or a large dent or bulge in the tank shell; it may also include a group of cars of a given design if FRA discovers problems apparently related to cars of that design.

Proposed paragraph (c) would specify the frequency with which inspections and tests must be performed on tank cars. Proposed paragraph (c)(1) would specify the requirements for the inspection and hydrostatic test of DOT Class 107 tank cars and riveted tank cars. As noted above, the hydrostatic test is still effective for these tanks since it will detect loose rivets and areas of metal distress. Proposed paragraph (c)(2) would require an inspection for thermal integrity of DOT Class 113 tank cars in place of the inspection and testing requirements in subpart F of part 180. This paragraph cross-references the requirements in § 173.319(e). Proposed paragraph (c)(3) would specify the inspection and test requirements for fusion welded tank cars. The intervals would vary depending upon whether or not the tank was lined or coated and upon whether or not the car was transporting materials corrosive to the tank. This will ensure that the tank shell thickness does not degrade below the minimum shell thickness proposed in the NPRM before the next inspection and test cycle. For linings and coatings, this proposal would require a tank car facility to inspect the lining or coating based on the inspection and test intervals and techniques established by the owner. The owner must establish an inspection interval and test technique based on the manufacturer's recommendations or the owner's knowledge of the life-expectancy of the lining or coating.

Proposed paragraph (d) would specify the manner for conducting visual inspection required for each tank car. This section is similar to § 180.407 (d) and (e) for cargo tanks. Proposed paragraph (d)(1) would require an inspection of the tank internally and externally for abrasion, corrosion, cracks, dents, distortions, defects in welds, or any other conditions unsafe for transportation. Proposed paragraph (d)(2) would require the inspection of all piping, valves, fittings, and gaskets for corrosion and any other condition unsafe for transportation. Proposed paragraph (d)(3) would require an inspection for missing or loose bolts, nuts, or other elements. Proposed paragraph (d)(4) would require an inspection for all closures on the tank for proper securement and to prevent leaks in transportation. The tank car facility would also inspect the protective housings for proper securement. Proposed paragraph (d)(5) would require an inspection of the markings on the tank car for legibility. Proposed paragraph (d)(6) would require an inspection of the seats on excess flow valves. This paragraph is current § 173.31(c)(14).

Proposed paragraph (e) would require a structural integrity inspection and test on all circumferential and longitudinal welds and welded attachments on the bottom of the tank (122 cm [4 feet] on each side of the bottom tank centerline) using one or more non-destructive test methods.

Proposed paragraph (f) would require thickness measurements to determine that the tank is not below the minimum shell thickness proposed in the NPRM. This section is similar to current § 173.31(a)(11), but would expand the requirement beyond localized areas of reduced thickness to the full tank shell.

Proposed paragraph (g) would specify the minimum shell thickness reductions based on FRA research and comments received. This paragraph is a combination of current §§ 173.31(a)(11) and 173.31(f). Proposed paragraph (g)(i) would allow thickness reductions on carbon steel, stainless steel, aluminum, nickel, and manganese-molybdenum steels. Proposed paragraph (g)(ii) would specify the minimum shell and head thickness reductions for uniform and localized areas, provided:

(a) The cumulative surface perimeter of a localized area does not exceed 182.88 cm (72 inches);

(b) Any reduction in the shell thickness does not effect the structural strength of the tank;

(c) The tank car is not an "inner" tank for Class DOT 115;

(d) The tank car is not a Class DOT 103 or 104 tank car having an inside diameter greater than 243.84 cm (96 inches); and

(e) The tank car is not a Class DOT 111 in ethylene oxide service.

Proposed paragraph (h)(1) would require the inspection of the safety systems on the tank, such as thermal protection systems, tank head puncture resistance systems, and coupler vertical restraint systems, to ensure their integrity. Proposed paragraph (h)(2) would require the inspection and test of re-closing pressure relief devices (safety valves). This paragraph is current § 173.31(c)(6).

Proposed paragraph (i) would require an inspection and test of the lining and coating on the tank according to the owner's determinations.

Proposed paragraph (j) would require a leakage pressure test of the tank and appurtenances. This paragraph is similar to § 180.407(h).

Proposed paragraph (k) would allow an alternative inspection and test procedure, based on a damage-tolerance fatigue evaluation, if examined by the AAR Tank Car Committee and approved by the Associate Administrator for Safety FRA.

Proposed paragraph (l) would specify the compliance date for the new inspection and test requirements.

Section 180.511. This section would specify the acceptable results of inspections and tests. Proposed paragraph (a) would establish an acceptable visual inspection as one that shows no structural defect that may cause the tank to fail (including leak) before the next inspection and test interval. This paragraph is similar to current § 173.31(c)(3).

Proposed paragraph (b) would establish an acceptable structural integrity inspection and test as one that shows no structural defect that may initiate crack growth and cause the tank to fail before the next inspection and test interval, such as a propagating crack in a circumferential weld or welded attachment.

Proposed paragraph (c) would establish an acceptable service life shell thickness. An acceptable test is one that shows no areas of the tank below the minimum shell or head thickness allowable.

Proposed paragraph (d) would establish an acceptable safety system inspection, (e.g., thermal protection) as one that shows the systems conform to part 179. For example, the thermal protection system must be inspected to determine that the tank car has sufficient thermal integrity and the tank head puncture resistance system and support brackets must be inspected to ensure that they are secure and conform to the specification.

Paragraph (e) would establish an acceptable inspection and test for lining and coatings as one that shows no holes or degraded areas.

Paragraph (f) would establish an acceptable inspection and test for a leakage pressure test as one that shows no indications of leakage in any product piping, fitting, or closure.

Paragraph (g) would establish an acceptable hydrostatic test (for DOT Class 107 tank cars and riveted tank cars) as one that shows no leakage in the tank. Since there are very few Class DOT 107 tank cars and riveted tanks subject to this hydrostatic test requirement (approximately 137 Class DOT 107s and 120 riveted tank cars), this NPRM proposes that owners follow the hydrostatic test requirements that were in effect on [insert date final rule is published in the **Federal Register**].

Section 180.513. This section would specify that tank repairs must conform to the requirements of Appendix R of the AAR Specifications for Tank Cars. This paragraph is current §§ 173.31(f) and 179.6. Based on the comments received to the ANPRM, RSPA and FRA believe that the requirements for repair in the AAR Specifications for Tank Cars are acceptable for the detection and repair of cracks, pits and corrosion.

Section 180.515. This section would specify the marking requirements for tank cars after a successful tank inspection and test. This paragraph is similar to current §§ 173.31(c) (7) and (10), 179.100–21, and 179.200–25.

Section 180.517. This section would specify the reporting and record retention requirements after a tank has successfully completed its required inspection and test. This section is similar to current § 173.31(c)(8). Proposed paragraph (a) would require the tank owner retain the certificate of construction of the tank car (AAR form 4–2) and related documentation certifying that the tank conforms to the specification. The owner shall retain the documents for the period of ownership. Upon a change in ownership, Section 1.3.15 of the AAR Specifications for Tank Cars requires the transfer of these documents to the new owner. Proposed paragraph (b) would specify the inspection and test reporting requirements. This paragraph is current § 173.31(c)(8) revised to conform with § 180.417(b) for cargo tanks.

Section 180.519. This is current § 173.31(d). The paragraph is revised by changing the title "TABLE II," to read "TABLE I." The references to the table in the section would also be changed to reflect the new title.

IV. Regulatory Analysis and Notices

A. Executive Order 12291 and DOT Regulatory Policies and Procedures

This proposed rule does not meet the criteria specified in section 1(b) of Executive Order 12291 and, therefore, is not a major rule. The rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034). A regulatory evaluation is available for review in the Docket.

B. Executive Order 12612

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). The Hazardous Materials Transportation Act (HMTA) contains an express preemption provision (49 App. U.S.C. 1804(a)4)) that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(i) The designation, description, and classification of hazard materials;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(iii) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents;

(iv) The written notification, recording, and reporting of unintentional release in transportation of hazardous materials; or

(v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

This proposed rule concerns design, manufacturing, repairing, and other requirements for packages represented as qualified for use in the transportation of hazardous materials.

If adopted as final, this rule would preempt any State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are "substantively the same" (*see* 49 CFR 107.202(d)) as the Federal requirements.

The HMTA (49 App. U.S.C. 1804(a)5)) provides that if DOT issues a regulation concerning any of the covered subjects after November 16, 1990, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance. RSPA requests comments on what the effective date of Federal preemption should be for the requirements in this proposed rule that concern covered subjects. Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

C. Regulatory Flexibility Act

Based on limited information concerning the size and nature of the entities likely to be affected by this proposed rule, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. This certification is subject to modification as a result of a review of comments received in response to this proposal.

D. Paperwork Reduction Act

The information collection requirements contained in proposed §§ 179.7, 180.507, 180.509, and 180.517 are being submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC, Attention: Desk Officer for the Department of Transportation. Comments must reference the title of this notice, "Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and other Defects of Tank Car Tanks."

E. Regulatory Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

V. List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Oil, Reporting and recording requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labels, Markings, Oil, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety.

49 CFR Part 179

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, and Reporting and recordkeeping.

In consideration of the foregoing, title 49, Chapter I of the Code of Federal Regulations, would be amended as set forth below:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1805, and 1818; 33 U.S.C. 1321; 49 CFR part 1.

2. In § 171.8, the definition of "Bottom shell" would be revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Bottom shell means the portion of the tank car surface, excluding the tank heads, that lies within 122 cm (four feet) measured circumferentially from the bottom longitudinal center line of the tank.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

3. The authority citation for part 172 would continue to read as follows:

Authority: 49 U.S.C. App. 1803, 1804, 1805, and 1808; 33 U.S.C. 1321; 49 CFR part 1, unless otherwise noted.

§ 172.101 [Amended]

4. In § 172.101, in the Hazardous Materials Table, the following changes would be made:

a. For the entries "Benzyl chloride", "Fluorosulfonic acid", and "Titanium tetrachloride", in Column (7), Special Provision "B41," would be removed.

b. For the entries "Carbon dioxide, refrigerated liquid", "Hydrogen chloride, refrigerated liquid", and "Vinyl fluoride inhibited", in Column (7), Special Provision "B43" would be removed.

§ 172.102 [Amended]

5. In § 172.102, in paragraph (c)(3), Special Provisions "B41" and "B43" would be removed.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

6. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. App. 1803, 1804, 1805, 1806, 1807, 1808, and 1817; 49 CFR part 1, unless otherwise noted.

7. Section 173.31 would be revised to read as follows:

§ 173.31 Use of Tank Cars.

(a) *General.* (1) No person may offer a hazardous material for transportation in a tank car unless the tank car meets the applicable specification and packaging requirements of this subchapter or, when this subchapter authorizes the use of an "AAR" specification tank car, the applicable specification of the AAR Specifications for Tank Cars.

(2) Tank cars and appurtenances may be used for the transportation of any commodity for which they are authorized. Tank cars proposed for a commodity service other than authorized, must be approved for such service by the Association of American Railroads' Committee on Tank Cars. Transfer of a tank car from one authorized service to another may be made only by the owner or with the owner's authorization.

(3) No person may fill a tank car overdue for a periodic inspection or test with a hazardous material. Any tank car marked as meeting a DOT specification and any non-specification tank car transporting a hazardous material must have a periodic inspection and test conforming to § 180.509 of this subchapter.

(4) No person may offer a hazardous material for transportation in a tank car unless the tank car passes the inspection requirements of § 174.68 of this subchapter.

(b) *Safety Systems*—(1) *Coupler vertical restraint.* Each tank car used for transportation of hazardous material must be equipped with a coupler vertical restraint system that meets the requirements of § 179.14 of this subchapter.

(2) *Pressure relief devices.* (i) Pressure relief devices on tank cars must be of a type and design approved by the AAR Committee on Tank Cars and be constructed of metal not subject to deterioration by the lading.

(ii) Except for shipments of chloroprene, inhibited, in Class DOT 115 tank cars, tank cars used for materials meeting the definition for Division 6.1 liquids, Packing Group I or II, Class 2 gases, or Class 3 or 4 liquids, must have self-closing pressure relief devices. However, a tank car built before January 1, 1991, and equipped with a non-closing pressure relief device may be used to transport a Division 6.1 or Class 4 liquid if the liquid is not poisonous by inhalation. Unless otherwise specifically provided in this subchapter, frangible discs may not have breather holes.

(c) *Attachments.* No railroad tank car, regardless of its construction date, may be used for the transportation in commerce of any hazardous material unless the air brake equipment support attachments of such tank car conform to the standards for attachments set forth in §§ 179.100–16 and 179.200–19, as in effect on November 16, 1990.

(d) *Tank car test pressure.* A tank car used for the transportation of a hazardous material must have a tank test pressure equal to or greater than the greatest of the following:

(1) Except for shipments of carbon dioxide, anhydrous hydrogen chloride, vinyl fluoride, ethylene, or hydrogen, 133 percent of the sum of lading vapor pressure at the reference temperature of 46 °C (115 °F) for non-insulated tank cars or 41 °C (105 °F) for insulated tank cars plus static head, plus gas padding pressure in the vacant space of a tank car;

(2) 133 percent of the maximum loading or unloading pressure, whichever is greater;

(3) The minimum pressure prescribed by the specification in part 179 of this subchapter; or

(4) The minimum test pressure prescribed for the specific hazardous material in the applicable packaging section in subpart F or G of this part.

(e) *Interior heater coils.* Tank cars used for materials poisonous by inhalation may not have interior heater coils.

(f) *Tank car alternatives.* Unless otherwise specifically provided in this part:

(1) When this subchapter designates a specific specification tank car, the same class tank car with a higher marked test pressure also may be used.

(2) When the tank car specification delimiter is an "A," offerors may also use tank cars with a delimiter "S," "J" or "T."

(3) When the tank car specification delimiter is an "S," offerors may also use tank cars with a delimiter "J" or "T."

(4) When a tank car specification delimiter is a "T" offerors may also use tank cars with a delimiter of "J."

(5) When a tank car specification delimiter is a "J," offerors may not use any other specification delimiter.

8. A new paragraph (e) would be added to § 173.319 to read as follows:

§ 173.319 Cryogenic liquids in tank cars.

* * * * *

(e) *Special requirements for Class DOT–113 tank cars.* (1) A class DOT–113 tank car need not be periodically pressure tested; however, each shipment must be monitored to determine the average daily pressure rise in the tank car. If the average daily pressure rise during any shipment exceeds 20.68 Kpa (3 psi) per day, the tank must be tested for thermal integrity prior to any subsequent shipment.

(2) *Thermal integrity test.* When required by paragraph (e)(1) of this section, either of the following thermal integrity tests may be used:

(i) *Pressure rise test.* The pressure rise in the tank may not exceed 34.47 kPa (5 psi) in 24 hours. When the pressure rise test is performed, the absolute pressure in the annular space of the loaded tank car may not exceed 75 microns of mercury at the beginning of the test and may not increase more than 25 microns during the 24-hour period; or

(ii) *Calculated heat transfer rate test.* The insulation system must be performance tested as prescribed in 179.400–4 of this subchapter. When the calculated heat transfer rate test is performed, the absolute pressure in the annular space of the loaded tank car may not exceed 75 microns of mercury at the beginning of the test and may not increase more than 25 microns during the 24-hour period. The calculated heat transfer rate in 24 hours may not exceed:

(A) 120 percent of the appropriate standard heat transfer rate specified in § 179.401–1 of this subchapter, for DOT–113A60W and DOT–113C120W tank cars;

(B) 122.808 joules (0.1164 Btu/day/lb.) of inner tank car water capacity, for DOT–113A175W tank cars;

(C) 345.215 joules (0.3272 Btu/day/lb.) of inner tank car water capacity, for DOT–113C60W and 113D60W tank cars; or

(D) 500.09 joules (0.4740 Btu/day/lb.) of inner tank car water capacity, for DOT–113D120W tank cars.

(3) A tank car that fails a test prescribed in paragraph (e)(2) of this section must be removed from hazardous materials service. A tank car that was removed from hazardous materials service because it failed a test prescribed in paragraph (e)(2) of this section may not be used to transport a hazardous material until it conforms with all applicable requirements of this subchapter.

(4) Each frangible disc must be replaced every 12 months, and the replacement date must be marked on the car near the pressure relief valve information.

(5) Pressure relief valves and alternate pressure relief valve must be tested every five years. The start-to-discharge pressure and vapor tight pressure requirements for the pressure relief valves must be as specified in § 179.401–1 of this subchapter. The alternate pressure relief device values specified in § 179.401–1 of this subchapter for the DOT–113C120W tank car apply to the DOT–113D120W tank car.

PART 174—CARRIAGE BY RAIL

9. The authority citation for part 174 would continue to read as follows:

Authority: 49 U.S.C. App. 1803, 1804, and 1808; 49 CFR 1.53(e), 1.53, App. A to part 1.

10. Section 174.68 would be added to read as follows:

§ 174.68 Inspection requirements prior to transportation.

(a) No person may offer a tank car containing a hazardous material or a residue of a hazardous material for transportation unless that person determines that the tank car is in proper condition and safe for transportation. As a minimum, each person offering a tank car for transportation must inspect:

(1) The tank shell and heads for abrasion, corrosion, cracks, dents, distortions, defects in welds, or any other condition that makes the tank car unsafe for transportation;

(2) The piping, valves, fittings, and gaskets for corrosion and other conditions that make the tank car unsafe for transportation;

(3) For missing or loose bolts, nuts, or elements that make the tank car unsafe for transportation;

(4) All closures on tank cars and determine that the closures and all fastenings securing them are properly tightened in place by the use of a bar, wrench, or other suitable tool;

(5) Protective housings for proper securement;

(6) The pressure relief device, including a careful inspection of the frangible disc in non-closing pressure relief devices, for corrosion or damage that may alter the intended operation of the device;

(7) Each tell-tale indicator after filling and prior to transportation to ensure the integrity of the frangible disc;

(8) The external thermal protection system, tank head puncture resistance system, coupler vertical restraint system, and other safety systems for conditions that make the tank car unsafe for transportation;

(9) The required markings on the tank car for legibility; and

(10) The periodic inspection date markings to ensure that the inspection and test intervals are within the prescribed intervals.

(b) Closures on tank cars are required, under this subchapter, to be designed and closed so that, under conditions normally incident to transportation, there will be no identifiable release of a hazardous material to the environment. Accordingly, in any action brought to enforce this section, the lack of securement of any closure to a tool-tight condition, detected at any point, will establish a rebuttable presumption that a proper inspection was not performed by the offeror of the car as required by § 174.68(a)(4). That presumption may be rebutted only by evidence establishing that the car was subjected to abnormal treatment, e.g., a derailment or vandalism.

PART 179—SPECIFICATIONS FOR TANK CARS

11. The authority citation for part 179 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, and 1808; 49 CFR part 1, unless otherwise noted.

§ 179.1 [Amended]

12. In § 179.1, in paragraph (c), the section reference "§ 173.31" would be revised to read "§ 180.507".

13. In § 179.2, the following definition would be added, in the appropriate alphabetical order, to read as follows:

§ 179.2 Definitions and abbreviations.

* * * * *

Tank car facility means an entity that manufactures, repairs, inspects, or tests tank cars to ensure that the tank cars conform to this part and part 180 of this subchapter, that alters the certificate of construction of the tank car, or that verifies that the tank car conforms to the specification.

14. Section 179.7 would be added to read as follows:

§ 179.7 Quality assurance program.

(a) At a minimum, each tank car facility shall have a Quality Assurance Program, approved by the AAR, that—

(1) Ensures the finished product conforms to the requirements of the applicable specification and regulations of this subchapter;

(2) Has the means to detect any nonconformity in the manufacturing, repair, or testing of the tank car; and,

(3) Prevents non-conformities from recurring.

(b) At a minimum, the quality assurance program must have the following elements—

(1) Statement of authority and responsibility for those persons in charge of the quality assurance program.

(2) An organizational chart showing the interrelationship between managers, engineers, purchasing, construction, inspection, testing, and quality control departments.

(3) Procedures that ensure that the latest applicable drawings, design calculations, specifications, and instructions are used in manufacture, inspection, testing, and repair.

(4) Procedures to ensure that the fabrication and construction materials received are properly identified and documented.

(5) A description of the manufacturing, inspection, and testing program so that an inspector can determine specific inspection and test intervals.

(6) Monitoring and control of suitable processes and product characteristics during production.

(7) Procedures for the correction of imperfections.

(8) Provisions indicating that the requirements the AAR Specifications for Tank Cars, M–1002, apply.

(9) Qualification requirements of personnel performing ultrasonic, radiographic, acoustic emission, dye penetrant, magnetic particle, or other non-destructive inspections and tests.

(10) Qualification requirements of personnel performing magnified visual imagery inspections (including fiber optic, borescope, and videoimagescope systems). Under these requirements, the examiner must have the capability to consistently and repetitively find flaws under test conditions. Furthermore, the requirements must include visual acuity criteria where detectability (minimum size of a flaw that an examiner can find); resolution (minimum distance at which two flaws may be seen separately); and contrast sensitivity (minimum detectable thickness change [convolutions] over a surface area) further define the qualifications of the examiner.

(11) Procedures for evaluating the inspection and test technique employed, including the accessibility of the area and the sensitivity of the inspection and test technique and minimum detectable crack length.

(12) Procedures for the periodic calibration and measurement of inspection and test equipment.

(13) A system for the maintenance of records, inspections, tests, and the interpretation of inspection and test results.

(c) Each tank car facility shall ensure that only personnel qualified for each non-destructive inspection and test perform that particular operation.

(d) Each tank car facility shall establish written procedures for their employees to ensure that the work performed on the tank car conforms to the specification and the AAR approval for the tank car.

(e) Each tank car facility shall train its employees in accordance with subpart H of part 172 of this subchapter on the program and procedures specified in paragraph (b) of this section to ensure quality.

(f) *Date of conformance.* After January 1, 1995, no tank car facility may manufacture, repair, inspect, or test tank cars subject to requirements of this subchapter, unless it is operating in conformance with a Quality Assurance Program and written procedures required by paragraphs (a) and (b) of this section.

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

15. The authority citation for part 180 would continue to read as follows:

Authority: 49 U.S.C. 1803; 49 CFR part 1.

16. A new subpart F would be added to part 180 to read as follows:

Subpart F—Qualification and Maintenance of Tank Cars

Sec.

180.501 Applicability.
180.503 Definitions.
180.505 Quality assurance program.
180.507 Qualification of tank cars.
180.509 Requirements for inspection and test of specification tank cars.
180.511 Acceptable results of inspections and tests.
180.513 Repairs, alterations, conversions, and modifications.
180.515 Markings.
180.517 Reporting and record retention requirements.
180.519 Periodic retest and reinspection of tank cars other than single-unit tank car tanks.

Subpart F—Qualification and Maintenance of Tank Cars

§ 180.501 Applicability.

(a) This subpart prescribes requirements, in addition to those contained in parts 107, 171, 172, 173, and 179 of this subchapter, applicable to any person who manufactures, fabricates, marks, maintains, repairs, inspects, or services tank cars to ensure that the tank cars are in proper condition for transportation.

(b) Any person who performs a function prescribed in this part shall perform that function in accordance with this part.

§ 180.503 Definitions.

The definitions contained in §§ 171.8 and 179.2 apply to this subchapter.

§ 180.505 Quality assurance program.

The quality assurance program requirements of § 179.7 of this subchapter apply.

§ 180.507 Qualification of tank cars.

(a) Each tank car marked as meeting a "DOT" specification or any other tank car used for the transportation of a hazardous material must meet the requirements of this subchapter or the applicable specification to which the tank was constructed.

(b) *Tank car specifications no longer authorized for construction.* (1) Tanks prescribed in the following table are authorized for service provided they conform to all applicable safety requirements of this subchapter:

Specification prescribed in the current regulations	Other specifications permitted	Notes
105A200W	105A100W	1
105A200ALW	105A100ALW	1
105A300W	ICC–105, 105A300	.....
105A400W	105A400	.....
105A500W	105A500	.....
105A600W	105A600	.....
106A500X	ICC–27, BE–27, 106A500	.....
106A800X	106A800	.....
107A * * *		2

Note 1: Tanks built as Specification DOT 105A100W or DOT 105A100ALW may be altered and converted to DOT 105A200W and DOT 105A200ALW.

Note 2: The test pressures of tanks built in the United States prior to January 1, 1956, may be increased to conform to Specification 107A, except that tanks built before 1941 are not authorized. Original and revised test pressures must be indicated and may be shown on a plate attached to the bulkhead of the car.

(2) For each tank car conforming to and used under an exemption issued before October 1, 1984, which authorized the transportation of a cryogenic liquid in a tank car, the owner or operator, if not the owner, shall remove the exemption number stenciled on the tank car and stamp the tank car with the appropriate Class DOT–113

specification followed by the applicable exemption number. For example: DOT–113D60W–E * * * * (asterisks to be replaced by the exemption number). The owner or operator marking a tank car in this manner shall retain on file a copy of the last exemption in effect during the period the tank car is in service. No person may modify a tank car marked under this paragraph unless the modification is in compliance with an applicable requirement or provision of this subchapter.

(3) Specification DOT–113A175W, DOT–113C60W, DOT–113D60W, and DOT–113D120W tank cars may continue in use, but new construction is not authorized.

(4) Class DOT 105A and 105S tank cars, constructed of ASTM A212B steel to ASTM A300 low temperature requirements, authorized under DOT E–3992 may continue in service, but new construction is not authorized.

§180.509 Requirements for inspection and test of specification tank cars.

(a) *General.* (1) Each tank car facility shall evaluate the tank car according to the requirements specified in § 180.511.

(2) Each tank car that successfully passes a periodic inspection and test must be marked as prescribed in § 180.515.

(3) A written report as specified in § 180.517(b) must be prepared in English for each tank car that is inspected and tested under this section.

(b) *Conditions requiring inspection and test of tank cars.* Without regard to any other periodic inspection and test requirement, tank cars must have an inspection and test according to this section if:

(1) The tank car shows evidence of abrasion, corrosion, cracks, dents, distortions, defects in welds, or any other condition that makes the tank car unsafe for transportation.

(2) The tank car was in an accident and damaged to an extent that may adversely affect its lading retention capability.

(3) The tank car is transferred into or out of a service that is corrosive to the tank.

(4) Repair(s), modification(s), or conversion of the tank car is performed requiring welding, riveting, caulking of rivets or hot or cold forming to restore tank car contour.

(5) The tank bears evidence of damage caused by fire.

(6) The Associate Administrator for Safety, FRA, so requires it based on the existence of probable cause that a tank car or a class or design of tank cars may be in an unsafe operating condition.

(c) *Frequency of inspection and tests.* Each tank car shall have an inspection and test according to the requirements of this paragraph.

(1) For Class 107 tank cars and tank cars of riveted construction, the tank car must have a hydrostatic pressure test and visual inspection conforming to the requirements in effect on [insert date final rule is published in the **Federal Register**] for the tank specification.

(2) For Class DOT 113 tank cars, see § 173.319(e) of this subchapter.

(3) For fusion welded tank cars, each tank car must have an inspection and test conforming to paragraphs (d) through (k) of this section—

(i) For cars transporting materials not corrosive to the tank, every 10 years for the tank and service equipment (i.e., filling and discharge, venting, safety, heating, and measuring devices).

(ii) For non-lined or non-coated tank cars transporting materials corrosive to the tank, an interval based on the following formula, but in no case shall the interval exceed 10 years for the tank and 5 years for service equipment.

$$i = \frac{t_1 - t_2}{r}$$

where:

i means the inspection and test interval

t_1 means the actual thickness

t_2 means the allowable minimum thickness under paragraph (g) of this section

r means the corrosion rate per year

(iii) For lined or coated tank cars transporting materials corrosive to the tank, every 10 years for the tank, 5 years for the service equipment, and an interval based on the owner's determination for the lining or coating, but not greater than every 10 years.

(A) Each owner of a tank car equipped with a lining or coating shall determine the periodic inspection interval and test technique for the lining or coating. The owner must maintain all supporting documentation used to make such a determination, such as the lining or coating manufacturer's recommended inspection interval and test technique, at the owner's principal place of business.

(B) The supporting documentation used to make such inspection and test interval determinations and technique must be made available to FRA upon request.

(d) *Visual inspection.* At a minimum, each tank car facility must visually inspect the tank externally and internally as follows:

(1) An internal inspection of the tank shell and heads for abrasion, corrosion, cracks, dents, distortions, defects in welds, or any other condition that makes the tank car unsafe for transportation, and except in the areas where insulation or a thermal protection system precludes it, an external inspection of the tank shell and heads for abrasion, corrosion, cracks, dents, distortions, defects in welds, or any other condition that makes the tank car unsafe for transportation;

(2) An inspection of the piping, valves, fittings, and gaskets for indications of corrosion and other conditions that make the tank car unsafe for transportation;

(3) An inspection for missing or loose bolts, nuts, or elements that make the tank car unsafe for transportation, and replacing or tightening those found missing or loose;

(4) An inspection of all closures on the tank car for proper securement in a tool tight condition and an inspection of the protective housings for proper securement;

(5) An inspection of excess flow valves having threaded seats for tightness; and

(6) An inspection of the required markings on the tank car for legibility.

(e) *Structural integrity inspections and tests.* At a minimum, each tank car facility shall inspect the tank car for structural integrity as specified in this section. The structural integrity inspection and test shall include all circumferential and longitudinal welds within the area of the bottom shell and all attachments welded to the bottom shell by one of the following inspection and test methods to determine that the welds are in proper condition:

(1) Dye penetrant test

(2) Radiography test

(3) Magnetic particle test

(4) Ultrasonic test

(5) Enhanced visual imagery (e.g., fiberscopes and borescopes)

(f) *Thickness tests.* (1) Each tank car facility shall measure the thickness of the tank car shell, heads, sumps, domes, and nozzles on each tank car by using a device capable of accurately measuring the thickness to within ±0.051 mm (±0.002 inch).

(2) After repairs, alterations, conversions or modifications of a tank car that results in a reduction to the tank car shell thickness, the tank car facility shall measure the thickness of the tank car shell in the area of reduced shell thickness.

(g) *Service life shell thickness allowance.* (1) A tank car found with a thickness below the required minimum thickness after forming for its specification, as stated in Part 179 of this subchapter, may continue in service if:

(i) Construction of the tank car shell and heads is from carbon steel, stainless steel, aluminum, nickel, or manganese-molybdenum steel; and

(ii) Any reduction in thickness of the tank shell or head is no more than that provided in the following tables:

UNIFORM SHELL THICKNESS REDUCTIONS

Location	Class DOT 103, 104, 111, and 115 tank cars (see notes)	Class DOT 105, 109, 112, and 114 tank cars (see notes)
Top of the tank car.	3.17 mm (1/8 inch).	0.79 mm (1/32 inch).
Bottom shell .	1.58 mm (1/16 inch).	0.79 mm (1/32 inch).

LOCALIZED SHELL THICKNESS REDUCTIONS

Location	Class DOT 103, 104, 111, and 115 tank cars (see notes)	Class DOT 105, 109, 112, and 114 tank cars (see notes)
Top of the tank car.	4.76 mm (3/16 inch).	1.58 mm (1/16 inch).
Bottom shell .	1.58 mm (1/16 inch).	1.58 mm (1/16-inch).

Notes:

[1] The cumulative perimeter for localized reductions may not exceed a 182.88 cm (72 inches) perimeter.

[2] Any reduction in the tank car shell does not affect the structural strength of the tank car so that the tank car shell no longer conforms to Section 6.2 of the Association of American Railroads Specifications for Tank Cars.

[3] Applies only to the outer shell for DOT Class 115 tank cars.

[4] For DOT Class 103 and 104 tank cars, the inside diameter may not exceed 243.84 cm (96 inches).

[5] No Class DOT 111A tank car with a reduced shell thickness may be used for the transportation of ethylene oxide.

(h) *Safety system inspections.* At a minimum, each tank car facility must inspect:

(1) Tank car thermal protection systems, tank head puncture resistance systems, coupler vertical restraint systems and systems used to protect discontinuities (i.e., skid protection and protective housings) to ensure their integrity.

(2) Reclosing pressure relief devices by:

(i) Removing the safety relief device from the tank car for inspection; and,

(ii) Testing the safety relief device with air or gas to ensure that it conforms to the start-to-discharge pressure for the specification or commodity in this subchapter.

(i) *Lining and coating inspections and tests.* At a minimum, each tank car facility must inspect the lining or coating installed on the tank car according to the inspection interval and test technique established by the owner (as required by paragraph (c)(3)(iii) of this section).

(j) *Leakage pressure test.* (1) At a minimum, each tank car facility shall perform a leakage pressure test on the tank fittings and appurtenances. The leakage pressure test must include product piping with all valves and accessories in place and operative, except that during the pressure test the tank car facility shall remove or render inoperative any venting devices set to discharge at less than the test pressure. Test pressure must be maintained for at least 5 minutes. Leakage test pressure must not be less than 50% of the tank test pressure.

(2) Interior heater systems must be tested hydrostatically at 200 psi (1379 kPa) and must show no signs of leakage.

(k) *Alternative inspection and test procedures.* (1) In lieu of the other requirements of this section, a person may use an alternative inspection and test procedure or interval based on a damage-tolerance fatigue evaluation, when the evaluation is examined by the Association of American Railroads Tank Car Committee and approved by the Associate Administrator for Safety, Federal Railroad Administration.

(2) *Compliance date.* Each tank car shall have an inspection and test conforming to this section no later than the date the tank car requires a periodic hydrostatic pressure test (i.e., the marked due date on the tank car for the hydrostatic test). For tank cars on a 20-year periodic hydrostatic pressure test interval (i.e., Class DOT 103W, 104W, 111A60W1, 111A100W1, and 111A100W3 tank cars), the next inspection and test date is the midpoint between [insert date of publication of this rule] and the remaining years until the tank would have had a hydrostatic pressure test. After that, the tank car must be inspected and tested at 10-year intervals.

§ 180.511 Acceptable results of inspections and tests.

Provided it conforms with other applicable requirements of this subchapter, a tank car is qualified for use if it successfully passes the following the inspections and tests conducted in compliance with this subpart:

(a) *Visual inspection.* A tank car successfully passes the visual inspection when the inspection shows no structural defect that may cause leakage from or failure of the tank before the next inspection and test interval.

(b) *Structural integrity inspection and tests.* A tank car successfully passes the structural integrity inspection and test when it shows no structural defect that may initiate crack growth and cause failure of the tank before the next inspection and test interval.

(c) *Service life shell thickness.* A tank car successfully passes the service life shell thickness inspection when the tank shell and heads show no thickness reduction below that allowed in § 180.509(g) of this part.

(d) *Safety system inspection.* A tank car successfully passes the safety system inspection when each thermal protection system, tank head puncture resistance system, coupler vertical restraint system, and system used to protect discontinuities (e.g., breakage grooves on bottom outlets and protective housings) on the tank car conform to this subchapter.

(e) *Lining and coating inspections and tests.* A tank car successfully passes the lining and coating inspection and test when the lining or coating shows no evidence of holes or degraded areas.

(f) *Leakage pressure test.* A tank car successfully passes the leakage pressure test when all product piping, fittings and closures show no indication of leakage.

(g) *Hydrostatic test.* A Class 107 tank car or a riveted tank car successfully passes the hydrostatic test when it shows no leakage, distortion, excessive permanent expansion, or other evidence of weakness that might render the tank car unsafe for transportation service.

§ 180.513 Repairs, alterations, conversions, and modifications.

In order to repair tank cars, the tank car facility must comply with the requirements of appendix R of the AAR Specifications for Tank Cars.

§ 180.515 Markings.

(a) Each tank car facility shall mark the inspection and test date and the due date for the next inspection and test on the tank near the DOT specification number. A tank car facility may consolidate the dates for each visual inspection, safety system inspection, lining and coating inspection or test, leakage inspection and test, and structural integrity inspection and test on the tank when the inspection and test and the inspection and test due dates are the same.

(b) The tank car facility must comply with the marking requirements of appendix C of the AAR Specifications for Tank Cars.

(c) Converted tank cars must have the new specification and conversion date permanently marked in letters and

figures at least 0.952 cm (3/8-inch) high on the outside of the manway nozzle or the edge of the manway nozzle flange on the left side of the car. The marking may have the last numeral of the specification number omitted (e.g., "DOT 111A100W" instead of "DOT 111A100W1").

(d) When pressure tested within six months of installation and protected from deterioration, the test date marking of a safety relief device is the installation date on the tank car.

§180.517 Reporting and record retention requirements.

(a) *Certification and representation.* Each owner of a specification tank car shall retain the certificate of construction (AAR Form 4–2) and related papers certifying that the manufacture of the specification tank car identified in the documents in accordance with the applicable specification. The owner shall retain the documents throughout the period of ownership of the specification tank car and for one year thereafter. Upon a change of ownership, the requirements of Section 1.3.15 of the AAR Specifications for Tank Cars apply.

(b) *Inspection and test reporting.* Each tank car that is inspected as specified in §180.509 must have a written report, in English, prepared according to this paragraph. The owner must retain a copy of the inspection and test reports until successfully completing the next inspection and test of the same type. The inspection and test report must include the following:

(1) Type of inspection and test performed (a checklist is acceptable);

(2) The results of each inspection and test performed;

(3) Owner's reporting mark;

(4) DOT Specification;

(5) Inspection and test date (month and year);

(6) Location of defects found and method used to repair each defect;

(7) The name and address of the tank car facility and the signature of inspector.

§180.519 Periodic retest and inspection of tank cars other than single-unit tank car tanks.

(a) *General.* Unless otherwise provided in this subpart, tanks designed to be removed from cars for filling and emptying and tanks built to specification DOT 107A**** and their safety relief devices must be retested periodically as specified in Retest Table 1 of paragraph (b) of this section. Retests may be made at any time during the calendar year the retest falls due.

(b) *Pressure test.* (1) Each tank, except as provided in paragraph (b)(8) of this section, must be subjected to the specified hydrostatic pressure and its permanent expansion determined. Pressure must be maintained for 30 seconds and as much longer as may be necessary to secure complete expansion of the tank. The pressure gauge must permit reading to an accuracy of 1 percent. The expansion gauge must permit reading of total expansion to an accuracy of 1 percent. Expansion must be recorded in cubic centimeters. Permanent volumetric expansion must not exceed 10 percent of total volumetric expansion at test pressure and tank must not leak or show evidence of distress.

(2) Each tank, except tanks to specification DOT 107A, must also be subjected to interior air pressure test of at least 100 psi under conditions favorable to detection of any leakage. No leaks may appear.

(3) Safety relief valves must be retested by air or gas, must start to discharge at or below the prescribed pressure and must be vapor tight at or above the prescribed pressure.

(4) Frangible discs or fusible plugs must be removed from the tank and visually inspected.

(5) Tanks must be retested as specified in Retest Table 1 of this paragraph before return to service after repairs involving welding or heat treatment.

RETEST TABLE 1

Specification	Retest interval—years		Retest pressure—p.s.i.		Safety relief valve pressure—p.s.i.	
	Tanks	Safety relief devices [4]	Tank hydrostatic expansion [3]	Tank air test	Start-to-discharge	Vapor tight
DOT 27	5	2	500	100	375	300
106A500	5	2	500	100	375	300
106A500X	5	2	500	100	375	300
106A800	5	2	800	100	600	480
106A800X	5	2	800	100	600	480
106A800NCI	5	2	800	100	600	480
107A****	[4]5	[1]2	(2)	None	None	None
110A500–W	5	2	500	100	375	300
110A600–W	5	2	600	100	500	360
110A800–W	5	2	800	100	600	480
110A1000–W	5	2	1,000	100	750	600
BE–27	5	2	500	100	375	300

[1] If DOT 107A**** tanks are used for transportation of flammable gases, one frangible disc from each car must be burst at the interval prescribed. The sample disc must burst at a pressure not exceeding the marked test pressure of the tank and not less than 7/10 of the marked test pressure. If the sample disc does not burst within the prescribed limits, all discs on the car must be replaced.

[2] The hydrostatic expansion test pressure must at least equal the marked test pressure.

[3] See §180.519(d)(8).

[4] Safety relief valves of the spring-loaded type on tanks used exclusively for fluorinated hydrocarbons and mixtures thereof which are free from corroding components may be retested every 5 years.

(6) The month and year of test, followed by a "V" if visually inspected as described in paragraph (d)(8) of this section, must be plainly and permanently stamped into the metal of one head or chime of each tank passing test; for example, 1–60 for January 1960. On DOT 107A**** tanks, the date must be stamped into the metal of the marked end, except that if all tanks mounted on a car have been tested, the date may be stamped into the metal of a plate permanently applied to the bulkhead on the "A" end of the car. Dates of previous

tests and all prescribed markings must be kept legible.

(7) *Written reports.* Retests of tanks and safety relief devices must be reported by the person making tests to the owner of the tank. Reports must show registered identifying mark and serial number, pressure to which tested, date and place of test, and by whom tested. Reports of the latest retest must be retained by the owner until the next retest has been accomplished and recorded.

(8) Tanks of DOT 106A and DOT 110A–W (§§ 179.300, 179.301, 179.302 of this subchapter) specifications used exclusively for transporting fluorinated hydrocarbons and mixtures thereof, and which are free from corroding components, may be given a periodic complete internal and external visual inspection in lieu of the periodic hydrostatic retest. Visual inspections shall be made only by competent persons.

Acceptance or rejection of a tank must be based upon the methods used for cylinders in CGA Pamphlet C–6, and the results must be recorded on a suitable data sheet, the completed copies of which must be kept by the owner as a permanent record. The information to be recorded and checked on these data sheets are: Date of inspection (month and year followed by a "V" to indicate visual inspection); DOT specification number; tank identification (registered symbol and serial number, date of manufacture and ownership symbol); type of protective coating (painted, etc., and statement as to need for refinishing or recoating); conditions checked (leakage, corrosion, gouges, dents or digs, broken or damaged chime or protective ring, fire, fire damage, internal condition); and disposition of tank (returned to service, returned to manufacturer for repair, or scrapped).

Issued in Washington, DC, on September 8, 1993, under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93–22373 Filed 9–15–93; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 5 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico for review by the Secretary of Commerce (Secretary). Written comments are requested from the public.

DATES: Written comments must be received on or before November 12, 1993.

ADDRESSES: Comments should be sent to the Southeast Regional Office, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702. Copies of Amendment 5, which includes a regulatory impact review/initial regulatory flexibility analysis, a Supplemental Environmental Impact Statement, and a minority report submitted by four Council members which objects to most of the amendment measures may be obtained from the Gulf of Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, Suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813–893–3161.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that a council-prepared fishery management plan or amendment be submitted to the Secretary for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon receiving an amendment, immediately publish a notice that the document is available for public review and comment. The Secretary will consider public comment in determining approvability of the amendment.

Amendment 5 proposes to:

(1) Impose a three-year moratorium on additional participants in the reef fish trap fishery;

(2) Require each fish trap or string of traps to be marked with a floating buoy;

(3) Require that fish traps be returned to port at the completion of the tending vessel's trip;

(4) Increase the minimum allowable size of red snapper, currently 13 inches (33.0 cm), in one-inch increments every other year commencing January 1, 1994, until the minimum allowable size is 16 inches (40.6 cm), effective January 1, 1998;

(5) Require all finfish, other than bait and oceanic migratory species, possessed in the exclusive economic zone (EEZ) to be maintained with head and fins intact through landing;

(6) Close Riley's Hump, southwest of Dry Tortugas, Florida, to all fishing during May and June of each year;

(7) Create special management zones (SMZs) in the EEZ off Alabama in which fishing for reef fish would be limited to hook-and-line gear having no more than three hooks per line and to spearfishing gear; and

(8) Add the establishment or modification of SMZs, and the gear allowed in each, to the management measures that may be adjusted via a framework regulatory adjustment procedure.

Although comments are requested on all measures contained in Amendment 5, the Secretary is particularly inviting comments on the proposed SMZs. Specific issues of concern will be indicated in the preamble of the proposed rule.

Proposed regulations to implement Amendment 5 are scheduled for publication within 15 days.

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

Dated: September 10, 1993.

David S. Crestin,

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

[FR Doc. 93–22669 Filed 9–13–93; 3:08 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 178
Thursday, September 16, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Mosquito-Fly Timber Sale, Idaho Panhandle National Forests, Shoshone County, ID; Intent To Prepare Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The notice is hereby given that J.W. Associates Inc., under contract to the Forest Service, is gathering information in order to prepare an Environmental Impact Statement (EIS) for a proposal to harvest timber, build roads and grant road access to Plum Creek Timber Company private lands in the Mosquito-Fly area. This area is located approximately 20 air miles east-southeast of Avery, Idaho, on the Avery Ranger District. The proposed timber harvest and road construction are proposed within the Mosquito-Fly Roadless Area (#1–150).

DATES: Two public meetings/open houses will be held. The first will occur during the initial public comment period. The second meeting will occur following the release of the Draft Environmental Impact Statement. These meetings will be announced in the local newspaper and by written notification to those on the project mailing list. Written comments concerning the scope of the analysis must be received on or before November 1, 1993.

ADDRESSES: Send written comments to Jessica Wald, J.W. Associates Inc., 2006 Broadway, suite 305, Boulder, CO 80302.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be directed either to the Forest Service contact, Andy Schmidt, Avery Ranger District, HC Box 1, Avery, Idaho, 83802–9702, Phone: (208) 245–4517, or to Jessica Wald, J.W. Associates Inc., Phone: (303) 447–1308.

SUPPLEMENTARY INFORMATION: These management activities would be administered by the Avery Ranger District of the Idaho Panhandle National Forests in Shoshone County, Idaho. The EIS is being prepared by J.W. Associates Inc. with input from the Forest Service. Representatives from both J.W. Associates Inc. and the Forest Service will be available for comment during scoping and preparation of the EIS. The Forest Service will issue the Record of Decision. The District Ranger, Allen Chrisman, is the responsible official.

The EIS will tier to the Forest Plan (September 1987) which provides the overall guidance (Goals, Objectives, Standards and Guidelines, and Management Area direction) for achieving the desired future condition for this area. The purpose and need for the proposed action is to (1) determine how to grant access to Plum Creek Timber Company private land and if the Forest Service should share in the cost of these roads; (2) improve growth and yield of the desired species and size in the study area; (3) foster forest regulation by moving toward an even age class distribution and; (4) provide for the area's share of the Allowable Sale Quantity.

The process used in preparing the Draft EIS will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Identification of additional reasonable alternatives.
5. Identification of potential environmental effects of the alternatives.
6. Determination of potential cooperating agencies.

J.W. Associates Inc., together with the Forest Service, invites written comments and suggestions on the issues and management opportunities in the area being analyzed. Comments should be sent to J.W. Associates Inc. within 45 days from the date of this publication in the Federal Register.

Preliminary issues have been identified and include the following:

Wildlife

a. The impact of the proposed action and developed alternatives to wildlife habitat,

b. The potential impact to biodiversity especially concerning mature and old growth tree stands dependent wildlife species, and interior forested habitat.

Water Quality/Fisheries

a. The potential for an increase in total sediment yield in streams and the associated impacts to fish and other beneficial uses,

b. The potential decrease in stream channel stability due to changes in the runoff peak and volume and the associated impacts to fish habitat,

c. The potential impact to bull trout.

Timber/Silviculture

a. The potential for maintaining or improving the area's growth and yield of timber.

Roadless

a. The impact to the Mosquito-Fly Roadless Area.

Recreation

a. The impact to additional dispersed recreation opportunities, including hiking and hunting.

b. The potential for any adverse effects on the recreational use of the St. Joe River.

Visual Quality

a. The potential for reductions in the visual quality at sensitive viewpoints and along major roads.

b. The potential for reductions in the visual quality for recreationists.

The Forest Plan provides the overall guidance for management activities in the potentially affected area through its Goals, Standards and Guidelines, and Management Area direction. The potentially affected area is within the following Management Areas:

Management Area 1: Consists of lands designated for timber production. The management goal is to provide for long-term growth and production of commercially valuable wood products on those lands that are suitable for timber production;

Management Area 4: Consists of lands designated for timber production within identified big game winter range. The goal is to provide winter forage to support existing and projected big game populations through scheduled timber harvest and permanent forage areas;

Management Area 5: Consists of lands designated for elk winter range. The management goals are to provide

sufficient habitat for existing and projected big game populations through permanent forage areas;

Management Area 6: Consists of lands designated for timber production within identified elk summer range. The management goals are to provide high quality elk summer habitat and production of wood products, through road management and scheduling of harvest activities;

Management Area 9: Consists of areas of non-forest lands or lands not capable of timber production. Management goals are to maintain and protect existing improvements and resource productive potentials and meet visual quality objectives;

Management Area 12: Consists of areas within Wild and Scenic River corridors. The goal is to manage the rivers with their immediate environments to preserve their free flowing condition for the benefit and enjoyment of present and future generations.

A range of alternatives will be considered. One of these will be the "no-action" alternative, in which the existing roadless character of the Mosquito-Fly roadless area would be maintained in its present state and timber harvest and associated road building on Forest Service land would be deferred. Other alternatives will examine various plans for timber harvest, road construction, and access to Plum Creek Timber Company lands. These alternatives will vary by location of harvest, harvest level, and harvest method to achieve the purpose of the proposed action. Additionally, an alternative transportation plan will be developed to examine the possibility of reduced road construction.

J.W. Associates Inc. will analyze and document the direct, indirect, and cumulative environmental effects of the alternatives. This will include an analysis of the effects of alternatives on the roadless character of the area affected. In addition, the EIS will disclose the analysis of site specific mitigation measures and their effectiveness.

Public participation will be important during the analysis. People may visit with J.W. Associates Inc., or Forest Service officials, at any time during the analysis. Forest Service officials will remain available for consultation following publication of the Final EIS and prior to the decision. Two periods of time, however, are specifically identified for the receipt of comments on the analysis. The two public comment periods are during the scoping process, initiated with the publication of this announcement, and during the review of the Draft EIS (April–May, 1994).

During the scoping process, J.W. Associates Inc., along with the Forest Service, is seeking information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action.

The Draft EIS (DEIS) is expected to be available for public review in April, 1994. The public comment period on the DEIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. All of the comments received will be analyzed and considered by J.W. Associates Inc. in preparing the Final EIS (FEIS). The FEIS is scheduled to be completed by August, 1994. The FEIS will include responses to received comments. The Avery District Ranger, who is the Forest Service's responsible official for this EIS, will make a decision regarding this proposal considering the comments and responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented by the Forest Service in a Record of Decision.

The Forest Service believes it is important to give reviewers notice, at this early stage, of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts, *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to J.W. Associates Inc. at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

The Alaska National Interest Lands Conservation Act (ANILCA) of December 20, 1980 (94 Stat. 2371) has national application and provides that, subject to terms and conditions of the Secretary of Agriculture, the owners of non-Federal land within the National Forest System shall be provided adequate access to their land.

To assist J.W. Associates Inc. and the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

Dated: September 10, 1993.

Allen Chrisman,

District Ranger, Avery Ranger District, Idaho Panhandle National Forests.

[FR Doc. 93–22668 Filed 9–15–93; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

East Wenatchee Watershed, WA; Notice of Intent to De-authorize Federal Funding

AGENCY: Soil Conservation Service.

ACTION: Notice of intent to de-authorize federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83–566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the intent to De-authorize Federal funding for the East Wenatchee Watershed project, Douglas County, Washington.

FOR FURTHER INFORMATION CONTACT: Lynn A. Brown, State Conservationist, Soil Conservation Service, W. 316 Boone Avenue; Suite 450, Spokane, Washington 99201–2348, telephone 509–353–2337.

SUPPLEMENTARY INFORMATION: A determination has been made by Lynn A. Brown that the proposed works of improvement for the East Wenatchee Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be de-authorized for the project. Information regarding this determination may be obtained from Lynn A. Brown, State Conservationist, at the above address and telephone number. East Wenatchee Watershed, Washington. Notice of Intent to De-authorize Federal Funding.

No administrative action on implementation of the proposed de-authorization will be taken until 60 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 3, 1993.

Lynn A. Brown,

State Conservationist.

[FR Doc. 93–22602 Filed 9–15–93; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Conference on Research Issues for Improving Coverage of the Homeless Population in the 2000 Census; Notice of Meeting

The Census Bureau is giving notice of a conference entitled, "Towards Census 2000: Research Issues for Improving Coverage of the Homeless Population." The conference will convene on September 28, 1993, at 1 p.m. and will adjourn at 5 p.m. On September 29 the conference will convene at 8:30 a.m. and adjourn at 4 p.m. The conference will be held at the Holiday Inn-National Airport, 1489 Jefferson Davis Highway, Arlington (Crystal City), Virginia. Conference registration begins at 12 noon.

The Census Bureau is conducting research on fundamental changes for the 2000 census to improve the accuracy of the census while containing cost. One area of research is ways to improve the coverage of the homeless population. The Census Bureau is seeking input for possible methodologies for improving the count of the homeless population in the next census.

The Census Bureau has invited representatives of national homeless coalitions who are familiar with homeless research issues, researchers who have conducted area studies of the homeless population, and data users to speak and participate at the conference.

The tentative agenda for the conference is: (1) Opening Remarks; (2) Towards Census 2000: Research Issues; (3) Exploring A Service-Based Methodology—Washington, DC, Metropolitan Area Drug Study: DC*MADS: A Comprehensive Study; Types of Services to Include; and Unduplicating Those Who Use Multiple Services; (4) Discussion of Recent Local Area Studies; (5) Availability of Administrative Records; (6) Definitions and Data Needs, and (7) Closing Remarks.

This meeting is open to the public; however, seating is limited. Please contact Pat Ellis on (301) 763–1186 by September 21 if you plan to attend. Brief periods will be set aside for public comment and questions. The conference will be audio recorded. Those persons with extensive questions or statements must submit them in writing to the Census Bureau official named below at least 3 working days before the meeting.

This conference is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids also should be directed to the Census Bureau contact person named below by September 21.

Persons wishing additional information regarding this meeting or who wish to submit written statements may contact Sandra Lucas, Year 2000 Research and Development Staff, Bureau of the Census, room 3525–3, Washington, DC 20233. Telephone (301) 763–4283—TDD (301) 763–4944.

Dated: September 10, 1993.

Harry A. Scarr,

Acting Director, Bureau of the Census.

[FR Doc. 93–22654 Filed 9–15–93; 8:45 am]

BILLING CODE 3510–07–P

Minority Business Development Agency

Business Development Center Applications: Manhattan, NY

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first Budget period (12 months) is estimated as $192,700 in Federal funds, and a minimum of $34,005 in non-Federal (cost sharing) contribution, from March 1, 1994 to February 28, 1995. Cost-sharing contributions, may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the Manhattan, New York SMA geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state, local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points).

An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods.

MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and the Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

Applicants are notified that if they incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Applicants are notified that notwithstanding any verbal assurance that they may have received, there is no obligation on the part of DoC to cover pre-award costs.

If an application is selected for funding, DoC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DoC.

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full
2. A negotiated re-payment schedule is established and at least one payment is received; or
3. Other arrangements satisfactory to DoC are made.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. The departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

Notification must be provided that all non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or is presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100–690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards. False information on the application can be grounds for denying or terminating funding.

"Certification for Contracts, Grants, Loans, and Cooperative Agreements" and SF–LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101–121, which generally prohibits recipients of Federal contracts, grants, and loans from using legislative Branches of the Federal Government in connection with a specific contract, grant or loan.

15 CFR part 28 is applicable and prohibits recipients of Federal contracts, grants, and cooperative agreements from using appropriated funds for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a specific contract, grant, or cooperative agreement. Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" and, when applicable, the SF–LLL, "Disclosure of Lobbying Activities," are required.

Notification must be provided that recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DoC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DoC in accordance with the instructions contained in the award document.

CLOSING DATE: The closing date for application is October 18, 1993.

Applications must be postmarked on or before October 18, 1993.

The mailing address for submission is:

ADDRESSES: New York Regional Office, Minority Business Development Agency, Jacob K. Javits Federal Building, rm. 3720, New York, New York 10278, Area Code/Telephone Number: (212) 264–3262.

FOR FURTHER INFORMATION CONTACT: John F. Iglehart, Regional Director, New York Regional Office at (212) 264–3263.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above New York address.

(Catalog of Federal Domestic Assistance, 11.800 Minority Business Development)

Dated: September 8, 1993.

William R. Fuller,

Deputy Regional Director, New York Regional Office.

[FR Doc. 93–22624 Filed 9–15–93; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

[I.D. 091393A]

Western Pacific Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

The Western Pacific Fishery Management Council's Bottomfish Advisory Review Board (BARB) will hold a public meeting on September 13, 1993, beginning at 5 p.m., at the office of the Western Pacific Regional Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI.

The BARB will discuss and possibly make recommendations to the Council regarding a request for reissuance of a Hoomalu Zone limited entry permit.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: September 13, 1993.

David S. Crestin,

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

[FR Doc. 93–22670 Filed 9–13–93; 3:08 pm]

BILLING CODE 3510–22–P

Marine Mammals

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

ACTION: Issuance of Scientific Research Permit (P420C).

SUMMARY: Notice is hereby given that Permit No. 801 issued to J. Ward Testa, Ph.D. and Michael Castellini, Ph.D., Institute of Marine Science, University of Alaska, on October 16, 1992 (57 FR 48512, 10/26/92), has been modified. The modification becomes effective upon publication in the **Federal Register**.

ADDRESSES: The Permit, as modified, and associated documents are available upon written request or by appointment in the Permits Division, Office of Protected Resources, NMFS, 1335 East-West Hwy., Suite 7324, Silver Spring, MD 20901 (301/713–2289); and Director, Alaska Region, National Marine Fisheries Service, Federal Annex, P.O. Box 21668, Federal Building, Juneau, AK 99802 (907/586–7221).

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the subject Scientific Research Permit authorized harassment of up to 3200 Weddell seals (*Leptonychotes weddellii*), 30 each of crabeater seals (*Lobodon carcinophagus*), leopard seals (*Hydrurga leptonyx*), Ross seals (*Ommatophoca rossii*), Antarctic fur seal (*Arctocephalus gazella*) and southern elephant seal (*Mirounga leonina*), and import specimens from McMurdo Sound, Antarctica.

The Permit has been modified to expand the research protocol on animals already authorized. No increase in the total take authority is authorized. Of the 1200 Weddell seals authorized, (1) 650 adults be tagged with subcutaneous transponders of which 20 may have satellite tags (SLTDRs) attached to their pelage, 20 may be injected with oxytocin (intramuscularly) to extract milk up to three times, and 50 may have a vibrissa clipped, a claw marked and clipped, and up to 3 blubber biopsies taken; (2) 30 pups may have one vibrissa clipped once, a claw marked once (not pulled) and blubber biopsies taken up to 3 times, 300 pups may be weighed, blood sampled and have body fat determined once, and 40 pups may be captured, tagged and released up to 2–3 times; and (3) 30 each of crabeater, leopard, Ross, and Southern elephant seals may be weighed, blood sampled, have a vibrissa clipped, a claw clipped, and a blubber biopsy sample taken. Unused samples will be curated at the University of Alaska Museum.

The application and accompanying documentation satisfy the issuance criteria for scientific research permits. The requested activities are consistent with the purposes and policies of the Marine Mammal Protection Act. The research will further a bona fide scientific purpose that does not involve unnecessary duplication of other research.

Dated: September 10, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–22631 Filed 9–15–93; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Membership of the Defense Logistics Agency (DLA) Performance Review Board (PRB)

September 13, 1993.

AGENCY: Defense Logistics Agency, Department of Defense.

ACTION: Notice of membership of the DLA PRBs.

SUMMARY: This notice announces an amendment to the members of the PRBs of the Defense Logistics Agency. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4). The original PRB was published in the **Federal Register** on 16 July 1993.

The PRB provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance awards and performance to the Director, Defense Logistics Agency.

EFFECTIVE DATE: 13 September 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert W. Johnson, Employee Development Specialist, Workforce Effectiveness and Development Division, Defense Logistics Agency, Department of Defense, Cameron Station, Alexandria, VA (703) 274–6049 or 274–6039.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been appointed to serve as members of the PRBs. They will serve a 1-year renewable term, effective 13 September 1993.

Initial PRB

Mr. A. C. Ressler, Staff Director, Civilian Personnel
Mr. Robert P. Scott, Deputy, Defense Contract Management Command
Ms. Christine Gallo, Deputy Assistant Director, Policy and Plans—vice
Mr. James J. Grady, Jr., Deputy Executive Director, Supply Operations

2nd Level Review

Mr. Karl Kabeiseman, General Counsel
Mr. Richard J. Connelly, Comptroller
Mr. Gary S. Thurber, Executive Director, Contracting.

A.C. Ressler,

Executive Director (Human Resources).

[FR Doc. 93–22664 Filed 9–15–93; 8:45 am]

BILLING CODE 3620–01–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 Future Naval Forces Task Force will meet September 30, 1993, from 11 a.m to 12:30 p.m., at the Pentagon, room 4E630. This session will be closed to the public.

The purpose of this meeting is to evalute U.S. Navy requirements for Future Naval Forces. The entire agenda for the meeting will consist of discussions of key issues related to recommended platform developments and operational concepts for future naval forces. 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: J. Kevin Mattonen, Executive Secretary to the CNO

Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302–0268, Phone (703) 756–1205.

Dated: September 9, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–22637 Filed 9–15–93; 8:45 am]

BILLING CODE 3810–AE–P

Performance Review Board Membership

Pursuant to 5 U.S.C. 4314(c)(4), the Department of the Navy (DON) announces the appointment of members to the DON's numerous Senior Executive Service (SES) Performance Review Boards (PRBs). The purpose of the PRBs is to provide fair and impartial review of the annual SES performance appraisal prepared by the senior executive's immediate and second level supervisor; to make recommendations to appointing officials regarding acceptance or modification of the performance rating; and to make recommendations for monetary performance awards. Composition of the specific PRBs will be determined on an ad hoc basis from among individuals listed below:

Akin, M.G. Mr.
Allard, D.C. Dr.
Allen, T.W. Mr.
Altwegg, D.M. Mr.
Andriani, C. Mr.
Arnold, B.H. Mr.
Ashe O.R. Mr.
Bailey, D.C. Mr.
Baker, A.D. Mr.
Bisson, A.E. Dr.
Bizup, J.A. Mr.
Blatstein, I.M. Mr.
Blickstein, I.N. Mr.
Boecker, D. RADM
Brooke, R.K. Mr.
Brown, J.G. Ms.
Buonacoursi, P. Mr.
Burnett, R.A. Capt
Cammack, E.G. Mr.
Camp, J.R. Mr.
Carberry, V.S. Mr.
Cataldo, P.R. Mr.
Cate, J.P. Mr.
Claman, J.S. RADM
Clark, C.C. Ms.
Cocchiola, M.J. Mr.
Coffey, T. Dr.
Coffman, W.R. Mr.
Commons, G.L. Ms.
Comstock, E.T. Mr.
Conte, A.V. Mr.
Cook, W.J. Mr.
Cuddy, J.V. Mr.
Czelusniak, D.P. Mr.
Davis, J.R. Dr.
Decorpo, J.J. Dr.
Deprete, A. Mr.
Desalme, J.W. Mr.
Diederich, F.W. Mr.
Dillon, B.L. Mr.
Dilworth, G. Mr.
Ditrapani, A.R. Mr.
Dixson, H.L. Mr.
Doak, R.E. Mr.
Doherty, L.M. Ms.
Donalson, E.L. Mr.
Douglass, T.E. Mr.
Draim, R.P. Mr.
Duddleston, R.J. Mr.
Durham, D.L. Dr.
Earner, W.A. RADM
Elliott, R.D. Mr.
Everett, D. Mr.
Faurot, P.R. Mr.
Felton, R.M. Mr.
Firebaugh, M. RADM
Fisher, B.F. Mr.
Fisher, P.D. Mr.
Fisher, R.E. Mr.
Fitzgerald, R. Mr.
Ford, F.B. Mr.
Forssell, A.G. Mr.
Foxwell, H.H. Mr.
Gaffney, P.G. Capt
Gay, B.H. Ms.
Geiger, C.G. Mr.
Goldschmidt, J.X. Mr.
Gordon, R.E. Dr.
Greene, J.B. RADM
Griffith, D.O. Mr.
Grossman, J.C. Mr.
Guenther, J.J. Mr.
Guertin, J.R. Dr.
Gunderson, E.K. Dr.
Haas, R.L. Mr.
Haaland, S. Mr.
Hallex, R.A. Mr.
Hamilton, F.X. MajGen
Hammes, M.C. Mr.
Handel, T.H. Mr.
Hannah, B.W. Mr.
Hardman, J.W. Mr.
Harman, D.P. Mr.
Harrison, R.G. RADM
Harshbarger, E. RADM
Hartwig, E.O. Mr.
Hathaway, D.L. Mr.
Hauenstein, W.H. Mr.
Haut, D.G. Mr.
Haynes, R.S. Mr.
Hearney, R.D. MajGen
Henry, M.G. Mr.
Herd, J.H. Mr.
Hickman, D.E. RADM
Hicks, S.N. Mr.
Hildebrandt, A.H. Mr.
Honigman, S.S. The Honorable
Hood, J.T. RADM
Huchting, G.A. RADM
Hunt, W. Mr.
Jack, R.D. Mr.
Jenkins, H.W. MajGen
Johnson, P.J. Mr.
Johnston, R.B. LGen
Jones, R.G. RADM
Junker, B.R. Mr.
Kallmeyer, T. Mr.
Kaskin, J.D. Mr.
Keightley, G.E. Mr.
Keller, R.B. Mr.
Kill Kelley, J.L. Mr.
Kiss, R.K. Mr.
Knudsen, R. Dr.
Kobitz, N. Mr.
Kolb, R.C. Dr.
Kotzen, P.S. Ms.
Kreitzer, L.P. Mr.
Kuesters, J.J. Mr.
Laughton, K. RADM
Leach, R.A. Mr.
Leboeuf, G.G. Mr.
Lefande, R.A. Dr.
Letow, A.M. Mr.
Lindahl, W.J. Mr.
Lockard, J.A. RADM
Lopata, F.A. Mr.
Lundberg, L. Mr.
Lynch, J.G. Mr.
Manthorpe, W.H. Mr.
Marsh, J.W. Mr.
Martin, R.J. Mr.
Masciarelli, J.R. Mr.
Matteo, D.A. Mr.
Mattheis, W.G. Mr.
McBurnett, G. Ms.
McGadney, R.L. Mr.
Meador, L.M. Mr.
Meletzke, D.M. Ms.
Merritt, M.M. Mr.
Meserole, M. Mr.
Messere, E.L. Mr.
Miller, G.O. Mr.
Miller, K.E. Mr.
Milligan, R.D. RADM
Mitchell, J.T. RADM
Mitchell, R.G. Mr.
Montgomery, H.E. Mr.
Morris, W.R. RADM
Munsell, E.L. Ms.
Murphy, P.M. Mr.
Nathan, H.J. Mr.
Nedrow, R.D. Mr.
Nemfakos, C.P. Mr.
Nickell J.R. Mr.
Oden, L.N. RADM
Olsen, M.A. Ms.
Panek, R.L. Mr.
Paulk, R.D. Ms.
Payne, T.H. Mr.
Pelaez, M.Y. RADM
Pennisi, R.A. Mr.
Peters, R.K. Ms.
Phelps, F.A. Mr.
Porter, D.E. Mr.
Powers, B.F. Mr.
Price, R.W. Mr.
Quade, W.A. Mr.
Quester, K.A. Mr.
Rath, B.B. Dr.
Rathjen, R.A. Mr.
Reese, H.E. Mr.
Reese, W. Dr.
Renfro, J.G. Mr.

Riggs, R.K. Mr.
Roark, J.E. Mr.
Robenhymer, F.D. Mr.
Robinson, B.B. Dr.
Robinson, W.M. Mr.
Rojas, R.R. Mr.
Rossi, D.A. Mr.
Roth, A.J. Mr.
Ruble, D. RADM
Saalfeld, F.E. Dr.
Sansone, W.T. Mr.
Savitsky, W.D. Mr.
Schaefer Jr., W.J. Mr.
Schneider, P.A. Mr.
Schultz, R.E. Mr.
Schuster, J.G. Mr.
Shaffer, R.L. Mr.
Sharn, C.F. Dr.
Shearer, R.T. Mr.
Shepard, J.J. Mr.
Sheridan, F.L. Mr.
Shipway, J.F. RADM
Shoup, F.E. Dr.
Silva, E.A. Dr.
Sinsky, J.A. Dr.
Somoroff, A. Dr.
Spalding, G.R. Mr.
Steele, R.H. Mr.
Sterns, F.S. Mr.
Stone, T.E. RADM
Storey, R.C. Mr.
Strohsahl, G. RADM
Thomas, R.O. Mr.
Thompson, R.H. Mr.
Thornett, R.W. Mr.
Tiebout, R.A. MajGen
Tinston, W.J. RADM
Tisone, A.A. Mr.
Traister, R. RADM
Turnquist, C.J. Mr.
Tweeddale, J.W. Dr.
Uhler, D.G. Mr.
Vaughn, R.S. Mr.
Verkoski, J.E. Mr.
Wagner, G.F.A. Capt
Wessel, P.R. Mr.
Westerhout, G. Dr.
Whalen, J.R. Mr.
Whiteway, R.N. Dr.
Whitman, E.C. Dr.
Wilcox, H.J. Mr.
Williams, R.D. RADM
Willoughby, W.J. Mr.
Winglass, R.J. MajGen
Winkler, G.M. Dr.
Winokur, R.S. Mr.
Wisely, H.D. RADM
Witter, R.C. RADM
Wrout, G. Mr.
Wyant, F.E. Mr.
Young, S.D. Ms.
Zanfagna, P.E. Mr.
Zdankiewicz, E. Mr.
Zimet, E. Mr.
Zimmerman, D.G. Mr.
Zornetzer, S.F. Mr.

Dated: September 8, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–22588 Filed 9–15–93; 8:45 am]

BILLING CODE 3810–AE–P

DEPARTMENT OF EDUCATION

National Education Goals Panel; News Conference

AGENCY: National Education Goals Panel: Education.

ACTION: Notice of news conference.

SUMMARY: This notice announces the date and location of a forthcoming news conference to release the 1993 Report of the National Education Goals Panel. This notice also invites the public to attend the news conference and describes the functions of the Panel.

DATES: September 30, 1993 from 10 a.m. to 12 p.m.

ADDRESSES: JW Marriott Hotel, 1331 Pennsylvania Avenue, NW., Washington, DC 20004. The E Street (E and 14th) entrance to the hotel is accessible for the disabled.

FOR FURTHER INFORMATION CONTACT: Ruth Chacon, 1850 M Street, NW., suite 270, Washington, DC 20036. Telephone: (202) 632–0952. Those needing assistance for people with disabilities should call the JW Marriott Hotel at (202) 393–2000. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 626–2655.

SUPPLEMENTARY INFORMATION: The National Education Goals Panel was created to monitor and report annually to the President, Governors and Congress on the progress of the nation toward meeting the six National Education Goals set in 1990. The 1993 Report is a comprehensive compilation of data delineating progress toward the goals.

The news conference is open to the public.

Dated: September 13, 1993.

Ann V. Bailey,

Committee Management Officer, U.S. Department of Education.

[FR Doc. 93–22632 Filed 9–15–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Record of Decision; Decommissioning of Eight Surplus Production Reactors at the Hanford Site, Richland, WA

AGENCY: Department of Energy.

ACTION: Record of decision; decommissioning of eight surplus production reactors at the Hanford Site, Richland, Washington.

SUMMARY: The Department of Energy has considered the environmental impacts, benefits and costs, and institutional and programmatic needs associated with the decommissioning of eight surplus production reactors at the Hanford Site, Richland, Washington. Based on this review, the Department of Energy has decided on safe storage followed by deferred one-piece removal of these eight surplus production reactors at the Hanford Site. The Department of Energy intends to complete this decommissioning action consistent with the proposed Hanford cleanup schedule for remedial actions included in the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement). Therefore, the safe storage period would be for less than the 75-year time frame outlined in the Final Environmental Impact Statement, Decommissioning of Eight Surplus Production Reactors at the Hanford Site, Richland, Washington (DOE/EIS–0119F, December 1992). Also, the Department of Energy intends to evaluate the priority of this decommissioning action relative to Comprehensive Environmental Response, Compensation, and Liability Act and Resource Conservation and Recovery Act remediation of the past practice units in the 100 Area being conducted under the Tri-Party Agreement. Should this decision prove to be inconsistent with subsequent Comprehensive Environmental Response, Compensation, and Liability Act and Resource Conservation and Recovery Act decisions, the Department of Energy will re-evaluate the appropriateness of proceeding with this course of action on an Operable Unit-by-Operable Unit basis. Until decommissioning is initiated, the Department of Energy will continue to conduct routine maintenance, surveillance, and radiological monitoring activities to ensure continued protection of the public and the environment during the safe-storage period.

FOR FURTHER INFORMATION CONTACT: For further information on the Final Environmental Impact Statement, contact Michael Talbot, Acting Director, Office of Communications, Richland Operations Office, U.S. Department of Energy, Richland, Washington, 99352 Telephone: (509) 376–7501. For further information on the Department of Energy National Environmental Policy Act process, contact Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), Office of Environment, Safety and Health, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: (202) 586–4600 or (800) 472–2756.

SUPPLEMENTAL INFORMATION: The Department of Energy prepared this

Record of Decision pursuant to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act (40 CFR parts 1500–1508, December 15, 1987) and Department of Energy regulations implementing the National Environmental Policy Act (10 CFR part 1021). This Record of Decision is based on the Department of Energy Final Environmental Impact Statement for the Decommissioning of Eight Surplus Production Reactors at the Hanford Site, Richland, Washington (DOE/EIS–0119F).

The Hanford Site manufactured nuclear materials for the Nation's defense programs for over 40 years. To assist in this nuclear materials production, nine water-cooled, graphite-moderated plutonium-production reactors were constructed along the Columbia River by the U.S. Government at the Hanford Site near Richland, Washington, between the years 1943 and 1963. Eight of these reactors (B, C, D, DR, F, H, KE, and KW), operated between the years 1944 and 1971, have been retired from service. These reactors have been declared surplus by the Department and are available for decommissioning. The ninth reactor, N-Reactor, is in transition to deactivation. The N-Reactor is not available for decommissioning at the present time and is not within the scope of the Final Environmental Impact Statement or this Record of Decision. The Department will prepare appropriate environmental documentation when N-Reactor becomes available for decommissioning. The Department has nominated the B-Reactor for inclusion in the National Register of Historic Places in accordance with the opinion of the Washington State Historic Preservation Officer and the provisions of 36 CFR part 800, "Protection of Historic and Cultural Properties." On April 3, 1992, the National Park Service entered the Reactor in the National Register.

Today, the primary mission of the Hanford Site is environmental restoration. On May 15, 1989, the Department of Energy, the U.S. Environmental Protection Agency and the Washington State Department of Ecology signed an agreement to remediate radioactive and chemical waste at the Hanford Site. This agreement is the Hanford Federal Facilities Agreement and Consent Order, commonly known as the Tri-Party Agreement. The purpose of the proposed decommissioning activity at the eight reactor facilities is to isolate any remaining radioactive, mixed or hazardous waste in a manner that will ensure environmental impacts remain at an acceptable level, especially potential health and safety impacts to the public.

Analysis of the existing environment and the potential environmental impacts associated with decommissioning of the eight surplus production reactors is presented in the Final Environmental Impact Statement for Decommissioning Eight Surplus Production Reactors at the Hanford Site, Richland, Washington.

In March, 1989, the Department of Energy issued a Draft Environmental Impact Statement (DOE/EIS–0119D) to analyze the impacts of the proposed action. Comments received during the public and agency review process of the Draft Environmental Impact Statement did not require the Department to modify any alternatives, to develop and evaluate any new alternatives, or to supplement, improve, or modify its analyses of the decommissioning alternatives. Therefore, the Department prepared and distributed an Addendum to the Draft Environmental Impact Statement in accordance with 40 CFR 1503.4(c). The Addendum (December 1992) states the Department of Energy's response to issues raised by commentors. The Draft Environmental Impact Statement and the Addendum constitute the Final Environmental Impact Statement (DOE/EIS–0119F) under the provisions of the Council on Environmental Quality regulations (40 CFR 1503.4(c)). The Notice of Availability of the Final Environmental Impact Statement was published in the **Federal Register** on January 15, 1993 (58 FR 4690). In addition to the proposed action of safe storage followed by deferred one-piece removal, the document discusses a no-action alternative for continuation of surveillance, monitoring and maintenance activities; an immediate one-piece removal alternative; a safe storage followed by deferred dismantlement alternative; and an in-situ decommissioning alternative. The proposed action and alternatives are described further below.

Alternatives Considered

1. Proposed Action: The proposed action is safe storage followed by deferred one-piece removal. The proposed action consists of a safe storage period during which surveillance, monitoring, and maintenance are continued, followed by transport of each reactor block, intact on a tractor-transporter, from its present location in the 100 Area to the 200 West Area for disposal (a distance of about 5 to 14 miles, depending on the reactor location relative to the disposal site). Contaminated materials associated with the fuel storage basins would also be removed for disposal in the 200 West Area, along with contaminated equipment and components associated with the reactors. Uncontaminated portions of the fuel storage basin would be removed to provide access for the tractor-transporter. Other uncontaminated structures and equipment would be demolished and placed in landfills in the vicinity of the reactor sites. During preparation for safe-storage, building components and structures would be repaired as needed to ensure the safety and security of the facility during the safe-storage period. Building security, radiation monitoring, and fire detection systems would be upgraded to provide safety, security, and surveillance as long as required. The total cost for safe storage followed by deferred one-piece removal of all eight reactors was estimated to be about $235 million in 1990 dollars. Occupational radiation doses were estimated to be about 51 person-rem for this alternative; short-term public radiation doses were estimated to be near zero. A hypothetical safe storage period of 75 years was used to estimate additional radiological inventory decay and surveillance and maintenance costs. Of the possible accidents associated with the proposed action, only the scenario involving the accidental dropping of a reactor block during transport was analyzed in detail because this scenario would yield the largest potential radiological consequences. This scenario would involve atmospheric resuspension of graphite powder that would cause an estimated population dose of 300 person-rem, which would most likely produce no health effect. Near-term ecological impacts would be minimal because the area under consideration has already been disturbed as a result of other radioactive waste management activities and nuclear facility operations.

2. No Action: The no-action alternative is to continue the present action of routine surveillance, monitoring, and maintenance of the reactor structures for an indefinite period. These activities are the same as those required by safe-storage followed by deferred one-piece removal. Over the 100-year analysis period considered in the Environmental Impact Statement (and over any subsequent 100-year period), the cost to continue the present action was estimated to be approximately $44 million in 1990 dollars. The occupational radiation dose over the first 100-year period for surveillance, monitoring, and

maintenance was estimated to be about 24 person-rem; short-term public radiation doses were estimated to be near zero. At the end of the 100-year surveillance, monitoring and maintenance period, decommissioning would still be required and subsequent environmental impacts would be similar to those from the other alternatives discussed.

Also considered was a second no-action alternative: doing nothing further, which would include the closure of the facilities and the discontinuation of all related activities. This no-action alternative was not analyzed in detail, because it would not: (1) Properly isolate the remaining contaminated materials in the facility from the environment, (2) provide any maintenance or repair of the structures and (3) make any other provisions for protection of human health and safety.

3. Immediate One-Piece Removal: Immediate one-piece removal involves transportation of each reactor block, intact on a tractor-transporter, from its present location in the Hanford 100 Area to the Hanford 200 West Area for disposal. The reactor block includes the graphite core, the thermal and biological shields, and the concrete base. Contaminated portions of the associated fuel storage basins would also be removed and disposed of in the 200 West Area, along with other contaminated equipment and components in buildings that house the reactors and fuel storage basins. Uncontaminated portions of the fuel storage basins would then be removed to provide access for the tractor-transporter. Other uncontaminated structures would be salvaged if usable or demolished and placed in waste areas at or near the reactor sites. The total cost for immediate one-piece removal of all eight reactors was estimated to be about $228 million 1990 dollars. Occupational radiation doses were estimated to be about 159 person-rem for this alternative, and short-term public radiation doses were estimated to be near zero. Under a postulated accident (dropped reactor block scenario, discussed above), population dose would be approximately the same as the dose evaluated for the proposed action. Near-term ecological impacts would be minimal because the area under consideration has already been disturbed as a result of other radioactive waste management activities and nuclear facility operations.

4. Safe Storage Followed by Deferred Dismantlement: Safe storage followed by deferred dismantlement means a safe-storage period during which surveillance, monitoring, and maintenance are continued, followed by piece-by-piece dismantlement of each reactor, and transport of radioactive waste to the 200 West Area for disposal. Activities during preparation for safe storage and during the safe storage period are approximately the same as those in the safe storage followed by deferred one-piece removal alternative. At the end of the safe storage period, each reactor block would be disassembled piece-by-piece, and all contaminated equipment and components would be packaged and transported to the 200 West Area for disposal. Contaminated portions of the associated fuel storage basins, along with contaminated equipment and components, would also be removed for disposal in the 200 West Area. Uncontaminated structures and equipment would be demolished and placed in landfills in the vicinity of the reactor sites. The total cost for safe storage followed by deferred dismantlement of all eight reactors was estimated to be about $311 million in 1990 dollars. Occupational radiation doses were estimated to be about 532 person-rem for this alternative; short-term public radiation doses were estimated to be near zero. A safe-storage period of 75 years was used to estimate additional radiological inventory decay and surveillance and maintenance costs. Of the accidents postulated for this alternative, a severe weather accident (storm) during dismantlement and a rail car accident involving fire during transport of radioactive wastes to the burial ground were determined to have the largest potential radiological consequences. If these accidents were to occur they would result in a maximum population dose of 300 person-rem from the severe weather scenario and 800 person-rem from the rail car accident (i.e., each scenario would most likely produce no health effect). Ecological impacts would be minimal because much of the area under consideration has already been disturbed as a result of radioactive waste management activities and nuclear facility operations.

5. In-Situ Decommissioning: In-situ decommissioning involves preparing each reactor block for covering with a protective mound and engineered barrier and constructing the mound and barrier. Surfaces within the facility would be painted with a fixative to ensure retention of contamination during subsequent activities. Roofs, superstructures, and concrete shield walls would be removed down to the level of the top of the reactor block. Structures surrounding the shield walls would be demolished and left in place. Voids, piping and other channels of access would be back-filled with grout/gravel or similar material to ensure isolation of the reactor from the environment. Finally, the reactor block, its adjacent shield walls, and the spent fuel storage basin, together with the contained radioactivity, gravel, and grout, would be covered to a depth of at least five meters with a mound containing earth and gravel and topped with an engineered barrier designed to limit water infiltration to 0.1 centimeter per year. Riprap on the sides of the mounds would ensure structural stability of the mounds and mitigate the impacts of any flood that might reach the reactors. The total cost of in-situ decommissioning of all eight reactors was estimated to be about $193 million in 1990 dollars. Occupational radiation doses were estimated to be about 33 person-rem for this alternative, and short-term public radiation doses during the decommissioning period were estimated to be near zero. No accident scenarios which would result in a radiological release were postulated for this alternative. Near-term ecological impacts would be minimal because the area under consideration has already been disturbed as a result of other radioactive waste management activities and nuclear facility operations. The mounds and subsequent monitoring systems would be maintained for an institutional control period of at least 100 years.

Decision

Based on its review of the environmental impacts, of total project cost, and of the results of the public review process, the Department has decided on safe-storage of the eight reactors followed by deferred one-piece removal. Because the environmental impacts of the alternatives do not offer a strong basis for selection, the Department also considers this to be one of three environmentally preferable alternatives. This selection is consistent with both the Department of Energy's preferred alternative in the Final Environmental Impact Statement and the Tri-Party Agreement. The Department proposes to complete the decommissioning of the eight surplus production reactors, consistent with related activities scheduled under the Hanford Tri-Party Agreement. The Department intends to integrate and prioritize this decision with the related Comprehensive Environmental Response, Compensation, and Liability Act or Resource Conservation and Recovery Act remediation activities scheduled under the Tri-Party Agreement. Should this

decommissioning decision eventually be shown to be inconsistent with subsequent remediation decisions, the Department of will reevaluate the appropriateness and timing of proceeding with this decision on an operable unit-by-operable unit basis.

The environmental impacts of the alternatives do not offer a strong basis for selection among the alternatives (see Table 1). Although there are apparent differences in occupational radiation dose among the alternatives, all of the estimated doses are small and no occupational cancer fatalities would be expected for any of the alternatives. The action alternatives would result in very similar environmental impacts. Estimated radiation doses and impacts from drinking water from a hypothetical well drilled near a waste disposal site were low for all of the action alternatives. Estimated radiation doses and impacts from potential accidents were also low for all action alternatives. Impacts associated with long-term population dose estimates for the action alternatives would be essentially the same and small.

TABLE 1.—FACTORS CONSIDERED IN SELECTING A DECOMMISSIONING ALTERNATIVE.[a]

Decommissioning alternative	Occupational radiation dose (person-rem)	Occupational cancer fatalities	Total cost (millions of 1990)	Population dose over 10,000 years[b] (person-rem)	Population cancer fatalities over 10,000 years	Maximum well dose[c] (rem/yr)
No action (continue present action)	24	0	44	50,000	20	1.2
Immediate one-piece removal	159	0	228	1,900	1	0.04
Safe storage followed by deferred one-piece removal	51	0	235	1,900	1	0.04
Safe storage followed by deferred dismantlement	532	0	311	1,900		10.04
In situ decommissioning	33	0	193	4,700	2	0.03

[a] Quantities are for all eight reactors. Costs are for 100 years.
[b] The Department of Energy used a conversion factor of 400 cancer deaths per one million person-rem.
[c] This is the maximum dose rate to a person drinking water from a well drilled near the waste disposal site at any time up to 10,000 years.

The No Action Alternative would result in greater radiation doses from drinking water from a hypothetical well drilled near a reactor site than any of the action alternatives. The impacts associated with long-term population dose for the No Action Alternative would also be greater than for any of the action alternatives.

The Department did not select the No Action Alternative or the In-Situ Decommissioning Alternative because neither of these alternatives would remove the reactor cores from the 100 Area; removal of the reactor cores from the vicinity of the Columbia River was favored by the majority of the commentors, and because of the increased long-term and drinking water impacts as compared to the action alternatives.

The Department does not prefer the Safe Storage Followed by Deferred Dismantlement Alternative because it would result in a higher occupational radiation dose and because the costs would be substantially higher than costs of other action alternatives and provide no commensurate additional benefits. Safe Storage Followed by Deferred One-Piece Removal consistent with the time frame of the Tri-Party Agreement would result in removal of the reactor cores on a schedule that would be somewhat delayed from the 12-year schedule for immediate one-piece removal. While the majority of commentors prefer immediate one-piece removal, leaving the reactors in place during the safe storage period would pose no significant environmental risks. The slightly higher total cost for Safe Storage Followed by Deferred One-Piece Removal as compared with Immediate Removal is attributable to surveillance and maintenance costs during the safe storage period. The cost differential would be reduced by the reduction in the safe storage period from the 75 years used in the analysis. In choosing safe storage followed by deferred one-piece removal, the Department considered the priority of this proposed action relative to other remedial actions the Department may need to conduct at the Hanford Site.

Environmentally Preferred Alternative: The Department of Energy regards the Safe Storage Followed by Deferred Dismantlement, Safe Storage Followed by One-Piece Removal, and Immediate One-Piece Removal Alternatives as equally favorable based solely on the evaluation of environmental impacts. Therefore, the selected alternative is also identified as one of the environmentally preferred alternatives.

Environmental Impacts and Mitigation Measures: The environmental impacts associated with the selected action include consequences related to routine and non-routine conditions. Modeling assumptions and accident scenarios used in this evaluation are considered conservative by the Department of Energy. The analyses were conducted in such a manner that the calculated environmental impacts would exceed those actually expected or experienced. In assessing the radiological consequences from postulated accidents for this selected course of action, for example, it was assumed that the reactor block drops from the tractor-transporter, crushing one edge. As a result, it was assumed that approximately 1% of the total block volume (about 10 cubic meters) will be reduced to a fine powder, of which approximately 1% would be resuspended by wind for an 8-hour period before recovery operations stabilize the material. These assumptions and values are very conservative when compared to values provided by the U.S. Environmental Protection Agency for fugitive emissions from a number of industries in the United States. These assumptions are not intended to be predictions of actual future consequences.

Environmental impacts associated with the selected course of action could result from decommissioning actions; accidents during decommissioning actions; and long-term, post-decommissioning releases of radionuclides from the disposal of low-level radioactive waste. Occupational radiation doses were estimated at 51 person-rem for the decommissioning of all eight surplus production reactors, and public radiation doses during the decommissioning period were estimated to be nearly zero. Radiological consequences to the general public from a postulated accident (dropped reactor block scenario discussed above) were assessed. It was determined that the

dose to the maximally exposed individual would be 80 millirem, and the population dose would be 300 person-rem. No adverse health effects would be expected from such an exposure. Long-term radiological releases to the ground water from the 200 Area disposal site and associated consequences were also calculated. It was estimated that the population dose from this long-term release would be about 1,900 person-rem over a postulated 10,000-year period (This same population would receive 9 billion person-rem from natural radiation sources over the 10,000-year time frame.). It was also assumed that loss of institutional control occurs after 100 years, and that the Hanford Site is used for other purposes. Maximum individual doses to persons that might drink water from wells drilled near the waste disposal site over a 10,000-year period were calculated, assuming dilution, to be approximately 0.04 rem per year. Also, a full garden scenario in which it was assumed that an individual would use contaminated water from a well that intercepts all of the contamination leached from one reactor for irrigation, livestock and drinking water was assessed. Based on extremely conservative assumptions for this scenario, it was estimated that an individual using a well located 5 kilometers from the 200 West Area disposal site would receive a lifetime (70 years) dose of 95 rem [The estimated probability that this individual would die from cancer induced by this radiation dose would be about 510^{-2} (or 1 chance in 20)], with the maximum dose occurring at 6,160 years following disposal. Migration of radioactive waste from the 200 West Area disposal site to the Columbia River is estimated to result in an inconsequential maximum lifetime dose of 1.110^{-5} rem to an individual living along the River.

Ecological impacts from the preferred alternative would be minimal because much of the area under consideration has been previously disturbed as a result of past radioactive waste management activities. Temporary disturbance of wildlife would occur resulting from activities required to prepare the reactor buildings for decommissioning. Additional temporary ecological impacts may occur as a result of local excavation to obtain soil for backfilling the 100 Areas after removal of the surplus reactors.

Adverse environmental impacts that can be mitigated would include impacts resulting from occupational radiation doses, disruption of land areas, and migration of chemicals and radionuclides caused by water infiltration through waste disposal sites. The principle of maintaining radiation exposures as low as reasonably achievable will be applied in every phase of engineering planning that deals with radioactive material. All workers engaged in decommissioning activities will be required to wear dosimeters to detect excess radiation doses. All radiation zones will be monitored and approved before workers will be allowed to enter. Protective shields, remotely operated tools and contamination control envelopes will be employed when appropriate. Sites used for backfill soil, dirt and gravel will be surveyed for archeological resources and endangered or threatened species, and will be rehabilitated once the proposed action is complete. Water migration through the waste disposal sites will be mitigated by the installation of a multi-layer, engineered barrier consisting of a capillary layer of fine-textured soil underlain by an impervious layer of soil/bentonite clay.

Socioeconomic impacts are caused primarily by the influx (or egress) of workers required by the project. The maximum number of workers required onsite at any one time for any decommissioning alternative is 100. This number is less than 1% of the workers presently on the Site and would produce negligible socioeconomic impacts.

Resources committed to the decommissioning of the Hanford surplus reactors would include the land on which the reactors now stand, the land required for low-level waste disposal for the one-piece removal alternative, and for the energy necessary to carry out the alternative.

The Department of Energy nominated the B-Reactor for inclusion in the National Register of Historic Places in accordance with the opinion of the Washington State Historic Preservation Officer and the provisions of 36 CFR part 800, "Protection of Historic and Cultural Properties." On April 3, 1992, the National Park Service entered the B-Reactor in the National Register. Specific actions to mitigate the cumulative impacts of decommissioning on the historic preservation of B-Reactor will be determined later in accordance with 36 CFR Part 800. Actions to preserve this historic resource may include extensive recordation by photographs, drawings, models, exhibits and written histories, and may also include preservation of some portions of the B-Reactor for display on or near its present location or at some other selected location.

Conclusion

The Department of Energy has considered the short- and long-term environmental impacts, costs, results of the public hearing process, and the priority of this proposed action relative to other remedial actions being conducted at the Hanford Site for decommissioning the eight surplus reactors. The Department of Energy has decided to decommission the reactors by safe-storage followed by one-piece removal in coordination with other actions at Hanford, and consistent with environmental standards applicable at the time the action is taken. The Department of Energy will continue to evaluate the benefits of measures to avoid or minimize environmental impacts associated with this decision.

Issued at Washington, DC, this 10th day of September, 1993.

Thomas P. Grumbly

Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 93–22667 Filed 9–14–93; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket Nos. ER93–870–000, et al.]

Boston Edison Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

September 9, 1993.

Take notice that the following filings have been made with the Commission:

1. Boston Edison Company

[Docket No. ER93–870–000]

Take notice that on August 16, 1993, Boston Edison Company (Boston Edison) filed a letter agreement between it and New England Power Company (NEP) under which Boston Edison agreed to replace at NEP's expense two cables located in the tunnel under the Fore River and used by Boston Edison to serve NEP. The cables will be owned by Boston Edison and extend from Edgar Station in Weymouth to Quincy. NEP has agreed to reimburse Boston Edison for the costs of replacing the cables as determined according to a formula attached to the letter agreement and capped at $190,000.

Comment date: September 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Second Imperial Geothermal Company

[Docket No. QF92–53–002]

On August 25, 1993, Second Imperial Geothermal Company (Applicant),

Building One, Suite 255, 4000 Kruse Way Place, Lake Oswego, Oregon 97035, submitted for filling an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the small power production facility will be located approximately two miles south of the town of Heber, in Imperial County, California. The Commission originally certified the facility as a 30.4 MW qualifying geothermal small power production facility, *Second Imperial Geothermal Company,* 59 FERC ¶ 62,031 (1992). On November 25, 1992, applicant filed a notice of self-recertification to reflect, among other things, an increase in the facility's maximum net power production capacity to 34.9 MW. The instant request for recertification is due to a change in the ownership of the facility and, by reference to the above November 25, 1992, notice of self-recertification, an increase in its maximum net power production capacity to 34.9 MW.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

3. Atlantic City Electric Company

[Docket No. ER93–927–000]

Take notice that on September 3, 1993, Atlantic City Electric Company (AE) tendered for filing as an initial Rate Schedule an Agreement for Installed Capacity Credit Transactions between Philadelphia Electric Company (PE) and AE dated August 27, 1993. This contract sets forth the terms under which AE will sell PJM installed capacity credits to PE. In order to maximize the economic advantages to both AE and PE, AE requests that the Commission waive its customary notice period and permit this Agreement to become effective on September 3, 1993.

AE states that a copy of this filing has been served by mail upon PE, the NW Jersey Board of Regulatory Commissioners and the Pennsylvania Public Utility Commission.

Comment date: September 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. The United Illuminating Company

[Docket No. ER93–918–000]

Take notice that on August 31, 1993, The United Illuminating Company (UI) filed:

1. Interconnection Agreement Between The United Illuminating Company and McCallum Enterprises I Limited Partnership ("MELP") (Attachment 1); and

2. Shelton Plant Operations Agreement Between The United Illuminating Company and McCallum Enterprises I Limited Partnership (Attachment 2).

UI has also requested a disclaimer of jurisdiction with respect to the Derby Plant Operations Agreement and a License Agreement between UI and MELP. UI requests that the filings be made effective as of October 19, 1987.

Copies of the filing have been set to the affected customer and to the Connecticut Department of Public Utility Control.

Comment date: September 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Gas and Electric Company

[Docket No. ER93–919–000]

Take notice that on September 1, 1993, Pacific Gas and Electric Company (PG&E) tendered for filing an agreement entitled "Special Facilities Agreement for Transmission Facilities for the Interconnection of NCPA's 225 Kw McKays Project" (Special Facilities Agreement) between the Northern California Power Agency (NCPA) and PG&E.

The Special Facilities Agreement has been entered into pursuant to the (NCPA) and PG&E Interconnection Agreement P&E Rate Schedule FERC No. 142. The Special Facilities Agreement sets forth the rate, terms and conditions under which PG&E will design, install, own, operate and maintain the facilities for the interconnection of a new hydroelectric project owned by NCPA. PG&E proposes to charge NCPA a capital advance and monthly Cost of Ownership Charge, with the later based on the special facilities rate filed with the California Public Utilities Commission (CPUC) for transmission-level, customer-financed facilities. PG&E has asked to automatically adjust this rate to track changes authorized by the CPUC, limited by a monthly rate cap of 0.5% of the installed cost of the facilities.

Copies of this filing have been served upon NCPA and the CPUC.

Comment date: September 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Central Vermont Public Service Corporation

[Docket No. ER93–302–000]

Take notice that on August 20, 1993, Central Vermont Public Service Corporation tendered for filing additional cost justification relating to service provided pursuant to an Option Power Sales Agreement between the filing utility and the State of Vermont Department of Public Service. According to the filing utility, the Vermont Department of Public Service desires continued service under the terms and conditions of the agreement.

Comment date: September 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22611 Filed 9–15–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–701–000, et al.]

Black Marlin Pipeline Co., et al.; Natural Gas Certificate Filings

September 9, 1993.

Take notice that the following filings have been made with the Commission:

1. Black Marlin Pipeline Company

[Docket No. CP93–701–000]

Take notice that on September 2, 1993, Black Marlin Pipeline Company (Black Marlin), 1400 Smith Street, Houston, Texas 77002 filed a request with the Commission in Docket No. CP92–701–000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to authorize the replacement of a 16-inch meter tube with a 12-inch meter tube at the Union Carbide Texas City Delivery Point, under Black Marlin's blanket certificate issued in Docket No. CP89–2115–000, all as more fully set forth in the request which is open to public inspection.

Black Marlin states that it would replace a 16-inch meter tube with a 12-inch meter tube at the Union Carbide Texas City Delivery Point and the average quantity through this point would be 35,000 Mcf/d.

Comment date: October 25, 1993, in accordance with Standard paragraph G at the end of this notice.

2. Colorado Interstate Gas Company

[Docket No. CP93–684–000]

Take notice that on August 27, 1993, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP93–684–000 a request pursuant to § 157.205 of the Commission's Regulations to construct a sales tap to deliver natural gas to Thermo Cogeneration Partnership, L.P. (Thermo) in Weld County, Colorado under CIG's blanket certificate issued in Docket No. CP83–21–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

CIG proposes to install a tap on its existing eight-inch lateral line in Weld County, Colorado to deliver natural gas to Thermo, on an interruptible basis, for use in a cogeneration facility, under CIG's TI–1 Rate Schedule. CIG states that the facility would be designed to deliver up to 60,000 Mcf of natural gas per day and that measurement would be provided by Thermo. Further, CIG states that the proposed delivery facility would have only a minor effect on CIG's peak day and annual deliveries since the transportation service would initially be provided on an interruptible basis. CIG states that the estimated cost of the facilities is $7,000.

Comment date: October 25, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. Natural Gas Pipeline Company of America

[Docket No. CP93–699–000]

Take notice that on September 1, 1993, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP93–699–000 for permission and approval to abandon a natural gas transportation service for Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural requests permission and approval to abandon, effective March 1, 1993, a firm transportation service rendered to Columbia under Rate Schedule X–35. Natural states that Rate Schedule X–35 provides for Columbia to make available on a firm basis up to 12,500 Mcf of natural gas per day from West Cameron Blocks 146 and 181, offshore Louisiana for transportation and redelivery for the account of Columbia to an interconnection of facilities between Natural and Columbia Gulf Transmission Company (Columbia Gulf) at the Texaco Henry Plant located in Vermilion Parish, Louisiana for subsequent redelivery by Columbia Gulf to Columbia.

Natural states that by letter dated November 9, 1992, Columbia informed Natural of Columbia's election to terminate the transportation agreement effective March 1, 1993. Natural requests a March 1, 1993 effective date for the abandonment of service under Rate Schedule X–35 to alleviate Columbia's concern that it would be liable to pay Natural demand charges after the March 1, 1993 date.

Comment date: September 30, 1993, in accordance with Standard Paragraph F at the end of this notice.

4. Trunkline Gas Company and Tennessee Gas Pipeline Company

[Docket No. CP93–698–000]

Take notice that on September 1, 1993, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251 and Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252 filed an application with the Commission in Docket No. CP93–698–000 pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon exchange services between Trunkline and Tennessee, all as more fully set forth in the application which is open to public inspection.

Trunkline and Tennessee specifically request authority to abandon exchange services pursuant to two exchange agreements dated October 25, 1962, and May 1, 1972. It is stated that the October 25, 1962, agreement is embodied in Trunkline's Rate Schedule X–4 of its FERC Gas Tariff, and Tennessee's Rate Schedule X–15 of Tennessee's FERC Gas Tariff, and the May 1, 1972, agreement is embodied in Trunkline's Rate Schedule E–5 of its FERC Gas Tariff, and Rate Schedule X–34 of Tennessee's FERC Gas Tariff.

It is also stated that the October 25, 1962, agreement allowed Applicants to exchange gas at interconnections in Harris County, Texas, and Bolivar County, Mississippi. When either Trunkline or Tennessee was confronted with an emergency on its system which could be alleviated by deliveries of gas from the other's system, either party could request emergency deliveries at two interconnection points, not to exceed 200,000 Mcf per day.

It is asserted that, under the May 1, 1972, agreement Trunkline received quantities of gas purchased by Trunkline and Tennessee from Tenneco Oil Company at South Timbalier Block 196, Offshore Louisiana. Trunkline transported the gas onshore and delivered it to Tennessee at the existing interconnection between the Applicants' facilities near Centerville, St. Mary Parish, Louisiana. Tennessee redelivered Trunkline's share of the gas to Trunkline at the existing interconnection between their facilities near Kinder, Jefferson Davis Parish, Louisiana.

Trunkline and Tennessee have stated that by letter dated May 13, 1993, Trunkline and Tennessee mutually agreed to terminate both exchange agreements.

Comment date: September 30, 1993, in accordance with Standard Paragraph F at the end of this notice.

5. Phillips Petroleum Company and Prima Exploration, Inc., et al.

[Docket No. CP93–702–000]

Take notice that on September 2, 1993, Phillips Petroleum Company (Phillips), 6330 W. Loop South, P.O. Box 1967, Houston, Texas 77251–1967 and Prima Exploration, Inc. (Prima), 7800 East Union Avenue, Suite 605, Denver, Colorado, 80237 [1] jointly filed in Docket No. CP93–702–000, an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act requesting permission and approval for Phillips to abandon a storage service and related facilities in Summit County, Utah and for authorization for Prima to acquire the facilities and to continue to provide the storage service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Phillips states that it is selling 21 producing leases in Montana, North Dakota, South Dakota, Wyoming and Utah to Prima pursuant to an agreement dated June 18, 1993, as modified by an August 4, 1993, letter agreement. Phillips further states that one of the leases, the Fork A Lease in Summit County, Utah, includes the Bridger Lake Field from which Phillips provides a storage service, which was certificated by the Commission in Docket No. CP78–

[1] Prima is a joint venture of four independent exploration and production companies, Prima Exploration, Inc., the operator; Vegas Production Company; Gunlikson Petroleum, Inc.; and Petroro Corporation.

388–000,[2] for Questar Pipeline Company (Questar). Accordingly, Phillips requests permission and approval to abandon the storage service it provides to Questar and related facilities by transfer to Prima, and Prima requests authorization to continue to provide the storage service to Questar and to acquire the related facilities.

Phillips states that the related facilities consist of a metering station, dehydrator and heater, 425 feet of 4-inch lateral pipeline and an injection well, the Fork "A" No. 5 well, located in Summit County, Utah. Phillips asserts that no gas has been injected into the facilities since April of 1984 and that less than 500,000 Mcf of working gas remains in storage.

Comment date: September 30, 1993, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22610 Filed 9–15–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–14380T Texas–149]

Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

September 10, 1993.

Take notice that on September 7, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Austin Chalk Formation, underlying a portion of Brazos County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in Railroad Commission District No. 3 and consists of the entire E.M. Millican Survey, A–40.

The notice of determination also contains Texas' findings that the referenced portion of the Austin Chalk Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22613 Filed 9–15–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–109–005]

Williams Natural Gas Co.; Compliance Filing

September 10, 1993.

Take notice that on September 1, 1993, Williams Natural Gas Company (WNG) tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Substitute Eighteenth Revised Sheet No. 9
Substitute Fifth Revised Sheet No. 119

The proposed effective date of these tariff sheets is November 1, 1993.

WNG states that Substitute Eighteenth Revised Sheet No. 9 is filed to make clear that the GRI Charge will not apply to gathering only services. WNG states that Substitute Fifth Revised Sheet No. 119 is filed to make clear that the Reservation Charge under Rate Schedule FTS will not apply to volumes transported only on the gathering system(s).

WNG states that a copy of its filing was served on all parties in this docket and on all jurisdictional customers and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before September 17, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22612 Filed 9–15–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4730–5]

Oklahoma; Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

---

[2] *Phillips Petroleum Company*, 7 FERC ¶ 61,058 (1979).

ACTION: Notice of tentative determination on application of Oklahoma for full program adequacy determination, public hearing and public comment period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribe permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in State/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

Oklahoma applied for a determination of adequacy under section 4005 of RCRA. EPA has reviewed Oklahoma's MSWLF application and has made a tentative determination that all portions of Oklahoma's MSWLF permit program are adequate to assure compliance with the revised MSWLF Criteria. Oklahoma's application for program adequacy determination is available for public review and comment.

Although RCRA does not require EPA to hold a public hearing on a determination to approve any State/Tribe's MSWLF program, the Region has scheduled a public hearing on this determination and will hold the hearing if a sufficient number of people express interest in participating in the hearing by writing the Region or calling the contact given below by October 18, 1993. If a public hearing is held, it will take place on the date given in the "DATES" section. The Region will notify all persons who submit comments on this notice if it decides to hold the hearing. In addition, anyone who wishes to learn whether the hearing will be held may call the person listed in the "CONTACTS" section.

DATES: All comments on Oklahoma's application for a determination of adequacy must be received by the close of business on October 18, 1993. If a public hearing is held, it will be scheduled for November 1, 1993, in Oklahoma City, Oklahoma. State of Oklahoma officials will participate in the hearing, if held by EPA.

ADDRESSES: Copies of Oklahoma's application for adequacy determination are available during normal business hours for inspection and copying at the following addresses: Oklahoma Department of Environmental Quality (ODEQ), Solid Waste Management Service, 1000 Northeast Tenth Street, Oklahoma City, Oklahoma, Mr. R. Fenton Rood, 405–271–7159; U.S. EPA Region 6 Library, 1445 Ross Avenue, Dallas, Texas, Paul Thomas, 214–655–6707. Written comments should be sent to U.S. EPA Region 6, Becky Weber (6H-H), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Paul Thomas, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, 214–655–6707.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to approve State/Tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an adequate program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

B. State of Oklahoma

On August 10, 1993, Oklahoma submitted an application for adequacy determination. EPA has reviewed Oklahoma's application and has tentatively determined that all portions of Oklahoma's Subtitle D program will ensure compliance with the revised Federal Criteria.

On July 1, 1993, the Oklahoma Department of Environmental Quality (ODEQ) proposed new solid waste regulations, (Chapter 510, Section 252, Municipal Solid Waste Landfill Regulations). These regulatory amendments are currently undergoing the formal rule adoption process at the State level and are expected to be finalized by November 15, 1993. The proposed amendments will revise the State regulations to reflect the requirements in 40 CFR part 258.

Oklahoma's liner design is consistent with the Federal Criteria. Oklahoma's proposed regulations require the use of the composite liner consistent with 40 CFR part 258. Alternative liner designs

may be used with ODEQ approval so long as the design prevents an impact on groundwater as indicated by a statistically significant elevation over background of any parameter monitored in the detection monitoring program (ie: constituents consistent with 40 CFR part 258, appendix I). EPA believes that the Oklahoma regulation is equal to or exceeds the requirements as stated in 40 CFR part 258. Additionally, Oklahoma's proposed final cover requirements are a minimum of 24" of earthen material that has a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present, or a permeability no greater than 1 X 10^{-5} cm/sec, whichever is less, with a 12" erosion layer of topsoil capable of sustaining plant growth. Oklahoma's proposed regulations do not allow new or lateral expansions of municipal solid waste landfill units to be constructed in wetlands.

EPA has tentatively determined that Oklahoma's application, including the proposed amendments, is consistent with the Federal Criteria. EPA will make a final determination of adequacy after the amendments have been adopted by the State.

The public may submit written comments on EPA's tentative determination until October 18, 1993. Copies of Oklahoma's application are available for inspection and copying at the location indicated in the "ADDRESSES" section of this notice. If there is sufficient public interest, the Agency will hold a public hearing on its tentative determination on November 1, 1993, at 10 a.m. at the Oklahoma Department of Environmental Quality in Oklahoma City, Oklahoma. Comments can be submitted as transcribed from the discussion of the hearing or in writing at the time of the hearing.

EPA will consider all public comments on its tentative determination received during the public comment period and during the public hearing, if held. Issues raised by those comments may be the basis for a determination of inadequacy for Oklahoma's program. EPA's final determination notice will include a summary of the reasons for the final determination and a response to all major comments.

Oklahoma has not asserted jurisdiction within the exterior boundaries of Indian country in its application for adequacy determination. Accordingly, this approval does not extend to lands within Indian country in Oklahoma. Until EPA approves a State or Tribal MSWLF permitting program in Oklahoma for any part of "Indian Country," as defined in 18 U.S.C. 1151, the requirements of 40 CFR part 258 will, after October 9, 1993, automatically apply to that area. Thereafter, the requirements of 40 CFR part 258 will apply to all owners/operators of MSWLFs located in any part of "Indian Country" that is not covered by an approved State or Tribal MSWLF permitting program.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

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 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: September 9, 1993.

Joe D. Winkle,

Acting Regional Administrator.

[FR Doc. 93–22650 Filed 9–15–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4730–9]

South Carolina: Final Determination of Adequacy of State/Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination of adequacy to fully approve the State of South Carolina's municipal solid waste landfill permit program.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in State/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility.

South Carolina applied for a determination of adequacy under section 4005 of RCRA. EPA Region IV reviewed South Carolina's MSWLF application and proposed a determination that South Carolina's MSWLF permit program is adequate to ensure compliance with the revised MSWLF Criteria. After consideration of all comments received regarding the tentative determination of adequacy, EPA is today issuing a final determination of adequacy for South Carolina's MSWLF program.

EFFECTIVE DATE: The determination of adequacy for the State of South Carolina shall be effective on September 16, 1993.

FOR FURTHER INFORMATION CONTACT: EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, Attn: Ms. Patricia S. Zweig, mail code 4WD-RCRA, telephone 404–347–2091.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as

amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that facilities comply with the Federal Criteria under part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to approve State/Tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

B. State of South Carolina

On June 22, 1993, the State of South Carolina submitted a final application for adequacy determination for their MSWLF permit program. On August 3, 1993, EPA published a tentative determination of adequacy for all portions of South Carolina's program. Further background on the tentative determination of adequacy appears at 58 FR 41274, (August 3, 1993).

Along with the tentative determination, EPA announced the availability of the application for public comment and the tentative date of a public hearing on the application. There were no requests for a public hearing during the public comment period. Therefore, Region IV of EPA and the State of South Carolina hereby cancel and will not hold the public hearing that was tentatively scheduled for 7 p.m. on September 20, 1993, in Columbia, South Carolina.

The State of South Carolina has the authority to issue permits that incorporate the requirements of the Revised Federal MSWLF Criteria to all MSWLFs in the State, with the exception of those located on Tribal Lands.

The EPA has determined that the State of South Carolina's statutes and administrative regulations provide for a state-wide comprehensive program of solid waste management including specific provisions for public participation, compliance monitoring and enforcement.

C. Public Comment

One commenter maintained that use of the draft State/Tribal Implementation Rule (STIR) as guidance is a violation of the Administrative Procedure Act (APA) requirements that a rule must go through notice and opportunity for comment. EPA does not believe that it is violating any requirements in the APA for notice and comment for a rulemaking. The Agency is not utilizing the draft STIR as a regulation which binds either the Agency or the States. Instead, EPA is using the draft STIR as guidance for evaluating State permit programs and maintains its discretion to approve State programs utilizing the draft STIR and/or other criteria which assures compliance with 40 CFR part 258.

In addition, members of the public have an opportunity to comment on the essential criteria by which EPA assures the adequacy of State MSWLF permit programs because the Agency discusses the criteria for approval of a State permit program when it publishes each tentative determination notice in the **Federal Register**. The Agency set forth the minimum requirements for an adequate permit program in the tentative determination notice for approval of the State of South Carolina's permit program. 58 FR 41274, 41275 (August 3, 1993).

D. Decision

After reviewing the public comments submitted in response to the tentative decision, I conclude that South Carolina's application for adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, South Carolina is granted approval for all portions of its MSWLF permit program.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Today's action takes effect on the date of publication. EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C 553(d), to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in the State's program are already in effect as a matter of State law. EPA's action today does not impose any new requirements that the regulated community must begin to comply with. Nor do these requirements become enforceable by EPA as Federal law. Consequently, EPA finds that it does not need to give notice prior to making its approval effective.

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 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: September 9, 1993.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 93–22651 Filed 9–15–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4730–8]

Tennessee: Final Determination of Adequacy of State/Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination of adequacy to fully approve the State of Tennessee's municipal solid waste landfill permit program.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste

Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in State/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility.

Tennessee applied for a determination of adequacy under section 4005 of RCRA. EPA Region IV reviewed Tennessee's MSWLF application and proposed a determination that Tennessee's MSWLF permit program is adequate to ensure compliance with the revised MSWLF Criteria. After consideration of all comments received regarding the tentative determination of adequacy, EPA is today issuing a final determination of adequacy for Tennessee's MSWLF program.

EFFECTIVE DATE: The determination of adequacy for the State of Tennessee shall be effective on September 16, 1993.

FOR FURTHER INFORMATION CONTACT: EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, Attn: Ms. Patricia S. Zweig, mail code 4WD-RCRA, telephone 404–347–2091.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that facilities comply with the Federal Criteria under part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to approve State/Tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

B. State of Tennessee

On May 17, 1993, the State of Tennessee submitted a final application for adequacy determination for their MSWLF permit program. On August 5, 1993, EPA published a tentative determination of adequacy for all portions of Tennessee's program. Further background on the tentative determination of adequacy appears at 58 FR 41768, (August 5, 1993).

Along with the tentative determination, EPA announced the availability of the application for public comment and the tentative date of a public hearing on the application. There were no requests for a public hearing during the public comment period. Therefore, Region IV of EPA and the State of Tennessee hereby cancel and will not hold the public hearing that was tentatively scheduled for 6 p.m. on September 23, 1993, in Nashville, Tennessee.

The State of Tennessee has the authority to issue permits that incorporate the requirements of the Revised Federal MSWLF Criteria to all MSWLFs in the State, with the exception of those located on Tribal Lands.

The EPA has determined that the State of Tennessee's statutes and administrative regulations provide for a state-wide comprehensive program of solid waste management including specific provisions for public participation, compliance monitoring and enforcement.

C. Public Comment

One commenter maintained that use of the draft State/Tribal Implementation Rule (STIR) as guidance is a violation of the Administrative Procedure Act (APA) requirements that a rule must go through notice and opportunity for comment. EPA does not believe that it is violating any requirements in the APA for notice and comment for a rulemaking. The Agency is not utilizing the draft STIR as a regulation which binds either the Agency or the States. Instead, EPA is using the draft STIR as guidance for evaluating State permit programs and maintains its discretion to approve State programs utilizing the draft STIR and/or other criteria which assures compliance with 40 CFR part 258.

In addition, members of the public have an opportunity to comment on the essential criteria by which EPA assures the adequacy of State MSWLF permit programs because the Agency discusses the criteria for approval of a State permit program when it publishes each tentative determination notice in the **Federal Register**. The Agency set forth the minimum requirements for an adequate permit program in the tentative determination notice for approval of the State of Tennessee's permit program. 58 FR 41768, 41769, 41770 (August 5, 1993).

D. Decision

After reviewing the public comments submitted in response to the tentative decision, I conclude that Tennessee's application for adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Tennessee is granted approval for all portions of its MSWLF permit program.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Today's action takes effect on the date of publication. EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C 553(d), to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in the State's program are already in effect as a matter of State law. EPA's action today does not impose any new requirements that the regulated community must begin to comply with. Nor do these requirements become enforceable by EPA as Federal law. Consequently, EPA finds that it does not need to give notice prior to making its approval effective.

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 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: September 9, 1993.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 93–22652 Filed 9–15–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4730–4]

Trade and Environment Committee, National Advisory Council for Environmental Policy and Technology; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

DATE AND TIME: Wednesday, September 29, 1993, from 10 a.m. to 5.30 p.m. and Thursday, September 30, 1993, from 9 a.m. to 4 p.m.

LOCATION: National Governors' Association Hall of the States, room 333, 444 North Capitol Street, Washington, DC.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92–563, EPA gives notice of a two-day planning meeting of the Trade and Environment Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues and the Trade and Environment Committee addresses the linkages between trade and environment policy.

Discussion at the meeting will center around the formation of a Subcommittee on Competitiveness, Trade and Environment to advise the EPA Administrator on competitiveness, trade and environment policy issues. The Subcommittee will be looking broadly at the impact of domestic and international environmental policy and regulations on U.S. competitiveness and will initially focus on the section 811 requirements of the Clean Air Act. The purpose of the meeting is to provide an opportunity for discussion and comments on the Clean Air Act section 811 draft interagency report as well a identify key issue to addressed by the Subcommittee.

Topics to be discussed during the meeting:

1. Clean Air Act Section 811 draft interagency report to Congress.
2. Industry Report on Section 811.
3. Sectoral Overview of Competitiveness, Trade and Environment issues.
4. Identification of key issues on competitiveness, trade and environment to be addressed by the Subcommittee.

Members of the public are encouraged to submit written comments suggesting projects for the Subcommittee. Written comments can be submitted by mail. Any written comments received before Thursday, September 23, 1993, will be distributed to Committee members for consideration. Scheduling constraints preclude oral comments from the public during the meeting.

ADDRESSES: Written comments should be sent to: Jan McAlpine (A101F6), Office of Cooperative Environmental Management, U.S. EPA, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jan McAlpine, Staff Director, Global Environment and Trade Staff, Direct line (202) 260–2477, Secretary's line (202) 260–6891.

Dated: September 10, 1993.

Jan McAlpine,

Staff Director, Global Environment and Trade Staff.

[FR Doc. 93–22617 Filed 9–15–93; 8:45 am]

BILLING CODE 6560–50–M

EXPORT-IMPORT BANK OF THE UNITED STATES

Privacy Act of 1974; Amendment of Systems of Records

AGENCY: Export-Import Bank of the United States.

ACTION: Notice of Amendment.

SUMMARY: The Export-Import Bank of the United States is publishing an amendment to its Systems of Records.

EFFECTIVE DATE: September 16, 1993.

ADDRESSES: Export-Import Bank of the United States, Washington, DC 20571.

FOR FURTHER INFORMATION CONTACT: Helene H. Wall, Vice President, Administrative & Management Services, Export-Import Bank of the United States, Washington, DC 20571, Telephone (202) 566–8111.

SUPPLEMENTARY INFORMATION: The Export-Import Bank's System of Records have been amended as follows:

EIB–22 and EIB–24

SYSTEM MANAGER(S) AND ADDRESS:

"Administrative Officer" has been changed to "Vice President—Administrative and Management Services".

NOTIFICATION PROCEDURE:

"Administrative Officer" has been changed to "Vice President—Administrative and Management Services".

RECORDS ACCESS PROCEDURES:

In accordance with the U.S. Office of Personnel Management's (OPM) Federal Personnel Manual chapter 732, subchapter 7–5, "Safeguarding and Handling Investigative Files", persons wanting a copy of their own OPM investigative file maintained by Eximbank, must comply with the following Privacy Act procedure:

Send a signed letter specifying name, date/place of birth, Social Security number, home address, location of present or former Federal employment, and any other pertinent data to: FOI/P, OPM–FIPC, PO Box 618, Boyers, PA 16018–0618.

For other types of access requests: Same as Notification.

RECORD SOURCE CATEGORIES:

Investigations received from Federal investigative agencies and correspondence generated by other departments and agencies containing information from employers, references, schools, neighbors, police, credit agencies and other Federal investigative agencies.

Helene H. Wall,

Vice President, Administrative and Management Services.

[FR Doc. 93–22593 Filed 9–15–93; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Electronic Filing Trial

September 2, 1993.

By Order released April 15, 1993, FCC 93–174, 58 FR 21405, April 21, 1993 the Commission modified its rules concerning signatures on private radio applications to permit those applicants to sign their applications by any symbol executed or adopted by the applicant with intent that such symbol be a signature. The Commission also delegated to the Private Radio Bureau authority to establish filing procedures by public notice that would allow applications to be "signed" by computer-generated impulses.

The Industrial Telecommunications Association (ITA), a Commission-certified frequency coordinator, has requested the Bureau to take an intermediate step towards electronic filing. Under ITA's proposal, applicants will have the option to transmit their electronically signed frequency coordination applications to ITA either through electronic mail (E–Mail), electronic data interchange (EDI), or facsimile. After reviewing and coordinating the applications, ITA would print out a hard copy of the applications, assign them a common file number from a block of numbers issued by the Bureau, and forward a hard copy of applications and appropriate fee to the designated filing location.

At present, ITA proposes that the new procedures apply only to applications from existing licensees in the Special Industrial, Petroleum, Telephone Maintenance, Film and Video Production, and Relay Press Radio Services as well as from existing 800/900 MHz licensees for whom ITA is authorized to conduct frequency advisory services.

The Bureau has reviewed ITA's proposal and believes that the Commission would gain valuable experience through a trial of ITA's proposal as the Commission moves toward a fully electronic filing process. The Bureau is also satisfied with ITA's procedures for ensuring the authenticity and validity of the applications that are sent to ITA electronically. Accordingly, the Bureau intends to put ITA's proposal into effect for a six-month trial period commencing Wednesday, September 8, 1993. At the conclusion of the trial period, the Bureau will consider making the test permanent.

For further information, contact Judy Dunlap at (717) 337–1321. For information regarding ITA's electronic frequency coordination procedures, contact Ms. Cynthia T. Chappell, Senior Vice President, ITA, 1110 N. Glebe Road, Suite 500, Arlington, Virginia 22209; Tel.: (703) 528–5115; FAX: 524–1074; or E–Mail: MCI Mailbox 604–8930.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–22598 Filed 9–15–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL LABOR RELATIONS AUTHORITY

Senior Executive Service; Performance Review Board

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the Performance Review Board.

DATES: September 16, 1993.

FOR FURTHER INFORMATION CONTACT: James M. Cheskawich, Director of Personnel and EEO, Federal Labor Relations Authority, 607 14th Street, NW., Washington, DC 20424–0001, (202) 482–6690, extension 440.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations, to the appointing authority relative to the performance of the senior executive.

The following persons will serve on the FLRA's Performance Review Board:

Solly Thomas, Office of the Executive Director, FLRA

Marjorie K. Thompson, Office of the General Counsel, FLRA

Godfrey D. Dudley, Equal Employment Opportunity Commission

Gloria Joseph, National Labor Relations Board

Thomas Lanphear, Merit Systems Protection Board

James M. Cheskawich,

Director of Personnel & EEO, Office of Administration.

[FR Doc. 93–22594 Filed 9–15–93; 8:45 am]

BILLING CODE 6727–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Bunnys Adventure and Cruise Shipping Company Limited Hanseatic Tours Reisedienst G.m.b.H.

c/o Golden Bear Travel Agency, as agent, 16 Digital Drive, Suite 100, P.O. Box 6115, Novato, California 94958–6115

Vessel: HANSEATIC

Dated: September 10, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–22622 Filed 9–15–93; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Hanseatic Tours Reisedienst G.m.b.H.

c/o Golden Bear Travel Agency, as agent, 16 Digital Drive, Suite 100, P.O. Box 6115, Novato, California 94958–6115

Vessel: HANSEATIC

Dated: September 10, 1993.
Joseph C. Polking,
Secretary.
[FR Doc. 93–22621 Filed 9–15–93; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Fifth Third Bancorp, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than October 5, 1993.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Fifth Third Bancorp*, Cincinnati, Ohio; to acquire The Tristate Bancorp, Cincinnati, Ohio, and thereby indirectly acquire First Financial Savings Association, F.A., Cincinnati, Ohio, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y. Upon consummation of the proposal, First Financial Savings Association, F.A. will be merged into The Fifth Third Bank, Cincinnati, Ohio, a wholly-owned bank subsidiary of the Applicant pursuant to the OAKAR amendment of FIRREA.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *The Colonial BancGroup, Inc.*, Montgomery, Alabama; to acquire First AmFed Corporation, Huntsville, Alabama, and thereby indirectly acquire First American Federal Savings & Loan, Huntsville, Alabama, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted in the State of Alabama.

Board of Governors of the Federal Reserve System, September 10, 1993.
Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 93-22645 Filed 9-15-93; 8:45 am]
BILLING CODE 6210-01-F

First Bank System, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 5, 1993.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bank System, Inc.*, Minneapolis, Minnesota; to engage *de novo* through its subsidiary, FBS Information Services Corporation, St. Paul, Minnesota, in data processing and data transmission services pursuant to § 225.25(b)(7) of the Board's Regulation Y through the ownership, installation, operation and maintenance of automatic teller machines at 7-Eleven stores in Kansas, Missouri, and Utah.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Commerce Bancshares, Inc.*, Lincoln, Nebraska; to engage *de novo* in making loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 10, 1993.
Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 93-22646 Filed 9-15-93; 8:45 am]
BILLING CODE 6210-01-F

Hocking Valley Bancshares, Inc., et al.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for

processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than October 8, 1993.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Hocking Valley Bancshares, Inc., Athens, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Hocking Valley Bank of Athens Company, Athens, Ohio.

Board of Governors of the Federal Reserve System, Septmber 10, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-22647 Filed 9-15-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CRADA 93-007]

Cooperative Research and Development Agreement

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), National Center for Environmental Health, announces the opportunity for potential collaborators to enter into a Cooperative Research and Development Agreement (CRADA) to develop and/or improve kits for use in the separation, detection, and quantification of protease inhibitors in natural and biotechnological products. The collaborator and CDC will jointly perform research aimed at the development of improved techniques for separating protease inhibitors from other biologicals which includes affinity chromatography (or other appropriate system) to achieve specificity, sensitivity, accuracy and precision, ruggedness, and low cost.

It is anticipated that inventions which may arise from this CRADA will be jointly owned. The collaborator(s) with whom the CRADA is made will have an option to negotiate an exclusive or non-exclusive royalty-bearing license.

Because CRADAs are designed to facilitate the development of scientific and technological knowledge into useful, marketable products, a great deal of freedom is given to Federal agencies in implementing collaborative research. The CDC may accept staff, facilities, equipment, supplies, and money from the other participants in a CRADA; CDC may provide staff, facilities, equipment, and supplies to the project. There is a single restriction in this exchange: CDC MAY NOT PROVIDE FUNDS to the other participants in a CRADA. This opportunity is available until 30 days after publication of this notice. Respondents may be provided a longer period of time to furnish additional information if CDC finds this necessary.

FOR FURTHER INFORMATION CONTACT:

Technical

Elizabeth R. Barnhart, Ph.D., or Gary Myers, Ph.D., Special Activities Branch, Environmental Health Laboratory Sciences, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop F25, Atlanta, GA 30341, telephone (404) 488-4126, telefax (404) 488-4192.

Business

Elizabeth R. Barnhart, Ph.D., Technology Transfer Representative, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop F25, Atlanta, GA 30341, telephone (404) 488-4126, telefax (404) 488-4192.

SUPPLEMENTARY INFORMATION: CDC has identified peptide contaminants in a food supplement that was implicated in an epidemic of disease and death. The peptides belong to a family of enzymically coproduced bioactive molecules with broad antiprotease competence. Economically feasible means of quantification of the total is not commercially available.

The CDC will provide technical expertise, consultation and guidance, reference samples, analytical support, and product evaluation and field testing.

The collaborator will furnish expertise in protease inhibitor affinity techniques, materials, and large-scale production of a prepackaged separatory apparatus with reagents.

Applicant submissions will be judged according to the following criteria:

1. Thoroughness of the analytic approach and research plan;
2. Adequacy and technical capabilities of the staff to develop the desired technique and product;
3. Ability to develop, produce, market, and support commercial analytical chemical merchandise;
4. Evidence of scientific credibility; and
5. Facility to complete the CRADA in a timely fashion.

This CRADA is proposed and implemented under the 1986 Federal Technology Transfer Act: Public Law 99-502.

The responses must be made to: Elizabeth R. Barnhart, Ph.D., Technology Transfer Coordinator, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop F25, Atlanta, GA 30341.

Dated: September 9, 1993.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93-22626 Filed 9-15-93; 8:45 am]

BILLING CODE 4160-18-P

The National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC), Announces the Following Meeting

Name: Poverty-Associated Mental Retardation (PAMR) Prevention Technical Assistance Workshop for Planning Grant Recipients.

Time and Dates: 9 a.m.-5 p.m., October 21-22, 1993.

Place: Days Hotel at Lenox, 3377 Peachtree Road, NE, Atlanta, Georgia 30326.

Status: Open.

Purpose: The workshop will convene a group of recipients of CDC PAMR Prevention Planning Grants with the primary purpose of providing technical assistance as they plan programs to prevent poverty-associated mental retardation. The workshop is not designed to provide general information on mental retardation or on prevention of PAMR.

Supplemental Information: Seven of every 1,000 ten-year-old children have mild mental retardation, and three of every 1,000 have more serious mental retardation. Poor children, especially those whose mothers have less than a high school education, are at risk for cognitive delay of as much as one standard deviation of IQ (15 points) at age three. Studies such as the Infant Health and Development Program and the Carolina Abecedarian Project have proven that an intensive early health and development intervention can prevent or reduce as much as two-thirds of PAMR. CDC is actively

involved in research and planning to help states develop a community-based program to prevent PAMR.

Contact Person for Additional Information: Mike Vanchiere, Program Analyst, Developmental Disabilities Branch, Division of Birth Defects and Developmental Disabilities, NCEH, CDC, Mailstop F–15, 4770 Buford Highway, NE, Atlanta, Georgia 30341–3724, telephone 404/488–7360.

Dated: September 10, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–22625 Filed 9–15–93; 8:45 am]

BILLING CODE 4160–18–M

Social Security Administration

Privacy Act of 1974; Report of New Routine Uses

AGENCY: Social Security Administration (SSA), Department of Health and Human Services (HHS).

ACTION: Addition of three new routine uses to a system of records.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), we are issuing public notice of our intent to add new routine uses to the system of records entitled "Earnings Recording and Self-Employment Income System, HHS/SSA/OSR, 09–60–0059." We invite public comment on this publication.

DATES: The proposed routine uses will become effective as proposed, without further notice on October 18, 1993, unless we receive comments on or before that date that would warrant our preventing the changes from taking effect.

ADDRESSES: Interested individuals may comment on this publication by writing to the SSA Privacy Officer, Social Security Administration, Room 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235. All comments received will be available for public inspection at that address.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Hanna, Social Insurance Specialist, Confidentiality and Disclosure Branch, Division of Technical Documents and Privacy, Office of Regulations, Office of Policy, Social Security Administration, 3–D–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 410–966–7077.

SUPPLEMENTARY INFORMATION:

I. Discussion of Proposed Routine Uses

We propose to add three routine uses to the system of records shown above. The proposed routine uses are necessary to implement recent legislation governing the disclosure of information by SSA to the United Mine Workers of America (UMWA) Combined Benefit Fund (Benefit Fund) and to the coal industry operators who contribute to that Fund (assigned operators).

Subtitle C of title XIX of Pub. L. 102–486, the "Coal Industry Retiree Health Benefit Act of 1992," added as a new subtitle J of the Internal Revenue Code (IRC), 26 U.S.C. 9701–9721, requires certain coal industry operators to pay annual premiums consisting of the health benefit, death benefit and unassigned beneficiaries' premiums of eligible beneficiaries (i.e., certain retired miners and their family members) to the Benefit Fund. The Secretary of Health and Human Services is to determine which operators are responsible for premiums involving approximately 120,000 eligible beneficiaries. The Secretary has received a list of these beneficiaries from the UMWA and will assign each one who is able to be assigned under the criteria of section 9706 of the IRC to an operator who will pay the premiums. These assignments will be based on the retired miners' work histories.

After the Secretary determines who the responsible operators are for the eligible beneficiaries, notification will be given to both the Benefit Fund trustees and to the assigned operators pursuant to section 9706(e) of the IRC. As authorized by section 9706(f) of the IRC, each operator may then request a detailed earnings history of the retired miner assigned to that operator and a review of the assignment by the Secretary. To the extent that the information to be disclosed constitutes "return information" (as defined by subsection 6103(b)(2)(A) of the IRC), it will be disclosed in accordance with section 6103 of the IRC in conjunction with section 9706 of the IRC.

To enable SSA to disclose this information in compliance with the Privacy Act, we are adding the following three new routine uses (#27, #28 and #29) to the Earnings Recording and Self-Employment Income System.

27. The identity of each coal industry assigned operator determined to be responsible for annual premiums, and the names and Social Security numbers of eligible beneficiaries with respect to whom the operator is identified, may be disclosed to the trustees of the United Mine Workers of America Combined Benefit Fund pursuant to section 9706(e)(1) of the IRC as added by the Coal Industry Retiree Health Benefit Act of 1992, Pub. L. 102–486, 106 Stat. 2776 (codified at IRC 9706 (e) and (f) (1992)).

28. The names and Social Security numbers of eligible beneficiaries who have been assigned to a coal industry assigned operator and a brief summary of the facts related to the basis for such assignments may be disclosed to the coal industry assigned operator determined to be responsible for that individual's annual premiums payable to the United Mine Workers of America Combined Benefit Fund pursuant to section 9706(e)(2) of the IRC as added by the Coal Industry Retiree Health Benefit Act of 1992, Pub. L. 102–486, 106 Stat. 2776 (codified at IRC 9706 (e) and (f) (1992)).

29. Detailed information from an individual's earnings record may be disclosed to the coal industry assigned operator determined to be responsible for that individual's annual premiums payable to the United Mine Workers of America Combined Benefit Fund pursuant to section 9706(f)(1) of the IRC as added by the Coal Industry Retiree Health Benefit Act of 1992, Pub. L. 102–486, 106 Stat. 2776 (codified at IRC 9706 (e) and (f) (1992)).

II. Compatibility of Proposed Routine Uses

We are proposing the changes discussed above in accordance with the Privacy Act (5 U.S.C. 552a (a)(7), (b)(3), and (e)(11)) and our disclosure regulation (20 CFR part 401).

The Privacy Act permits us to disclose information about individuals without their consents for a routine use, i.e., where the information will be used for a purpose that is compatible with the purpose for which we collected the information. We believe that disclosure pursuant to Federal law meets the compatibility requirement for routine uses under the Privacy Act. The proposed disclosures described above meet this compatibility criterion, because they are required by law.

III. Effect of the Proposal on Individual Rights

As discussed above, the proposed disclosures are required by Federal law. They will enable the Secretary of Health and Human Services to notify coal industry assigned operators and the trustees of the Benefit Fund regarding the premium assignments of the eligible beneficiaries. This will ensure that eligible beneficiaries receive the benefits to which they are entitled under the Benefit Fund. SSA will follow all statutory and regulatory requirements for disclosure. Therefore, we do not anticipate that the disclosures will have any unwarranted effect on the privacy or other rights of individuals.

IV. Other Changes

In republishing this routine use, we have also made several changes to correct some minor technical and typographical errors.

Dated: September 3, 1993.

Lawrence H. Thompson,

Principal Deputy Commissioner of Social Security.

09–60–0059

SYSTEM NAME:

Earnings Recording and Self-Employment Income System, HHS/SSA/OSR

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Social Security Administration, Office of Systems, 6401 Security Boulevard, Baltimore, MD 21235

Social Security Administration, Office of Systems Requirements, 6401 Security Boulevard, Baltimore, MD 21235

Social Security Administration, Office of Central Records Operations, Metro West Building, 300 North Greene Street, Baltimore, MD 21201.

Records also may be located at contractor sites (contact the system manager at the address below for contractor addresses), and in the program service centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who has been issued a Social Security number (SSN) and who may or may not have earnings under Social Security; or any person requesting, reporting, changing and/or inquiring about earnings information; or any person having a vested interest in a private pension fund.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of every SSN holder, his/her name, date of birth, sex, and race/ethnic data and a summary of his/her yearly earnings and quarters of coverage; special employment codes (i.e., self-employment, military, agriculture, and railroad); benefit status information; employer identification (i.e., employer identification numbers and pension plan numbers); minister waiver forms (i.e., forms filed by the clergy for the election or waiver of coverage under the Social Security Act (the Act)); correspondence received from individuals pertaining to the above-mentioned items; the replies to such correspondence; and pension plan information (i.e., nature, form, and amount of vested benefits).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 205(a) and 205(c)(2) of the Act, the Federal Records Act of 1950 (64 Stat. 583), and the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406).

PURPOSE(S):

This system is used for the following purposes:

- As a primary working record file of all SSN holders;
- As a quarterly record detail file to provide full data in wage investigation cases;
- To provide information for determining amount of benefits;
- To record all incorrect or incomplete earnings items;
- To reinstate incorrectly or incompletely reported earnings items;
- To record the latest employer of a wage earner;
- For statistical studies;
- For identification of possible overpayments of benefits;
- For identification of individuals entitled to additional benefits;
- To provide information to employers/former employers for correcting or reconstructing earnings records and for Social Security tax purposes;
- To provide workers and self-employed individuals with earnings statements or quarters of coverage statements;
- To provide information to Health and Human Services (HHS) Office of the Inspector General for auditing benefit payments under Social Security programs;
- To provide information to the National Institute for Occupational Safety and Health for epidemiological research studies required by the Occupational Health and Safety Act of 1974;
- To assist the Social Security Administration (SSA) in responding to general inquiries about Social Security, including earnings or adjustments to earnings, and in preparing responses to subsequent inquiries; and
- To store minister waivers, thus preventing erroneous payment of Social Security benefits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below:

1. To employers or former employers, including State Social Security administrators, for correcting and reconstructing State employee earnings records and for Social Security purposes.

2. To the Department of the Treasury for:

(a) Investigating the alleged forgery, or unlawful negotiation of Social Security checks; and

(b) Tax administration as defined in 26 U.S.C. 6103 of the Internal Revenue Code (IRC).

3. To the Railroad Retirement Board (RRB) for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

4. To the Department of Justice (DOJ) (Federal Bureau of Investigation and United States Attorneys) for investigating and prosecuting violations of the Act.

5. To a contractor for the purpose of collating, evaluating, analyzing, aggregating or otherwise refining records when the SSA contracts with a private firm. (The contractor shall be required to maintain Privacy Act safeguards with respect to such records.)

6. To the Department of Energy for its study of low-level radiation exposure.

7. To a congressional office in response to an inquiry from the congressional office made at the request of the subject of a record.

8. To the Department of State for administering the Act in foreign countries through services and facilities of that agency.

9. To the American Institute of Taiwan for administering the Act in Taiwan through services and facilities of that agency.

10. To the Department of Veterans Affairs (DVA) Regional Office for administering the Act in the Philippines through services and facilities of that agency.

11. To the Department of Interior for administering the Act in the Trust Territory of the Pacific Islands through services and facilities of that agency.

12. To State audit agencies for auditing State supplementation payments and Medicaid eligibility considerations.

13. To DOJ, a court or other tribunal, or another party before such tribunal when:

(a) SSA, any component thereof; or

(b) Any SSA employee in his/her official capacity; or

(c) Any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where SSA determines that the litigation is likely to affect the operations of SSA or any of its components,

is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, the court or other tribunal is relevant and necessary to the litigation, provided, however, that in each case, SSA

determines that such disclosure is compatible with the purpose for which the records were collected.

Wage and other information that is subject to the disclosure provisions of the IRC (26 U.S.C. § 6103) will not be disclosed under this routine use unless disclosure is expressly permitted by the IRC.

14. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Act.

15. Information necessary to adjudicate claims filed under an international Social Security agreement that the United States has entered into pursuant to section 233 of the Act may be disclosed to a foreign country that is a party to that agreement.

16. To Federal, State, or local agencies (or agents on their behalf) for the purpose of validating SSNs used in administering cash or noncash income maintenance programs or health maintenance programs (including programs under the Act).

17. Tax return information (e.g., information with respect to net earnings from self-employment, wages, payments of retirement income that has been disclosed to SSA and business and employment addresses) may be disclosed, upon written request, to officers and employees of a Federal, State or local agency for purposes of, and to the extent necessary in, determining an individual's eligibility for, or the correct amount of, benefits under certain programs listed in section 6103(l)(7) of the Internal Revenue Code (IRC). These programs are:

(a) Aid to families with dependent children provided under a State plan approved under part A of title IV of the Act;

(b) Medical assistance provided under a State plan approved under title XIX of the Act;

(c) Supplemental security income benefits provided under title XVI of the Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law (Pub. L.) 93–66);

(d) Any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Act (as those titles apply to Puerto Rico, Guam and the Virgin Islands);

(e) Unemployment compensation provided under a State law described in section 3304 of the IRC;

(f) Assistance provided under the Food Stamp Act of 1977; and

(g) State-administered supplementary payments of the type described in section 1616(a) of the Act (including payments pursuant to an agreement entered into under section 212(a) of Pub. L. 93–66).

18. Tax return information (e.g., information with respect to net earnings from self-employment, wages, payments of retirement income that has been disclosed to SSA and business and employment addresses) may be disclosed, upon written request, to appropriate officers and employees of a State or local child support enforcement agency in accordance with 26 U.S.C. 6103(l)(8) for purposes of, and to the extent necessary in:

(a) Establishing and collecting child support obligations from individuals who owe such obligations, and

(b) Locating those individuals under a program established under title IVD of the Act (42 U.S.C. 651ff).

19. The fact that a veteran is or is not eligible for retirement insurance benefits under the Social Security program may be disclosed to the Office of Personnel Management (OPM) for its use in determining a veteran's eligibility for a civil service retirement annuity and the amount of such annuity.

20. Employee and employer name and address information may be disclosed to DOJ (Immigration and Naturalization Service) for the purpose of informing that agency of the identities and locations of aliens who appear to be illegally employed.

21. Information may be disclosed to contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an Agency function relating to this system of records.

22. Information derived from this system may be disclosed to OPM for the purpose of computing civil service annuity offsets of civil service annuitants with military service or the survivors of such individuals pursuant to provisions of section 307 of Pub. L. 97–253.

23. Nontax return information that is not restricted from disclosure by Federal law may be disclosed to the General Services Administration and the National Archives and Records Administration for the purpose of conducting records management studies with respect to their duties and responsibilities under 44 U.S.C. 2904 and 2906, as amended by the National Archives and Records Administration Act of 1984.

24. Disclosure of tax return information will be made to OPM, upon OPM's written request, for the purpose of administering the Civil Service and Federal Employees Retirement Systems in accordance with Chapters 83 and 84 of Title 5, United States Code.

25. To the Rehabilitation Services Administration (RSA) for use in its program studies of, and development of enhancements for, State vocational rehabilitation programs. These are programs to which applicants or beneficiaries under titles II and/or XVI of the Act may be referred. Data released to RSA will not include any personally identifying information (such as names or SSNs).

26. Upon written request, SSA will disclose tax return information to the VA for purposes of, and to the extent necessary for determining eligibility for, or the amount of, benefits under the following programs:

(a) Any needs-based pension provided under chapter 15 of title 38, United States Code, or under any law administered by the Secretary of Veterans Affairs;

(b) Parents' dependency and indemnity compensation provided under section 1315 of title 38, United States Code;

(c) Health-care services furnished under sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B) of title 38, United States Code; and

(d) Compensation paid under chapter 11 of title 38, United States Code, at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

The tax return information which may be disclosed under this paragraph includes wages, net earnings from self-employment, payments of retirement income which have been disclosed to SSA and businesses and employment addresses, except that information on payments of retirement income will not be disclosed for use with respect to programs described in subparagraph (d).

27. The identity of each coal industry assigned operator determined to be responsible for annual premiums, and the names and Social Security numbers of eligible beneficiaries with respect to whom the operator is identified, may be disclosed to the trustees of the United Mine Workers of America Combined Benefit Fund pursuant to section 9706(e)(1) of the IRC as added by the Coal Industry Retiree Health Benefit Act of 1992, Pub. L. 102–486, 106 Stat. 2776

(codified at 26 U.S.C. 9701–9721 (1992)).

28. The names and Social Security numbers of eligible beneficiaries who have been assigned to a coal industry assigned operator and a brief summary of the facts related to the basis for such assignments may be disclosed to the coal industry assigned operator determined to be responsible for that individual's annual premiums payable to the United Mine Workers of America Combined Benefit Fund pursuant to section 9706(e)(2) of the IRC as added by the Coal Industry Retiree Health Benefit Act of 1992, Pub. L. 102–486, 106 Stat. 2776 (codified at 26 U.S.C. 9701–9721 (1992)).

29. Detailed information from an individual's earnings record may be disclosed to the coal industry assigned operator determined to be responsible for that individual's annual premiums payable to the United Mine Workers of America Combined Benefit Fund pursuant to section 9706(f)(1) of the IRC as added by the Coal Industry Retiree Health Benefit Act of 1992, Pub. L. 102–486, 106 Stat. 2776 (codified at 26 U.S.C. 9701–9721 (1992)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as paper forms, correspondence in manila folders on open shelving, paper lists, punchcards, microfilm, magnetic tapes, and discs with online access files.

RETRIEVABILITY:

Records in this system are indexed by SSN, name, and employer identification number.

SAFEGUARDS:

Safeguards for automated records have been established in accordance with the HHS Information Resources Management Manual, Part 6, Automated Information Systems Security Program Handbook. This includes maintaining the magnetic tapes and discs within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have a special badge issued only to authorized personnel.

For computerized records electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal-oriented transaction matrix, and an audit trail. All microfilm and paper files are accessible only by authorized personnel who have a need for the information in the performance of their official duties.

Expansion and improvement of SSA's telecommunications systems has resulted in the acquisition of terminals equipped with physical key locks. The terminals also are fitted with adapters to permit the future installation of data encryption devices and devices to permit the identification of terminal users.

RETENTION AND DISPOSAL:

All paper forms and cards are retained until they are filmed or are entered on tape and their accuracy is verified. Then they are destroyed by shredding. All tapes, discs, and microfilm files are updated periodically. The out-of-date magnetic tapes and discs are erased. The out-of-date microfilm is shredded.

SSA retains correspondence 1 year when it concerns documents returned to an individual, denials of confidential information, release of confidential information to an authorized third party and undeliverable material, for 4 years when it concerns information and evidence pertaining to coverage, wage, and self-employment determinations or when the statute of limitations is involved, and permanently when it affects future claims development, especially coverage, wage, and self-employment determinations. Correspondence is destroyed, when appropriate, by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Pre-Claims Requirements, Office of Systems Requirements, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record pertaining to him/her by providing his/her name, signature and SSN or, if the SSN is not known, name, signature, date and place of birth, mother's maiden name and father's name to the address shown under system manager and by referring to this system. (Furnishing the SSN is voluntary, but it will make searching for an individual's record easier and prevent delay.)

An individual requesting notification of records in person need not furnish any special documents of identity. Documents he/she would normally carry on his/her person would be sufficient (e.g., credit cards, driver's license, or voter registration card). An individual requesting notification via mail or telephone must furnish a minimum of his/her name, date of birth, and address in order to establish identity, plus any additional information specified in this section. These procedures are in accordance with HHS Regulations 45 CFR part 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Also, requesters should reasonably specify the record contents they are seeking. These procedures are in accordance with HHS Regulations 45 CFR part 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Also, requesters should reasonably identify the record, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification. These procedures are in accordance with HHS Regulations 45 CFR part 5b.

RECORD SOURCE CATEGORIES:

SSN applicants, employers and self-employed individuals; DOJ (including the Immigration and Naturalization Service); the Department of the Treasury (Internal Revenue Service); an existing system of records maintained by SSA, the Master Beneficiary Record (09–60–0090); correspondence, replies to correspondence, and earnings modifications resulting from SSA internal processes.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 93–22653 Filed 9–15–93; 8:45 am]
BILLING CODE 4190–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–93–3652; FR–3525–N–01]

Multifamily Property Disposition; State Housing Finance Agency Demonstration Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of demonstration program.

SUMMARY: This Notice announces a demonstration program for the purpose of developing innovative methods for disposing of HUD-owned multifamily projects in a manner that furthers the Department's mission to provide decent and affordable housing, and to do so in a cost effective manner. Under the

demonstration, HUD will enter into agreements with State housing finance agencies (SHFAs) to undertake the responsibility for the management and disposition of a limited number of HUD-owned projects. The results of the demonstration are expected to show innovative and cost effective solutions to the problem of the growing inventory of distressed multifamily housing, and will help the Department determine whether to utilize SHFAs, on a permanent basis, in its property disposition program.

DATES: Comment due date: October 18, 1993. The Department anticipates that the demonstration will begin on November 15, 1993, but will publish a Notice announcing the effective date and any revisions to the program as a result of the public comments.

ADDRESSES: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Development, 451 Seventh Street SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: Audrey Hinton, Deputy Director, Office of Multifamily Housing Preservation and Property Disposition, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–3555; TDD (202) 708–4594. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

Statutes that govern the management and disposition of HUD-owned properties are primarily contained in section 203 of the Housing and Community Development Amendments of 1978 (1978 Act). Section 203 has been amended by the Congress on a few occasions, beginning in 1987 and as recently as 1990. (See section 181 of the Housing and Community Development Act of 1987, section 1010 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, and section 579 of the Cranston-Gonzalez National Affordable Housing Act. HUD's regulations implementing section 203 are contained in 24 CFR part 290. Those regulations were recently amended, through public notice and comment rulemaking procedures. The final rule was published on August 17, 1993 (58 FR 43708).

The goals of the property disposition legislation are set out in section 203(a) of the 1978 Act. Essentially, the Department is charged with finding cost-effective, reasonable alternatives for preserving the nation's supply of affordable, decent rental housing. While the goals are clear, circumstances have evolved over recent years that make achievement of the goals an arduous task. For one thing, the volume of projects that have come into the HUD-owned inventory has increased substantially over the last several years. This is attributable to a range of factors, including downturns in the economy, changes in the tax code, and faulty underwriting practices.

Second, the process of assuring that low- and moderate-income tenants will reside in decent, affordable housing often requires choosing disposition methods from among relatively costly alternatives. Today, more than ever before, there is a need for innovative and effective methods to meet the challenge.

Third, while the magnitude of the challenge has grown substantially, HUD's resources have been unable to keep pace. The Department must use limited resources in a manner that produces the greatest impact.

In this general climate, it is not only sensible, but imperative, that the Department reach out to state and local agencies that have the willingness and capacity to join in the effort to advance the property disposition program.

II. Participation of State Agencies

A number of Federal housing statutes iterate Congressional support for the general notion that the Department should work with and be supportive of the efforts of local governments (as well as the private sector) in seeking to meet the goals of Federal housing legislation. For example, one can find such a statement in the Declaration of National Housing Policy, which is contained in section 2 of the Housing Act of 1949. Yet, a much more recent and particularly relevant expression of Congressional intent was provided in 1987, when the Congress enacted section 184 of the Housing and Community Development Act of 1987. This section authorized HUD to conduct a demonstration, under which the Department and SHFAs would work together to dispose of properties, and that would contain a coinsurance financing mechanism.

Over the ensuing years efforts to implement such a program never came to fruition. Although some interest was expressed by some SHFAs, various factors proved prohibitive. Moreover, as discussed earlier, property disposition was in a state of flux, and the concept of coinsurance became increasingly disfavored.

Very recently, the Department, which has maintained a steady dialogue with State and local agencies, determined that a viable property disposition demonstration could be undertaken with SHFAs, under the demonstration authority contained in Title V of the Housing and Urban Development Act of 1970.

Under the demonstration, the Department will enter into agreements with SHFAs that have demonstrated the capacity to participate. The demonstration will be capped by the aggregate number of units (i.e., 5000) contained within projects managed and/or disposed of by participating agencies, and limited to a five-year period. If, within the five-year period, HUD's evaluation of the ongoing program supports the advantages of a larger unit ceiling, the Department will increase the cap accordingly. HUD has decided not to impose a ceiling on the number of units that can be allocated to a particular agency, as doing so might prove arbitrary or unduly limiting in any given circumstance. Instead, HUD will allocate units to agencies, taking into account such factors as the size of the HUD-owned inventory in the particular agency's jurisdiction and HUD's estimate of the capacity of that agency to operate under the program.

Capacity varies among SHFAs, and some may only be interested in, or capable of, providing financing in concert with a property disposition. On the other hand, a few may demonstrate that they have the necessary amount of expertise and resources to engage in a range of activities, including financing, managing and disposing of HUD-owned properties. The written agreement executed by HUD and a participating SHFA will reflect the understanding of the parties concerning the rights, duties and responsibilities of each under the demonstration.

HUD has already engaged in some discussions with several SHFAs, and received an indication of interest from the Massachusetts Housing Finance Agency, Illinois Housing Development Authority, New York Housing Finance Agency, and the District of Columbia Housing Financing Agency. Whether and to what extent any one of these agencies ultimately participates in the program will be determined by HUD in a threshold decision on each agency's ability to participate, and the specific

provisions set out in each agreement that addresses the scope and nature of the duties to be performed. For example, the Massachusetts HFA has indicated its interest in providing a broad range of services.

Additional SHFAs are welcome to contact the Department, and to submit proposals, if interested in participating in the program.

III. Scope of the Program

Under the demonstration, the SHFA will identify a project or projects, within the HUD-owned inventory, and demonstrate how it can assist HUD in the management and/or disposition of the project(s). The agreement entered into between the Department and the SHFAs will spell out specific duties and responsibilities of the parties. The methods employed by SHFAs (or even by a single SHFA) may vary among different projects, subject only to statutory limitations and the agreement.

The agreement will, among other matters, define, in a global manner, specific tasks that the SHFA will undertake and how these tasks would be carried out. The agreement will reflect such matters as the following:

(1) The specific approach or approaches that the SHFA will take, including the depth and breadth of its proposed activities, to demonstrate its ability to assist HUD in disposing of HUD-owned properties;

(2) The specific project, or projects, within the geographical jurisdiction of the SHFA, that the SHFA will work with under the demonstration (*Note:* While a single "master" agreement will be executed, HUD envisions that project-specific supplements may be annexed to the agreement);

(3) Milestones for completion of the various tasks identified; and

(4) The nature of and extent to which HUD shall monitor the activities of the SHFA.

The demonstration program is designed to afford the SHFAs broad latitude in handling the proposed inventory. SHFAs selected to participate in the program will have been selected for the very reason that each brings valuable experience and insights into the realm of financing, managing, and/or preserving affordable multifamily housing. The Department wants to encourage the use of innovative techniques under this demonstration. Accordingly, SHFAs may perform any of a broad number of roles, such as financiers, tax credit allocators, administrators, insurers, developers, and/or project managers. Possibly, SHFAs will engage in subcontracting in conjunction with management and sales responsibilities.

Also, SHFAs will be afforded a range of financing tools for accomplishing sales, including the possibility of financing some project sales with HUD (fully or partially) insured mortgage financing. Section 8 subsidies are also expected to be available under the program. Yet, HUD is hopeful that SHFAs will be able to meet the "affordable rent" provisions contained in the property disposition statutes by using sale methods that comport with the affordable rent requirements in the absence of a Section 8 subsidy. For example, devices that could be employed by local governments to keep rents affordable, in accordance with statutory requirements, include the use of tax abatement, tax exempt financing, tax credits, and secondary financing.

Finally, HUD is interested in SHFA plans in relation to a project after it has been sold without retention of a contractual relationship to the Department (e.g., based on a Section 8 subsidy contract, and/or insured financing). While the Department routinely relies on such legal instruments as deed restrictions to assure continuous compliance with affordable housing requirements, the questions arises to what extent and in what manner SHFAs will monitor ongoing compliance by a project owner.

HUD plans to monitor, evaluate, and report on the efforts of participants in this program no later than within five years of the date of publication of this Notice. However, HUD may elect to conduct a preliminary evaluation at an earlier time, if, for example, it finds that the 5,000 unit cap on the program is inadequate. Ultimately, HUD will seek to formalize, by rulemaking, components of the program that prove to be effective in achieving the objectives of the property disposition program.

IV. Other Matters

Any information collections that may be required under this demonstration program will not add any additional burden than that already approved for the multifamily property disposition program by the Office of Management and Budget under the Paperwork Reduction Act.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

The General Counsel, as the designated official under Executive Order 12612, Federalism, has determined that this rule will not have a substantial, direct effect on the States or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government. Any terms and conditions imposed by HUD on States that may acquire projects under the demonstration will be statutory requirements under section 203 of the Housing and Community Development Amendments of 1978. Such requirements will be clearly the intent of Congress, and therefore no further review is necessary or appropriate.

HUD has determined that this demonstration will not have a significant impact on family formation, maintenance, and general well-being within the meaning of Executive Order 12606, The Family, because it does not affect the eligibility of families for admission into multifamily housing projects that may be disposed of under the demonstration.

Dated: September 3, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 93–22672 Filed 9–15–93; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–03–4350–09: G3–407]

Limitations of Off-Highway Motorized Vehicle Use to Existing Roads and Trails

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice is hereby given to limitations of off-highway motorized vehicle use on public lands.

SUMMARY: Notice is hereby given relating to the use of off-highway vehicles on certain lands in accordance with the authority and requirements of Executive Order 11644 and 11989, and regulations contained in 43 CFR part 8340.

The following lands under the administration of the Bureau of Land Management are changed from existing open designation and are hereby

redesignated limited to designated roads and trails due to the presence of three rare plant species, *Mentzelia mollis, Astragalus mulfordiae* and *Amsinckia carinata*. All species are Federal candidates being considered for listing under the Endangered Species Act. Off-highway vehicle activity will cause considerable adverse effects upon these rare plants and their habitat. The purpose of this limitation is to protect the fragile habitat on which these species grow from damage by motor vehicles. Roads and trails will be appropriately signed to indicate their designated status for use by motor vehicles.

The areas affected by the designations are managed by the Malheur Resource Area of the Vale District in Malheur County, Oregon.

These designations are published as final, and are in effect from the date of publication of this **Federal Register** Notice until such time that changes in resource management warrant modifications.

FOR FURTHER INFORMATION CONTACT: Ralph Heft, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, OR 97918, (Telephone 503 473–3144).

SUPPLEMENTARY INFORMATION: Limited Designations—Eight-hundred eighty acres in three geographical areas will be designated limited to designated roads and trails. These areas include the following:

Succor Creek Area

T.22S. R 46E.
Sec. 32 SWSE—40 acres
T.23S. R 46E.
Sec. 17 SWSE—40 acres
Sec. 31 SESE and SWSE—80 acres
Sec. 32 SWSW and SESW—80 acres

South Alkali Area

T.18S. R 45E.
Sec. 4 NENE—40 acres
T.17S. R.45E.
Sec. 27 SWSW, NWSW, and SENW—120 acres
Sec. 33 SESE, NESE, and SENE, and NENE—160 acres
Sec. 34 SESE and SWSE—80 acres
Sec. 35 SWSW and NWSW—80 acres

Harper Area

T.20S. R. 41E.
Sec. 14 SESW—40 acres
Sec. 15 NESE—40 acres
Sec. 36 NENE and SENE—80 acres.

The designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the Vale District Manager. Information and maps of the above areas are available at the Bureau of Land Management, Vale District Office, 100 Oregon Street, Vale, Oregon 97918, telephone (503) 473–3144.

James E. May,
District Manager.

[FR Doc. 93–22620 Filed 9–15–93; 8:45 am]
BILLING CODE 4310–33–M

Bureau of Land Management

[UTU–69479]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease UTU–69479 for lands in San Juan County, Utah, was timely filed and required rentals and royalties accruing from April 1, 1993, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of lease UTU–69479 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective April 1, 1993, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Robert Lopez,
Chief, Minerals Adjudication Section.

[FR Doc. 93–22589 Filed 9–15–93; 8:45 am]
BILLING CODE 4310–DQ–M

[CA–050–282–3110–10–B008; CACA 32932]

Realty Action; Shasta County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; disposal of public lands in Shasta County, California through exchange.

SUMMARY: The following described public lands are being considered for exchange to Roseburg Resources Company, under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Note: Not all lands identified below may be involved in the exchange. Some may be deleted to eliminate possible conflicts that could arise during processing. The final selection of properties will be made to achieve comparable values between the offered and selected lands.

M.D.M., T. 33 N., R.2 E.,
Sec. 3, NE¼SW¼
Sec. 8, SW¼, W½SE¼, NE¼SE¼
Sec. 9, E½NE¼, SW¼NE¼, N½SE¼, SW¼SE¼, E½SW¼, SE¼NW¼
Sec. 10, N½NW¼, SW¼NW¼
Sec. 17, NW¼NE¼, N½NW¼, SW¼NW¼.

Containing 960 acres, more or less.

In exchange for these lands, the Federal Government would acquire private land within the Sacramento River Management Area.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire historic riparian habitat for wildlife and fisheries enhancement, and recreation opportunities, and to block up public lands along the Sacramento River. This proposed exchange is consistent with Bureau planning for the lands involved.

Lands to be transferred from the United States will be evaluated in accordance with the National Environmental Protection Act, and will be subject to the following reservations, terms and conditions:

(1) A reservation to the United States for a right-of-way for ditches and canals constructed under the authority of the Act of August 20, 1890 (43 U.S.C. 945).

(2) Any authorized land uses, such as rights-of-ways, will be identified as prior existing rights.

This notice, as provided in 43 CFR 2201.1(b), shall segregate the public lands that are being considered for this exchange. These lands were previously segregated for exchange by CA 31254; this notice supersedes that action. By publication of this notice, those vacant, unappropriated and unreserved public lands described above are segregated from settlement, location, and entry under the public lands and minerals laws. The segregative effect shall terminate upon issuance of patent, or upon publication in the **Federal Register** of a termination of the segregation, or two years from the date of this notice, whichever occurs first.

EFFECTIVE DATE: The public is invited to comment on the proposed exchange on or before November 1, 1993. Comments may be sent to the Area Manager, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002.

FOR FURTHER INFORMATION CONTACT: Patricia Cook, Realty Specialist, at the address above.

Mark Morse,
Area Manager.

[FR Doc. 93–22643 Filed 9–15–93; 8:45 am]
BILLING CODE 4310–40–M

[CA-050-09-2300-02-B059; CACA-20789]

Realty Action; Tehama County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; Recreation and Public Purposes (R&PP) Act classification; Tehama County, California.

SUMMARY: The following public lands in Tehama County, California have been examined and found suitable for classification for lease and or conveyance to the County of Tehama under provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The County of Tehama proposes to use the lands for recreation purposes which include an archery range.

Mount Diablo Meridian

T.27N., R.3W., Section 2
Lots 1, 2, and S2NE.

Containing 160 acres more or less.

The lands are not needed for Federal purposes. Lease or conveyance is consistent with current BLM land use planning and would be in the public interest. The lease and or conveyance, when issued, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. S 3409 Act of 11/9/1921 Right-of-way to the State of California for Highway 36.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Redding Resource Area, Redding, California.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease and conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

DATES: On or before November 1, 1993, interested persons may submit written comments regarding the proposed lease/conveyance or classification of the lands to the Area Manager, Redding Resource Area Office, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be reviewed by the State Director.

Dated: August 31, 1993.

Michael V. Truden,

Acting Area Manager.

[FR Doc. 93-22642 Filed 9-15-93; 8:45 am]

BILLING CODE 4310-40-M

[ID-060-01-3110-10-D001; IDI-29531]

Realty Action; Exchange of Public and Private Lands in Idaho County, ID; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction to notice of realty action, IDI-29531; exchange of public and private lands in Idaho County, Idaho. Original notice of realty action was published in the **Federal Register** on July 29, 1993 (Vol. 58, No. 144, page 40673).

Correction

In notice document 93-18083 appearing on page 40673 of the issue of Thursday, July 29, 1993, make the following corrections:

On page 40673, in the 2nd column in the public lands description under T. 30 N., R. 3 E., sec. 35, add SE¼SW¼ and W½SE¼. Under T. 26 N., R. 2 E., sec. 5, add NW¼SW¼. Under T. 26 N., R. 2 E., add sec. 7, NW¼NE¼, NE¼NW¼ and sec. 20, NE¼SW¼. The total acreage for the public lands should read 1030.28 acres in Idaho County, Idaho.

On the same page and same column, under the private lands description add T. 31 N., R. 3 W., sec. 27, a portion of lot 1. The total acreage of the private lands should read 677.70 acres in Lewis and Idaho Counties, Idaho.

Dated: September 8, 1993.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 93-22638 Filed 9-15-93; 8:45 am]

BILLING CODE 4310-GG-M

[OR-128-93-4210-04; GP3-400; ORORE-45001]

Notice of Realty Action; Exchange of Public and Private Lands in Curry County, OR

The following described land in the Coos Bay District, Myrtlewood Resource Area, have been determined to be suitable for disposal by exchange under Section 206 of the *Federal Land Policy and Management Act of 1976*, 43 U.S.C. 1716:

Township 37 South, Range 14 West, Willamette Meridian
Section 7 NE¼NW¼.

Comprising 40.00 acres, more or less, of public land in Curry County, Oregon.

In exchange for this land, the United States will acquire the following described land from Western Bank, Trustee under the Testamentary Trust of H.W. Crook, deceased:

Township 37 South, Range 14 West, Willamette Meridian,
Section 11 SE¼SE¼
Section 12 E½SW¼, and SW¼SW¼.

Comprising 160.00 acres, more or less, of private land in Curry County, Oregon.

The purpose of this exchange is to consolidate land patterns and acquire the non-federal lands which have high public values for threatened plant habitat, wildlife habitat, and recreation. The public interest will be served by completing the exchange.

The lands to be exchanged have been appraised. The values are approximately equal; full equalization of the values will be achieved by payment to the United States by Western Bank of funds in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

Lands to be transferred from the United States will be subject to the following:

1. Reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All other valid existing rights, including but not limited to any right-of-way, easement, or lease of record.

Publication of this notice segregates the public land from the operation of the public land laws and mineral laws for a period of two (2) years from the date of first publication.

Further information concerning the exchange, including the appropriate environmental and review documents, is available for review at the Coos Bay District Office, Myrtlewood Resource area, in North Bend, Oregon.

For a period of 45 days from the date of first publication, interested parties may submit comments to BLM Coos Bay District, Myrtlewood Resource Area, attention: Area Manager, 1300 Airport Lane, North Bend, Oregon, 97459.

Dated: September 3, 1993.

Melvin Chase,

District Manager.

[FR Doc. 93-22636 Filed 9-15-93; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–694123

Applicant: National Institutes of Health, National Cancer Institute, Frederick, MD.

The applicant requests a renewal of their permit to take, import and purchase in interstate and foreign commerce blood, semen, skin biopsy, organ and other tissue samples from many endangered and threatened mammals held in captivity for scientific genetic research. Live animals will be purchased occasionally in interstate commerce. No animals will be intentionally captured or harmed during any part of the research; all tissue sampling techniques are non-life threatening.

PRT–782689

Applicant: University of Wisconsin, Madison, WI.

The applicant requests a permit to import approximately 35 blood samples and 35 skin biopsies taken from wild cotton-up tamarins (*Saquinus oedipus oedipus*) to be collected in a cooperative program with the Instituto Nacional de los Recursos Naturales Renovables y del Ambiente, Columbia for research purposes.

PRT–781857

Applicant: F.M. Driscoll, Kelso, WA.

The applicant requests a permit to import 2 captive-hatched males and 4 captive-hatched females white-eared pheasants (*Crossoptilon crossoptilon*) from Robert Ian Henderson, Stockfield-On-Tyne, England, to obtain new breeding stock for enhancement of propagation and survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: September 13, 1993.

Joan Canfield,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93–22635 Filed 9–15–93; 8:45 am]

BILLING CODE 4310–55–M

Meeting of Great Lakes Panel on Nonindigenous Species

AGENCY: Department of the Interior, Fish and Wildlife Service.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Great Lakes Panel on Nonindigenous Species (Great Lakes Panel), a committee of the Aquatic Nuisance Species Task Force. A number of subjects will be discussed during the meeting including: an update on the implementation of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990; the Intentional Introductions Policy Review draft Report to Congress and the draft Ruffe Control Program; implementation of the Information/Education Strategy; a presentation on the International Joint Commission's "Ecosystem Framework"; status of State initiatives in ANS Prevention and Control; and new issues/policy positions.

DATES: The Great Lakes Panel will meet from 8:30 a.m. to 4 p.m. on Friday, October 8, 1993.

ADDRESSES: The Great Lakes Panel meeting will be held at the Radisson Hotel, 505 West Superior Street, Duluth, Minnesota.

FOR FURTHER INFORMATION CONTACT: Kathe Glassner-Shwayder, Great Lakes Commission, the Argus II Building, 400 Fourth Street, Ann Arbor, Michigan, at (313) 665–9135.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Great Lakes Panel on Nonindigenous Species established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Pub. L. 101–646, 104 Stat. 4761, 16 U.S.C. 4701 *et seq.*, November 29, 1990). Minutes of the meetings will be maintained by the Coordinator, Aquatic Nuisance Species Task Force, Room 840, 4401 North Fairfax Drive, Arlington, Virginia 22203 and the Great Lakes Commission, the Argus II Building, 400 Fourth Street, Ann Arbor, Michigan 48103 and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: September 8, 1993.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 93–22675 Filed 9–15–93; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree

In accordance with section 122 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622, and the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a complaint styled *United States* v. *Arthur Belanger et al.*, Civil Action No. 91–0288–1, was filed in the United States District Court for the Western District of Missouri on March 29, 1991. On July 16, 1993 a consent decree was lodged with the Court in settlement of the allegations in the complaint. The proposed consent decree settles the government's claims set forth in the complaint pursuant to Sections 104 and 107 of CERCLA, 42 U.S.C. 9604, 9607, for the recovery of costs incurred by the United States during a removal action undertaken in response to releases of hazardous substances from the B & B Salvage located in Warrensburg Missouri. The complaint alleged, among other things, that the defendants either owned or operated a facility at which hazardous substances were disposed of, or arranged for disposal of hazardous substances at such a facility, and that the United States incurred costs in response to the release of hazardous substances from the Site.

Under the terms of the proposed consent decree, the defendants agree to pay the United States the sum of $1,215,880 for past response costs incurred by the government at the Site.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* v. *Arthur Belanger et al.*, D.J. Ref. 90–11–2–226B.

The proposed consent decree may be examined at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree

may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $21.50 (25 cents per page reproduction costs) payable to Consent Decree Library. The proposed Consent Decree may also be reviewed at the Environmental Protection Agency, Office of Regional Counsel, EPA Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101 and the Office of the United States Attorney, 549 Grand Avenue, Kansas City, Missouri 64106.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–22591 Filed 9–15–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities which plan on employing nonimmigrant alien nurses. These organizations have attestations on file with DOL for that purpose.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the Immigration Nursing Relief Act Public Disclosure Room, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N4456, 200 Constitution Avenue, NW., Washington, DC. 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, room S3502, 200 Constitution Avenue NW., Washington, DC. 20210.

FOR FURTHER INFORMATION CONTACT:

Regarding the Attestation Process: Chief, Division of Foreign Labor Certifications, U.S. Employment Service. Telephone: 202–219–5263 (this is not a toll-free number).

Regarding the Complaint Process: Questions regarding the complaint process for the H–1A nurse attestation program shall be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202–219–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H–1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR part 655 and 29 CFR part 504, 55 FR 50500 (December 6, 1990). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staffs. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities' chief executive officers also are listed, to aid public inquiries. In addition, attestations and supporting short explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under that attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, DC, this 9th day of September 1993.

Robert A. Schaerfl,

Director, United States Employment Service.

DIVISION OF FOREIGN LABOR CERTIFICATIONS, APPROVED ATTESTATIONS, AUGUST 1, 1993 TO AUGUST 31, 1993

CEO–name/facility name/address	State	Approval date
Charles C. Colvert, Shelby Medical Ctr., 1000 First Street North, Alabaster 35007, 205–664–5736	AL	08/18/93
Arthur K. Gross, Kingman Regional Medical Ctr., 3269 Stockton Hill, Rd., Kingman 86401, 602–757–0600	AZ	08/12/93
Ms. Barbara L. Brown, The Village Green Nursing Home, Phoenix 85014, 602–264–5274	AZ	08/13/93
Ms. Mary Starmann Harrison, St. Luke's Medical Ctr., 1800 E. Van Buren, Phoenix 85006, 602–251–8336	AZ	08/20/93
Mr. Pat Wilson, Safford Care Ctr., 1933 Peppertree Drive, Safford 85546, 602–428–4910	AZ	08/31/93
Mr. Ephraim Barsam, Nursing Management Services (USA) Inc., Los Angeles 90067, 310–553–6024	CA	08/02/93
Mr. Vincent Guinan, St. Vincent Medical Ctr., 2131 West Third Street, Los Angeles 90057, 213–484–7033	CA	08/02/93
Not complete, Little Company of Mary Pavilio, 4320 Maricopa Street, Torrance 90503, 310–543–5900	CA	08/03/93
Suwaran Brar, White Cap Nursing Agency, 2500 Marconi Avenue, #108, Sacramento 95821, 916–484–0144	CA	08/05/93
Mr. Janee M. Waldo, Baywood Convalescent Hosp., 550 Patterson Boulevard, Pleasant Hill 94523, 510–939–3400	CA	08/05/93
Ms. Nancy P. Villalba, Prime-American Nursing Source, 17199 W. Bernardo Dr. #108, San Diego 92127, 619–674–4714.	CA	08/09/93
Mr. Restie F. Payo, Nurse of Wellbest, Inc., 629 Eremland Drive, Covina 91723, 818–332–4449	CA	08/11/93
Mr. Robert Gold, Los Bano Community Hospital, 520 West "I" Street, Los Banos 93635, 209–826–0591	CA	08/11/93

DIVISION OF FOREIGN LABOR CERTIFICATIONS, APPROVED ATTESTATIONS, AUGUST 1, 1993 TO AUGUST 31, 1993—Continued

CEO–name/facility name/address	State	Approval date
Kaldeep S. Brar, STAT Medical Services, Inc., 6430 Sunset Boulevard, Hollywood 90028, 213–465–1135	CA	08/13/93
Mr. Thomas G. Neff, St. Mary Desert Valley Hospit, 18300 Highway 18, Apple Valley 92307, 619–242–2311	CA	08/18/93
Mr. Santi J. Rogers, Porterville Developmental Ctr., c/o Primerica Nursing HCS, Delano 93215, 209–782–2250	CA	08/18/93
Mr. William Gamboa, Healthcare Management, 632 East Yosemite Avenue, Madera 93638, 209–673–5149	CA	08/23/93
Mr. William Gamboa, Merced Manor, 1255 B Street, Merced 95340, 209–723–8814	CA	08/23/93
Ms. Anni Chung, Self-Help for the Elderly, 407 Sansome Street, Suite 300, San Francisco 94111, 415–982–9181	CA	08/23/93
Mr. William Gamboa, La Sierra Care Ctr., 2424 M Street, Merced 95340, 209–723–4224	CA	08/23/93
Mr. William Gamboa, Merced Living Care Ctr., 510 West 26th Street, Merced 95340, 309–723–2911	CA	08/23/93
Mr. William Gamboa, Madera Rehab. & Conval. Ctr., 517 South A Street, Madera 93638, 209–673–9228	CA	08/23/93
Mr. William Gamboa, Auburn Gardens Conval. Hosp., 260 Racetrack Street, Auburn 95604, 916–885–7051	CA	08/23/93
Mr. Eduardo H. Manaig, International Medical Recruiters, Inc., San Diego, 92139, 619–267–0553	CA	08/23/93
Mr. William Gamboa, Colony Park Care Center, 159 East Orangeburg Avenue, Modesto 95350, 209–526–2811	CA	08/23/93
Mr. Richard P. Blinn, Fairoaks Healthcare Ctr., The Hillhaven Corporation, Carmichael 95608, 916–944–4312	CA	08/26/93
Mr. Richard P. Blinn, Hillhaven San Francisco, The Hillhaven Corp., San Francisco 94109, 415–673–8405	CA	08/26/93
Mr. Robert J. Myers, Pleasanton Conval. Hospital, 300 Neal Street, Pleasanton 94566, 510–462–2400	CA	08/31/93
Ms. Alberta Brasfield, J.B. Johnson Nursing Ctr., Urban Shelters & Health Care Systems, DC 20001, 202–289–7715	DC	08/02/93
Mr. Ephraim Barsam, Nursing Management Services (USA) Inc., St. Petersburg 33713, 813–321–2411	FL	08/02/93
Mr. Brian Keeley, Baptist Hospital of Miami, 8900 North Kendall Drive, Miami 33176, 305–273–2323	FL	08/02/93
Epifania L. Ramos, STAT Care Health Services, 540 Northwest 165th St., Rd., North Miami 33169, 305–944–0971	FL	08/04/93
Mr. Edwin Brown, Florida Community Health Ctr., 5601 Corporate Way, Suite 320, West Palm Beach 33407, 407–684–0600.	FL	08/18/93
Ms. Miriam Cosio, Hialeah Hospital, 651 East 25th Street, Hialeah 33013, 305–693–6100	FL	08/18/93
Mr. Gerard M. J. Beaudoin, T.L.C. St. Petersburg, Inc., 1735 Ninth Street S., St. Petersburg 33705, 813–821–8866	FL	08/19/93
Mr. Denny DeNarvaez, Florida Medical Ctr. Hospital, 5000 West Oakland Park Blvd., Fort Lauderdale 33313, 305–735–6000.	FL	08/19/93
Mr. Richard P. Blinn, Titusville Nursing & Conval., The Hillhaven Corporation, Titusville 32796, 407–269–5720	FL	08/26/93
Mr. Donald A. Anderson, Everglades Memorial Hospital, 200 South Barfield Highway, Pahokee 33476, 407–924–5200	FL	08/31/93
Ms. Joan B. Holt, Lakeshore Heights Nursing Ctr., 1293 Dawsonville Hwy., Gainesville 30503, 404–536–3391	GA	08/05/93
Mr. John A. Drew, Athens Regional Med. Ctr., 1199 Prince Avenue, Athens 30606, 706–549–9977	GA	08/31/93
Joanne T. Jurkovic, Mercy Health Care and Rehab., 19000 South Halsted, Homewood 60430, 708–957–9200	IL	08/02/93
Ms. Malka Mermelstein, Lake Front Healthcare Ctr., 7618 N. Sheridan, Chicago 60626, 312–743–7711	IL	08/02/93
Charlotte Kohn, Birchwood Plaza Nursing and Rehab. Ctr., Chicago 60626, 312–274–4405	IL	08/03/93
Lucille R. Engelsman, Pershing Convalescent Home, 3900 S. Oak Park Avenue, Stickney 60402, 708–484–7543	IL	08/03/93
Carolyn A. Lofland, Rolling Hills Manor, 3615 16th Street, Zion 60099, 708–746–8382	IL	08/03/93
Peter Friedell, Jackson Park Hospital and Medical Ctr., Chicago 60649, 312–947–7500	IL	08/03/93
Mr. Michae H. Fritz, The Carle Foundation Hospital, 611 West Park, Urbana 61801, 217–383–3311	IL	08/05/93
Mr. Robert Rutkowski, South Suburban Hospital, 17800 S. Kedzie Avenue, Hazel Crest 60429, 708–799–8000	IL	08/05/93
Ms. Susan Kim, Caring Professionals, Inc., 7144 N. Keeler Avenue, Lincolnwood 60646, 708–677–6022	IL	08/09/93
Mr. Morris Esformes, Bourbonnais Terrace, 133 Mohawk Drive, Bourbonnais 60914, 815–937–4790	IL	08/11/93
Mr. Morris Esformes, Lake Park Center, 919 Washington Park, Waukegan 60085, 708–623–9100	IL	08/16/93
Mr. John Harper, South Shore Hospital, 8012 S. Crandon Avenue, Chicago 60617, 312–768–0810	IL	08/30/93
Mr. Tali Tzur, Royal Terrace Healthcare Ctr., Inc., McHenry 60050, 815–344–2600	IL	08/30/93
Ms. Donna Beck Sprinkle, Mid America Conval. Ctr., 4920 N. Kenmore, Chicago 60640, 312–769–2700	IL	08/31/93
Ms. Linda Shyavitz, Sturdy Memorial Hospital, Inc., 211 Park Street, Attleboro 02703, 508–222–5200	MA	08/05/93
Vito Munaco, Qualicare Nursing Home, 695 East Grand Boulevard, Detroit 48207, 313–925–6655	MI	08/03/93
Vito Munaco, Alpha Annex Nursing Home, 609 East Grand Boulevard, Detroit 48207, 313–923–8262	MI	08/03/93
Mr. Delmon Esh, Bethany Care Ctr., 42235 C.R. 390, Bloomingdale 49026, 616–521–3383	MI	08/09/93
Vito Munaco, Alpha Manor Nursing Home, 440 East Grand Boulevard, Detroit 48207, 313–579–2900	MI	08/11/93
Mr. John E. Barrett, Jr., Great Lakes Reg. Rehab. Hosp., 22401 Foster Winter Drive, Southfield 48075, 313–569–1500	MI	08/30/93
Mr. Morris Esformes, Cedars Health Care, 6400 The Cedars Court, Cedars Hills 63016, 314–285–1777	MO	08/11/93
Mr. Morris Esformes, Romona Villa Healthcare Ctr., Ltd., Kansas City 64154, 816–436–8575	MO	08/12/93
Mr. Morris Esformes, Creve Couer Healthcare Ctr., 12705 Olive Blvd., Creve Couer 63141, 314–434–8361	MO	08/13/93
Mr. Morris Esformes, North Shore Convalescent Ctr., 610 Prigge Road, St. Louis 63138, 314–741–9393	MO	08/16/93
Ms. Frances Messer, Carver Living Ctr., 321 East Carver Street, Durham 27704, 919–471–3558	NC	08/03/93
Thomas E. Ford, Brian Center Nursing Care, 3000 Holston Lane, Raleigh 27610, 919–231–6045	NC	08/05/93
George Nye, Vespers Nursing Home, 1000 College Street, Wilkesboro 28697, 919–838–4141	NC	08/05/93
Mr. Richard P. Blinn, Hillhaven Sunnybrook Conval., Hillhaven Corporation, Raleigh 27610, 919–231–6150	NC	08/30/93
Mr. Morris Wiesel, Cedar Oaks Care Ctr., 1311 Durham Avenue, South Plainfield 07080, 908–287–9555	NJ	08/02/93
Mr. Michael P. Duffy, Essex County Hospital Ctr., 125 Fairview Avenue, Cedar Grove 07009, 201–228–8000	NJ	08/02/93
Mr. Thomas Goldman, Bayshore Community Hospital, 727 N. Beers Street, Holmdel 07733, 908–739–5936	NJ	08/03/93
C. Beth Kelly, Lakewood Nursing Ctr., 285 River Avenue, Lakewood 08701, 908–901–7791	NJ	08/03/93
Yvonne Klock, Water's Edge Convalescent Ctr., 512 Union Street, Trenton 08611, 609–393–8622	NJ	08/04/93
Mr. Nathan Fishman, Plaza Nursing & Conval. Ctr., 456 Rahway Avenue, Elizabeth 07202, 908–354–1300	NJ	08/25/93
Mr. Lloyd R. Currier, Christ Hospital, 176 Palisade Avenue, Jersey City 07306, 201–795–8355	NJ	08/26/93
Daniel P. Leahey, Terence Cardinal Cooke Health Care, New York 10029 212–360–3620	NY	08/02/93
Krishanan Bhatia, Victory Memorial Hospital, 699 92nd Street, Brooklyn 11228, 718–630–1286	NY	08/03/93
Ms. Carol Raphael, Visiting Nurse Service of New York Home Care, New York 10021, 212–794–9200	NY	08/04/93
Mr. Miguel Fuentes, Jr., Bronx-Lebanon Special Care, Ctr., Inc., Bronx 10456, 718–579–7000	NY	08/05/93
Mr. Gilbert Periera, Daughters of Jacob Geriatric Ctr., Bronx 10456, 718–293–1500	NY	08/11/93
Michael Rodzenko, South Nassau Communities Hospital, Oceanside 11572, 516–763–3930	NY	08/22/93

DIVISION OF FOREIGN LABOR CERTIFICATIONS, APPROVED ATTESTATIONS, AUGUST 1, 1993 TO AUGUST 31, 1993—Continued

CEO—name/facility name/address	State	Approval date
Mr Charles Miller, Augustana Lutheran Home, 1680 60th St., Brooklyn 11204, 718–232–2114	NY	08/24/93
Mr. Ramond W. Acker, Hospital Corporation of White County, Inc., Sparta 38583, 615–738–9211	TN	08/18/93
Brenda Chung, Nightengale Services, 6220 Westpark, Suite 220, Houston 77057, 713–780–0697	TX	08/02/93
Ms. Berneice Hill, Terrell Care Ctr., 204 West Nash Street, Terrell 75160, 214–563–7668	TX	08/18/93
Mr George H. McCoy, St. Croix Hospital, 4007 Est. Diamond Ruby, St. Croix 00820, 809–778–6311	VI	08/23/93
Total attestations—87.		

[FR Doc. 93–22663 Filed 9–15–93; 8:45 am]
BILLING CODE 4510–30–M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting Cancellation

ACTION: Notice of cancellation of meeting.

SUMMARY: Notice is hereby given that the September 23rd and 24th, 1993 meeting of the National Commission For Employment Policy, has been cancelled. Notice of the meeting had been previously published in the **Federal Register** of September 8, 1993 (58 FR 47295). The Commission will announce when the next meeting will be held.

FOR FURTHER INFORMATION CONTACT: Barbara C. McQuown, Director, National Commission for Employment Policy, 1522 K Street NW., suite 300, Washington, DC 20005, (202) 724–1545.

Signed at Washington, DC, this 10th day of September 1993.

Barbara C. McQuown,

Director, National Commission for Employment Policy.

[FR Doc. 93–22662 Filed 9–15–93; 8:45 am]
BILLING CODE 4510–23–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. Date: October 4, 1993
   Time: 9 a.m. to 5 p.m.
   Room: 526
   Program: This meeting will exchange views on ways by which the Public Humanities Projects Program can more fully meet the mission of the Division of Public Programs—to engage all Americans in the study of human history and culture through the humanities. Interested members of the public are welcome to attend.
2. Date: October 7, 1993
   Time: 9 a.m. to 5 p.m.
   Room: 315
   Program: This meeting will review Editions and Translations Program applications in Music, Philosophy and History of Science, submitted to the Division of Research Programs, for projects beginning after April 1, 1994.
3. Date: October 13, 1993
   Time: 9 a.m. to 5 p.m.
   Room: 315
   Program: This meeting will review Editions Program applications in Literature, submitted to the Division of Research Programs, for projects beginning after April 1, 1994.
4. Date: October 14–15, 1993
   Time: 8:30 a.m. to 5 p.m.
   Room: 415
   Program: This meeting will review applications for Humanities Projects in Media program during the September deadline, submitted to the Division of Public Programs, for projects beginning after January 1, 1994.
5. Date: October 15, 1993
   Time: 9 a.m. to 5 p.m.
   Room: 315
   Program: This meeting will review Editions Program applications in History, submitted to the Division of Research Programs, for projects beginning after April 1, 1994.
6. Date: October 18, 1993
   Time: 9 a.m. to 5 p.m.
   Room: 315
   Program: This meeting will review Translations Program application in Arabic, Persian, and Asian Studies, submitted to the Division of Research Programs, for projects beginning after April 1, 1994.
7. Date: October 21–22, 1993
   Time: 8:30 a.m. to 5 p.m.
   Room: 415
   Program: This meeting will review applications submitted to Humanities Projects in Media program during the September deadline, submitted to the Division of Public Programs, for projects beginning after January, 1994.
8. Date: October 28, 1993
   Time: 9 a.m. to 5 p.m.
   Room: 315
   Program: This meeting will review Translations Program applications in History and Anthropology, submitted to the Division of Research Programs, for projects beginning after April 1, 1994.

9. Date: October 28–29, 1993
Time: 8:30 a.m. to 5 p.m.
Room: 415
Program: This meeting will review applications submitted to Humanities Projects in Media program during the September deadline, submitted to the Division of Public Programs, for projects beginning after January 1, 1994.

David C. Fisher,

Advisory Committee Management Officer.

[FR Doc. 93–22674 Filed 9–15–93; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Engineering.

Date and time: October 7–8, 1993, 9:30 a.m.–5 p.m., Thursday, October 7, 8:30 a.m.–12 Noon, Friday, October 8.

Place: National Science Foundation, 1800 G Street, NW., room 540, Washington, DC 20550.

Type of meeting: Open.

Contact Person: Dr. William S. Butcher, Advisory Committee for Engineering, room 1126, National Science Foundation, Washington, DC 20550. Telephone: (202) 357–9571.

Minutes: Dr. William S. Butcher at the above address.

Purpose of meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to Engineering programs and activities.

Agenda: Discussion on issues, opportunities and future directions for the Engineering Directorate; discussion of Engineering Directorate budget situation as well as other items.

Dated: September 13, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–22660 Filed 9–15–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: October 4–5, 1993; 8 a.m. to 5 p.m.

Place: Arizona State University, Tempe, AZ.

Type of Meeting: Closed.

Contact Person: Dr. Loretta J. Inglehart, Program Director, National Facilities and Instrumentation, Division of Materials Research, room 408, National Science Foundation, 1800 G. St. NW., Washington, DC 20550. Telephone: (202) 357–9789; FAX (202) 357–7959.

Purpose of Meeting: To provide advice and recommendations concerning the proposal submitted to NSF requesting continued financial support for the Center for High Resolution Electron Microscopy (CHREM).

Agenda: To review and evaluate the proposal for the continued operation of CHREM.

Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b(c), a(4) and (6) of the Government in the Sunshine Act.

Dated: September 13, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–22659 Filed 9–15–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Undergraduate Education; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Division of Undergraduate Education.

Date and Time: October 3, 1993; 7:30 p.m. to 9 p.m., October 4, 1993; 8:30 a.m. to 5 p.m., October 5, 1993; 8:30 a.m. to 5 p.m., October 6, 1993; 8:30 a.m. to 5 p.m., October 7, 1993; 8:30 p.m. to 5 p.m.

Place: National Science Foundation, 1110 Vermont Avenue, NW., Washington, DC 20005.

Type of Meeting: Closed.

Contact Person: Dr. Terry Woodin, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1666.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted to the Teacher Preparation Collaboratives Reverse Site Panel Meeting.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 13, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–22658 Filed 9–15–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mathematical Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Mathematical Sciences.

Date and Time: October 7–8, 1993, 8:30 a.m. to 5 p.m. each day.

Place: Room 536, NSF, 1800 G Street NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. H. Jean Thiebaux, Program Director, DMS, room 339, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Telephone (202) 357–3453.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Collaborative Research in Geosciences, Geography, and Mathmatical sciences proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature; including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 13, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–22661 Filed 9–15–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Twenty-First Water Reactor Safety Information Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Twenty-First Water Reactor Safety Information Meeting will be held on October 25–27, 1993, 8:30 a.m. to 5 p.m., in the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

The Water Reactor Safety Information Meeting is held annually. The purpose of this meeting is to review progress and technical accomplishments in research programs. The meeting includes papers and discussions covering the status of research programs. The meeting is international and includes participation by personnel from U.S. Government laboratories, various research firms and independent laboratories, reactor

vendors, utilities, universities, and a number of foreign countries. This meeting is sponsored by the NRC and conducted by the Brookhaven National Laboratory.

The preliminary agenda for the Twenty-First Meeting includes 17 sessions on the following topics; Severe Accident Research, Primary System Integrity, Advanced Reactor Research, Thermal Hydraulics, Aging Research, Products and Applications, Advanced Control System Technology, Advanced Instrumentation and Control Hardware, and Human Factors Research. Commissioner Forrest J. Remick of NRC and Prof. Leonid A. Bolshov, Director of the Russian Academy of Sciences, Institute of Nuclear Safety, will open the meeting.

Attendees may register at the meeting or may register in advance by contacting Susan Monteleone, Brookhaven National Laboratory, Department of Nuclear Energy, Building 130, Upton, NY 11973, Telephone (516) 282–7235, or Christine Bonsby, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492–3618.

Dated at Rockville, Maryland, this 9th day of September 1993.

For the Nuclear Regulatory Commission.

Alois J. Burda,

Deputy Director, Financial Management, Procurement and Administration Staff, Office of Nuclear Regulatory Research.

[FR Doc. 93–22644 Filed 9–15–93; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF STATE

[Public Notice No. 1866]

Shipping Coordinating Committee Assembly and Associated Bodies; Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 1 p.m. on Wednesday, October 6, 1993, in room 2415, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. The purpose of the meeting is to finalize preparations for the 18th Session of the Assembly, the 17th Extraordinary and the 71st session of the Council, and the Special one day Joint session of the Maritime Safety and Marine Environment Protection Committees of the International Maritime Organization (IMO) which are scheduled during the period October 22 through November 5, 1993, at IMO Headquarters in London. The purpose of the meeting is to discuss the papers received and to draft U.S. positions.

Among other things, the items of particular interest are:

Reports of the IMO Committees
Reports on diplomatic conferences
Work program and budget for 1994–1995
Proposed amendments to various conventions

Members of the public may attend the meeting up to the capacity of the room. Interested persons may seek information by writing: Mr. Gene F. Hammel, U.S. Coast Guard Headquarters (G–CI), 2100 Second Street SW., room 2114, Washington, DC 20593–0001 or by calling: (202) 267–2280.

Dated: September 9, 1993.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 93–22640 Filed 9–15–93; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

September 10, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0021
Form Number: CF 3499
Type of Review: Reinstatement
Title: Application and Approval to Manipulate, Examine, Sample or Transfer Goods
Description: Customs Form 3499 is prepared by importers or consignees as an application to request examination, sampling, repacking or transfer of merchandise under Customs supervision. The form is also an application for the manipulation of merchandise in a bonded warehouse and abandonment or destruction of merchandise.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 2,290
Estimated Burden Hours Per Respondent: 6 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 13,740 hours
OMB Number: 1515–0136
Form Number: None
Type of Review: Reinstatement
Title: Establishment of a Manufacturing Warehouse
Description: An application to establish a manufacturing warehouse is made to the district director for the port in which the premises are located. The application must provide the size, location, type of manufacture to be conducted and the kinds of materials to be stored and used therein.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 3
Estimated Burden Hours Per Respondent: 3 hours
Frequency of Response: On occasion
Estimated Total Reporting Burden: 9 hours
Clearance Officer: Ralph Meyer (202) 927–1552, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 93–22656 Filed 9–15–93; 8:45 am]

BILLING CODE: 4820–02–P

Advisory Committee to the National Center for State and Local Law Enforcement Training; Meeting

AGENCY: Advisory Committee to the National Center for State and Local Law Enforcement Training, Treasury.

ACTION: Notice of meeting.

SUMMARY: The agenda for this meeting includes: Opening remarks by the Director of the Federal Law Enforcement Training Center and Committee Co-chairs; training program development updates on Hate/Bias Crimes, The GREAT program, Airborne Counterdrug Operations Training; and status of initiatives—OATO/OSL, Operation Alliance, Military Liaison, and Drug Development Training Program.

DATES: September 21, 1993.

ADDRESSES: Federal Law Enforcement Training Center, Building 94, Glynco, GA 31524.

FOR FURTHER INFORMATION CONTACT: Hobart M. Henson, Director, National Center for State and Local Law

Enforcement Training, Federal Law Enforcement Training Center, Glynco, GA 31524.

Dated: September 8, 1993.

Hobart M. Henson,

Director, National Center for State and Local Law Enforcement Training.

[FR Doc. 93–22657 Filed 9–15–93; 8:45 am]

BILLING CODE 4810–32–M

[Treasury Directive Number: 15–56]

Delegation of Authority Under the Counterfeit Deterrence Act of 1992

September 7, 1993 .

1. *Delegation.* Pursuant to the authority vested in the Assistant Secretary (Enforcement) by Treasury Order (TO) 105–11, the Director, United States Secret Service, is hereby delegated all responsibilities and authorities to perform the functions of the Assistant Secretary (Enforcement) with respect to 18 U.S.C. 504, as amended by the Counterfeit Deterrence Act of 1992 (subtitle E of title XV of Public Law 102–550), including:

a. The promulgation of regulations concerning color illustrations of selected U.S. currency; and

b. The establishment of a system (pursuant to 18 U.S.C. 504) which ensures that the legitimate use of electronic methods used for the acquisition, recording, retrieval, transmission or reproduction of any obligation or other security, and retention of such reproductions, by businesses, hobbyists, press or others is not unduly restricted.

In performing these functions, the Director, or designee, shall, when appropriate, consult with the Advanced Counterfeit Deterrence Steering Committee. Any regulations shall be issued in accordance with the procedures set forth in Treasury Directive 28–01, "Preparation and Review of Regulations."

2. *Redelegation.* The Director, United States Secret Service, may redelegate this authority in writing to the Deputy Director or any Assistant Director of the United States Secret Service.

3. *Authority.* TO 105–11, "Delegation of Authority Under the Counterfeit Deterrence Act of 1992," dated June 9, 1993.

4. *Office of Primary Interest.* Office of the Assistant Secretary (Enforcement).

Ronald K. Noble,

Assistant Secretary (Enforcement).

[FR Doc. 93–22655 Filed 9–15–93; 8:45 am]

BILLING CODE 4810–25–P

Customs Service

[T.D. 93–73]

Extension of Saybolt, Inc., Customs Gauger Approval and Laboratory Accreditations to the Site Located in Wilmington, North Carolina

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

ACTION: Notice of the extension of Saybolt, Inc., Customs gauger approval and accreditation to include their Wilmington, North Carolina facility.

SUMMARY: Saybolt, Inc., of Kenilworth, New Jersey, a Customs approved gauger and accredited laboratory under Section 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its Customs gauger approval and laboratory accreditations to include the Wilmington, North Carolina Site. Specifically, the extension given to the Wilmington site will include the approval to gauge petroleum and petroleum products, organic compounds in bulk and liquid form and animal and vegetable oils; and accreditations to perform the following laboratory analyses: API Gravity, sediment and water, water by distillation, sediment by extraction, distillation characteristics, Reid vapor pressure, Saybolt universal viscosity, percent weight of sulfur, xylene content of mixed xylenes and percent composition by weight of benzene, toluene and xylenes.

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. Saybolt, Inc., a Customs-approved commercial gauger and accredited laboratory, has applied to Customs to extent its Customs gauger approval and certain laboratory accreditations to its Wilmington, North Carolina facility. Review of the qualifications of Saybolt, Inc., Wilmington site shows that the extension is warranted and, accordingly, has been granted.

EFFECTIVE DATE: September 7, 1993.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Chief, Technical Branch, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave., NW., Washington, DC 20229 (202–927–1060).

Dated: September 13, 1993.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 93–22671 Filed 9–15–93; 8:45 am]

BILLING CODE 4820–02–M

UNITED STATES INFORMATION AGENCY

Training Program With the Newly Independent States: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan

AGENCY: United States Information Agency.

ACTION: Notice—request for proposals.

SUMMARY: The Office of Citizen Exchanges (E/P) announces a competitive grants program for non-profit organizations to develop training programs in (1) local government and public administration, (2) business administration and business development, (3) rule of law and (4) independent media development for the following countries: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Interested applicants are urged to read the complete **Federal Register** announcement before addressing inquiries to the Office or submitting their proposals.

After the deadline for submitting the proposal, USIA officers may not discuss this competition in any way with applicants until final decisions are made.

ANNOUNCEMENT NUMBER: The Announcement Number is E/P–94–7. Please refer to this number in all correspondence or telephone calls to the Agency.

DATES: Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Friday, November 19, 1993. Faxed documents will not be accepted, nor will documents postmarked November 19, 1993 but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. Grant activity should begin after April 1, 1994.

ADDRESSES: You must submit the original and 14 copies of the proposal, as indicated in the application checklist included in the Application Package. The original and two copies should

contain all applicable TABS. The rest of the copies should contain TABS A through D only. Please submit before the application deadline to: U.S. Information Agency, REF: Citizen Exchange: Commonwealth Training Program, Competition E/P–94–7, Office of Grants Management (E/XE), 301 Fourth Street, SW., room 336, Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations, institutions should contact Molly Raymond, Division Chief for Russia/Eurasia Programs, Office of Citizen Exchanges (E/PN), room 216, United States Information Agency, 301 4th Street, SW., Washington, DC 20547, telephone: 202–619–5326. To request a complete Application Package, including all necessary forms and guidelines for preparing proposals and specific budget preparation information, please mail your request or fax (202) 619–4350.

Note: A separate announcement for training programs with Central and Eastern Europe will be forthcoming.

This NIS Training Competition has been designed to respond to specific training needs identified by the participating countries. Please read it carefully to determine which projects qualify with what geographic areas.

Overview of the Newly Independent States (NIS) Training Program

USIA is interested in proposals that encourage the growth of democratic institutions in the NIS. The main areas are local government and public administration; rule of law; business management; and media.

The projects may include: Internships; study tours; short-term, non-technical training; consultations; and extended, intensive workshops taking place in the United States or in the countries listed in this announcement.

In Russia, preference will be given to projects in the Urals, Siberia and the Russian Far East.

We encourage applicants to design creative training programs aimed at non-English speakers both for in-country as well as for U.S.-based training projects.

USIA is interested in proposals whose design takes into account the need for ongoing sharing of information and training. Examples include: "train the trainers" models; the creation of indigenous training centers; plans to create professional networks or professional associations to share information.

Note: While this competition may fund programs in which American universities work with NIS counterparts, it is not intended to be a university linkage program. Such programs are funded by USIA's Office of Academic Programs (E/A) and proposals whose purpose is to exchange faculty or otherwise support direct academic links should be submitted under the E/A RFP for the University Linkage Programs.

Local Government and Public Administration

USIA is interested in proposals for training programs that foster effective administration of local and regional governments.

Programs in Public Administration for Kazakhstan will not be accepted.

Proposals are encouraged for the following themes/topics which have been requested by USIS posts in Ukraine and Russia:

- Russia: Projects with former party schools which have become personnel (or "cadre") training centers and are attempting to adapt training to requirements of public administration in a market economy.
- Ukraine: Priority will be given to programs on such themes as: setting up a civil service and the concept of merit-based recruitment; the relationship between government and business; how to create a business-friendly environment through local laws and practices; the American practice for combatting corruption in law enforcement officials; governmental budgeting process; and taxation. Some Ukrainian partner institutions might include the Institute of Public Administration in Kiev, the Lviv Management Institute, the International Management Institute in Kiev.

Rule of Law

Proposals that do not overlap or duplicate USAID-funded projects will be considered. For further information please contact the Office of Citizen Exchange (E/PN), as indicated above.

Business Administration and Development

USIA will consider projects in Business Administration and Development for all NIS countries except Russia. Preference will be given to projects in the Central Asian countries.

USIA's definition of business development and administration is broad. It includes: small business development, economic privatization and agri-business development, including food distribution systems or the role of family farms. USIA is interested in projects that strengthen university business departments and provide management training for people already in the work place. In addition, the following USIS posts have expressed interest in the following specific themes:

- Kazakhstan: Proposals that would offer "train the trainers" models, business simulations and programs that would assist fledgling business institutes in the country with the basics of market economics and entrepreneurship; projects that will strengthen institutional and professional relationships with such institutions as the Kazakhstan Academy of Management, the Kazakhstan Institute of Management and Economics, or the University of Kazakhstan. Projects outside of Almaty are also encouraged.
- Ukraine: Proposals are encouraged on the following themes: Business ethics; entrepreneurship; how to start a small business; how to promote business; and business curriculum development.

Independent Media Development

Special consideration will be given to projects in media development, especially for Ukraine, with priority on training that takes place in the United States. USIA is interested in media training proposals that focus on journalistic training, management of media organizations, fostering independent media. Journalism training in basic skills and concepts could include: effective writing, investigative reporting, objectivity, the clear labeling of editorials and opinion pieces, intellectual property issues and ethics.

Media management training (both print and electronic) should focus on management of media as a business: management techniques, desk top publishing, advertising, marketing, distribution, personnel, public relations, and the financial benefits and pitfalls of journalistic advocacy. USIS posts in the following countries have indicated their priority themes:

- Georgia: Proposals in media training that include a U.S.-based internship for six to eight weeks for print and TV journalists. The participants would be selected directly by the U.S. Embassy.
- Ukraine: The following topics have priority: ethics in journalism; straight news reporting; marketing and advertising in print and broadcast media.

Programmatic Considerations

Pursuant to the Bureau's authorizing legislation, programs must maintain a nonpolitical character and should be balanced and representative of the diversity of American political, social and cultural life.

USIA will give careful consideration to proposals that demonstrate:

(1) In-depth, substantive knowledge of the issues of concern to these countries;

(2) First-hand connections with the institutions in the country and a commitment to continue the institutional relationship after the completion of the grant period;

(3) The capacity to organize and manage the exchange, including appropriate orientation for the participants, handling of all pre-departure arrangements and coordination of the program in the United States. Specific arrangements will vary by country; please consult USIS posts before preparing proposals.

Institutions should present a detailed work plan, including a reasonable time table; a description of all phases in the project; and implementation (day-to-day handling of logistics and management of the delegation).

Materials Development

USIA encourages the development of written materials in Russian, Ukrainian, or other local languages to enhance the training programs. Organizations should canvas their own resources and, to the extent possible, use already translated material.

If not already available, glossaries of specialized terms in the fields of public administration, business, rule of law and media should be developed in Russian, Ukrainian and, if feasible, other local languages.

In developing written materials, consideration should be given to their wider use, beyond the immediate training program at hand. USIA is interested in organizations' ideas on how to "reuse" specialized materials by providing them to universities, libraries or other institutions for use by a larger audience.

Other Program Considerations

Consultation with USIS or American Embassy staff in the development of a training proposal is encouraged. In some countries the Embassies play an active role from participants' selection to topics and program content. As noted above, applicants should consult the USIS office at the U.S. Embassies before submitting proposals.

Selection of Participants: A project proposal should clearly describe the type of person who will participate in the program and the reasons for participation. The process used to identify prospective candidates should be described (e.g., nominations from employers, open competition, applications, interviews, etc.).

Grantee institutions are expected to develop the initial slates of candidates. However, USIS and American Embassies retain the right to make the final choice and to accept or deny participants recommended by the grantee institution. In some cases the USIS office may wish to control selection completely. Again, as noted above, consultation with USIS officers is encouraged before drafting a proposal.

Cost Sharing

A proposal's cost-effectiveness—including in-kind contributions and ability to keep administrative costs low—is a major consideration in the review process. Cost-sharing may be in the form of allowable direct or indirect costs. The recipient must maintain written records to support all allowable costs which are claimed as being its contribution to cost participation, as well as costs to be paid by the Federal Government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, Attachment E—Cost Sharing and Matching and should be described in the proposal. In the event that the Recipient does not provide the minimum amount of cost-sharing as stipulated in the Recipient's budget, the Agency's contribution will be reduced in proportion to the Recipient's contribution.

Funding

The decision to submit a proposal should not be taken lightly. Competition for USIA funding is always keen and this program is among the most highly competitive. The selection of grantee institutions will depend on program substance; cross-cultural sensitivity; the applicant's familiarity with the substantive issues in the grant proposal; and proven ability to carry out the program successfully. Since USIA grant assistance constitutes only a portion of the total project funding, proposals should list and provide evidence of other anticipated sources of financial and in-kind support. Cost sharing is strongly recommended; it indicates a commitment on the part of the prospective grantee institution to the project.

Proposals for less than $200,000 will receive preference. Organizations with less than four years of successful experience in managing international exchange programs are limited to grants of $60,000.

All participants are covered under the terms of a USIA-sponsored health insurance policy. The premium is paid directly to the insurance company by USIA.

The following program and administrative items are eligible for consideration for funding:

1. International and domestic air fares; transit costs; ground transportation costs.

2. Per diem. Organizations should use the published federal per diem rates for the individual American cities as well for the NIS cities included in the proposal. Please keep in mind that the per diem rates in the NIS can be significantly reduced if in-country expenses are cost-shared with partner institutions.

3. Escort-Interpreters. Interpretation for delegations is provided by the State Department's Language Services Division. USIA grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $140/day per diem for each State Department interpreter, as well as home-program-home air transportation of $400 per interpreter and any U.S. travel expenses during the program itself. Salary expenses are covered separately and are not part of a grantee's budget proposal.

4. Books and cultural allowances. Participants are entitled to a one-time book allowance payment of approximately $200; a cultural allowance of $150 is also allowed per participant. Accompanying staff do not get these benefits. Escort interpreters are reimbursed for actual expenses incurred for accompanying participants to cultural events.

5. Consultants. Consultants from outside the grantee organizations may be used to provide specialized expertise or to make presentations. Daily honoraria generally do not exceed $250/day. Subcontracting organizations may also be used. The written agreement between the prospective grantee and subcontractor must be included in the proposal. Principal administrative responsibility must reside with prospective grantee institutions, not subcontractors or consultants.

6. Materials development. Proposals may contain costs to purchase, develop and translate material for participants. Grant funds may not be used to purchase equipment.

7. Room rental, generally not to exceed $250/day.

8. One working meal per project. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner. The number of invited guests may not exceed number of participants by more than factor of two.

9. Travel allowances of $70 each way for each participant which will be used

for incidental expenditures incurred during international travel.

10. Other costs necessary for the effective administration of the program, including salaries for grant organization employees, benefits and other direct and indirect costs, per detailed instructions in the Application Package.

Note: Unlike previous competitions, this RFP does not place a cap on administrative costs.

11. Audit Requirements:

The Recipient's proposal shall include the cost of an audit that:

a. Complies with the requirements of OMB circular No. 1–133, Audits of Institutions of Higher Education and Other Nonprofit Institutions;

b. Complies with the requirements of American Institute of Certified Public Accountants (AICPA) Statement of Position (SOP) No. 92–9; and

c. Includes review by the recipient's independent auditor of a recipient-prepared supplemental schedule of indirect cost rate computation, if such a rate is being proposed.

The audit costs shall be identified separately for:

a. Preparation of basic financial statements, and other accounting services; and

b. Preparation of the supplemental reports and schedules required by OMB Circular No. A–133, AICPA SOP 92–9, and the review of the supplemental schedule of indirect cost rate computation.

Application Requirements

Proposals must be structured in accordance with the instructions contained in the Application Package. Incomplete proposals will not be considered.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the Application Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. Proposals are reviewed by USIS posts and by USIA's Office of European Affairs and the Office of Contracts. Proposals may also be reviewed by the Agency's Office of the General Counsel.

Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant award resides with USIA's contracting officer.

The award of any grant is subject to the availability of funds.

The Government reserves the right to reject any or all applications received. USIA will not pay for design and development costs associated with submitting a proposal. Applications are submitted at the risk of the applicant; should circumstances prevent award of grant, all preparation and submission costs are at the applicant expense. USIA will not award funds for activities conducted prior to the actual grant award.

Review Criteria

USIA will review proposals based on their conformance with the objectives of the RFP and on the following criteria:

1. *Quality of Program Idea:* The proposal should exhibit originality, substance, and relevance to USIA's mission.

2. *Program Planning and Ability to Achieve Program Objectives:* The proposal should clearly show how the grantee institution will meet the program's objectives. The proposal should include a detailed agenda and work plan that illustrate logistical capacity. The project content should be substantive and the planned execution realistic.

3. *Institutional Ability/Record:* Interested institutions should demonstrate their potential for program excellence and/or provide documentation of successful programs. If an organization is a previous USIA grant recipient, responsible fiscal management and full compliance with all reporting requirements from past Agency grants, as determined by USIA's Office of Contracts (M/KG), will be considered. Pertinent evaluation results of previous projects are part of this assessment.

4. *Thematic and Area Expertise:* Proposals should reflect the institution's expertise in the subject area and should address the specific issues of concern facing the countries involved in the project.

5. *Project Personnel:* Personnel's thematic and logistical expertise should be relevant to the proposed program. Resumes should be suited to the specific proposal and no longer than two pages each.

6. *Cross-Cultural Sensitivity:* Proposals should show evidence of sensitivity to historical, linguistic, and other cross-cultural factors, as well as appropriate knowledge of the geographic area, and should show how this sensitivity will be used in practical aspects of the program, such as pre-departure orientations or briefing of American hosts.

7. *Multiplier Effect/Follow-On Activities:* Proposed programs should strengthen long-term mutual understanding, to include maximum sharing of information and establishment of long-term institutional and individual ties. Proposals should also reflect an institutional commitment for continued exchange activity beyond the term of the USIA grant.

9. *Cost-Effectiveness/Cost-Sharing:* The overhead and administrative components should be kept as low as possible. Costs to USIA per exchange participant should be reasonable, and all items proposed for USIA funding must be necessary and appropriate to achieve the program's objectives. Proposals should maximize cost-sharing through other private sector support as well as direct funding contributions and/or in-kind support from the prospective grantee institution.

9. *Project Evaluation:* Proposals should include a plan to evaluate the project's success.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about February 14, 1994. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: September 10, 1993.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93–22586 Filed 9–15–93; 8:45 am]

BILLING CODE 8230–01–M

U.S. Advisory Commission on Public Diplomacy Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on September 16 in room 600, 301 4th Street, SW., Washington, DC from 10 a.m. to 11:30 a.m.

The Commission will meet with Mr. Donald Hamilton, Director, USIA's Office of American Republics, and Mr. Christopher Snow, former Public Affairs

Officer, USIS Tel Aviv, to discuss public diplomacy in Latin America and the Middle East.

FOR FURTHER INFORMATION CONTACT: Please call Gloria Kalamets, (202) 619–4468, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Dated: September 13, 1993.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 93–22666 Filed 9–15–93; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 178
Thursday, September 16, 1993

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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 Fed. Reg. 46674, Thursday, September 2, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (Eastern Time) Tuesday, September 14, 1993.

CHANGE IN THE MEETING:

Open Session

Item No. 3. Extension of Management Directives 713 and 714 (Federal Sector Affirmative Employment) to October 1, 1994 has been removed from the Agenda

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: September 13, 1993.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 93–22740 Filed 9–14–93; 10:40 am]

BILLING CODE 6750–06–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 Fed. Reg. 46674, Thursday, September 2, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (Eastern Time) Tuesday, September 14, 1993.

CHANGE IN THE MEETING: The Closed Session of the meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: September 14, 1993.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 93–22825 Filed 9–14–93; 3:32 pm]

BILLING CODE 6750–06–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Tuesday, September 21, 1993, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda

Memorandum and resolution re: Recapitalization Schedule for the Bank Insurance Fund; Adequacy of the Bank Insurance Fund and Savings Association Insurance Fund Assessment Rates.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 942–3111 (Voice); (202) 942–3132 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: September 14, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–22822 Filed 9–14–93; 3:29 pm]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, September 23, 1993 at 10:00 a.m.

PLACE: 999 E Street, N.W. Washington, D.C. (Ninth Floor.)

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Americans for Robertson, Inc.—Final Repayment Determination and Proposed Statement of Reasons (LRA #335) (continued from the meeting of September 16, 1993).

Advisory Opinion 1993–16: Nora Schwartz on behalf of Blue Cross of California.

Advanced Notice of Proposed Rulemaking on Commission Responsibilities Under the National Voter Registration Act.

Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 93–22821 Filed 9–14–93; 3:29 pm]

BILLING CODE 6715–01–M

Corrections

Federal Register
Vol. 58, No. 178
Thursday, September 16, 1993

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 DEFENSE

48 CFR Parts 225 and 252

Defense Federal Acquisition Regulation Supplement; Restriction on Machine Tools and Powered and Non-powered Valves

Correction

In proposed rule document 93-21666 beginning on page 47243 in the issue of Wednesday, September 8, 1993, make the following correction:

On page 47243, in the first column, under **DATES:**, in the fourth and fifth lines, "(insert 30 days after publication)" should read "October 8, 1993".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6989

[AK-932-4210-06; AA-51033]

Revocation of Executive Order No. 6546, Dated January 2, 1934; Alaska

Correction

In rule document 93-16717 appearing on page 38083 in the issue of Thursday, July 15, 1993, in the 3d column, in the 12th line, "4 94 acres." should read "4.94 acres.".

BILLING CODE 1505-01-D

federal register

Thursday
September 16, 1993

Part II

Department of Education

Early Education Program for Children With Disabilities; Notice

DEPARTMENT OF EDUCATION

Early Education Program for Children With Disabilities

AGENCY: Department of Education.

ACTION: Notice of Final Funding Priorities for Fiscal Years 1994 and 1995.

SUMMARY: The Secretary announces priorities for fiscal years 1994 and 1995 under the Early Education Program for Children with Disabilities. The Secretary takes this action to focus Federal financial assistance on an identified national need for the development and implementation of effective practices to enhance services to children with disabilities, birth through age eight, and their families. These priorities build the capacity of individuals and agencies to effect change with this population of children and their families.

EFFECTIVE DATE: These priorities take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Gail Houle, U.S. Department of Education, 400 Maryland Avenue SW., room 4613, Switzer Building, Washington, DC 20202–2644. Telephone: (202) 205–9045. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8169.

SUPPLEMENTARY INFORMATION: This notice contains four funding priorities intended to advance the purpose of the Early Education Program for Children with Disabilities. The purpose of the program is to provide Federal financial assistance (a) to address the special needs of children with disabilities, birth through age eight, and their families; and (b) to assist State and local entities in expanding and improving programs and services for these children and their families. These priorities support projects for model demonstration, outreach, model inservice training, and a research institute.

Through the provision of improved services and better trained service providers, these priorities support National Education Goal 1 by assisting young children with disabilities to begin school ready to learn.

On June 23, 1993 the Secretary published a notice of proposed priorities in the **Federal Register** (58 FR 34178).

Note: This notice of final priorities does not solicit applications. A notice inviting applications under this program is published in a separate notice in this issue of the **Federal Register.**

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priorities, eight parties submitted comments. An analysis of the comments and of the changes in a priority since publication of the notice of the proposed priorities follows. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under applicable statutory authority—are not addressed.

General

Comment: Several commenters asked the Department to consider expanding the competitive priority under all the priorities to include projects that address the unique needs of young children with specific disabilities, such as attention deficit disorder and significant speech and motor disabilities.

Discussion: The Secretary recognizes the importance of conducting research and developing and disseminating models for children with different kinds of disabling conditions who require early intervention, special education, or related services, including children with attention deficit disorder and children with significant speech and motor disabilities. Children with these disabilities who meet the eligibility requirements of the program could certainly be included within models funded under these absolute priorities. However, the Secretary believes that due to recent legislative initiatives and a dearth of replicable models, it is most important to focus particular attention at this time on the populations and areas described in the competitive priorities.

Changes: None.

Comment: One commenter recommended an increase in funding and an increase in the number of awards to be made under all priorities.

Discussion: In announcing proposed priorities, the Secretary does not establish funding levels for the projects or provide information about the number of awards to be made under each priority. Information about funding levels and number of awards is provided in the notice inviting applications for specific competitions.

Changes: None.

Comment: One commenter recommended that the Secretary establish an additional absolute priority designed to demonstrate effective ways to change the delivery of early childhood services from segregated settings to integrated, inclusive, natural environments.

Discussion: Funds are not sufficient to establish an additional absolute priority. Further, the Secretary believes that the established priorities encourage effective ways to change the delivery of services from segregated to integrated environments.

Changes: None.

Comment: One commenter recommended adding to both the Model Demonstration Projects for Young Children With Disabilities priority and the Outreach Projects for Young Children With Disabilities priority, a competitive priority that addresses appropriate and successful least restrictive environment practices for young children with disabilities.

Discussion: The Secretary believes that the language in each of the priorities is sufficient in addressing appropriate and successful least restrictive environment practices for young children with disabilities.

Changes: None.

Comment: One commenter recommended that priorities for funding specifically indicate that research and training projects must address the social issues of inclusion, particularly in the case of children with sensory impairments.

Discussion: The Secretary recognizes the importance of social issues related to inclusion practices. Models that address the social issues of inclusion could certainly be funded under these priorities. However, the Secretary does not believe it necessary to add specific language that requires research and training projects to address the social issues of inclusion.

Changes: None.

Proposed Absolute Priority 1—Model Demonstration Projects for Young Children With Disabilities

Comment: One commenter (1) recommended that language in the priority requiring information about children's characteristics (including disability, diagnosis, functioning level) be deleted because the language perpetuates many of the problems in labeling of young children, (2) recommended requiring more information about outcomes for children without disabilities who would be involved in project activities, (3) contended that the priority language related to evaluation emphasized quantitative methods and did not include qualitative methods, and (4) contended that the priority language

emphasized developing replicable models rather than developing effective systems change procedures.

Discussion: The Secretary believes that the benefits of requiring information about children's characteristics far outweigh any potential disadvantages. For example, it would be impossible to judge the appropriateness of particular intervention strategies for particular children in the absence of information about the children for whom the model was developed.

Regarding the second and third recommendations, the priority sets minimum requirements for outcome and evaluation data. The Secretary does not believe that requiring more information about child outcomes and additional evaluation data of all projects is appropriate. However, the minimum requirements set in the priority may be expanded to provide data on children who are developing typically and to include qualitative evaluation approaches, if these are pertinent to the successful operation of the model. In the past, many model developers have supplemented quantitative methods with qualitative methods that have produced useful information for potential adopters.

Finally, the Secretary recognizes the value of supporting projects that develop effective systems change procedures. Recently, some demonstration projects have incorporated systems change efforts as project components. The priority, as proposed, does not preclude model development in the area of systems change.

Changes: None.

Proposed Absolute Priority 2—Outreach Projects for Young Children With Disabilities

Comment: One commenter recommended that the priority include an additional competitive preference that addresses the need for collaborative, multi-disciplinary team training approaches to personnel development.

Discussion: The Secretary recognizes the importance of disseminating collaborative, multi-disciplinary team training approaches to personnel development. Applications to disseminate these types of models could certainly be submitted to address the areas described in either of the competitive priorities.

Changes: None.

Comment: One commenter recommended that no minimum award amount be specified to applicants because many outreach programs have access to other funds.

Discussion: In announcing proposed priorities, the Secretary does not establish funding levels for projects. Information regarding funding levels is provided in the notice inviting applications for a specific competition. However, these levels are presented as a range; they are stated as estimates only; and the Secretary would consider applications requesting less funding.

Changes: None.

Proposed Absolute Priority 3—Early Childhood Model Inservice Training Projects

Comment: One commenter recommended that the priority be amended to emphasize that training models include goals and activities related to diversity, cultural competence, and cultural sensitivity.

Discussion: Although there is language in the background section of the priority to this effect, the Secretary believes the language should be included in the priority section as well.

Changes: The Secretary has added to the priority, language requiring projects to include goals, objectives, and activities to ensure that personnel participating in the training acquire skills to work effectively with children and families who are members of cultural, linguistic, and racial minority groups.

Proposed Absolute Priority 4—Early Childhood Research Institute on Integration

Comment: One commenter recommended that the priority (1) focus on infants and toddlers, as well as children three through five years of age; (2) include a component on family issues related to integrated services, and (3) include an emphasis on early literacy skills of preschool-aged children with disabilities.

Discussion: Although conducting research related to providing services to infants and toddlers with disabilities in natural and integrated environments is important, the Secretary believes that expanding the focus of the Institute to include infants and toddlers would unduly strain the available resources. The Secretary believes that the language of the priority does not preclude a component on family issues or early literacy skills.

Changes: None.

Comment: One commenter recommended that (1) the focus of the priority include six-through-eight year-olds, as well as three-through-five year-olds, (2) the Institute be required to disseminate the results of its activities broadly, and (3) the Institute be required, as a part of its dissemination activities, to collaborate with technical assistance, training, and dissemination projects supported by the Office of Special Education Programs.

Discussion: Although conducting research related to providing services to six-through-eight year-olds with disabilities in integrated environments is important, the Secretary believes that expanding the focus of the Institute to include these children would unduly strain the available resources. However, in evaluating the effectiveness of certain interventions or strategies, it may be appropriate for the Institute to conduct follow-up investigations of children as they enter the early elementary grades in school. The Secretary agrees that the results and products of the Institute's activities should be disseminated broadly and that its dissemination activities should be coordinated with other projects supported by the Office of Special Education Programs. However, the Secretary does not believe it is necessary to add to the priority language requiring broad dissemination. In fact, the program regulations in 34 CFR 309.34 require that all projects supported under the Early Education Program for Children with Disabilities disseminate their findings and products broadly.

Changes: None.

Comment: One commenter (1) recommended that the priority require the Institute to develop and use methodologies that facilitate inclusion, with research directed to cost benefit analyses, staff requirements, and administrative arrangements; (2) stated that the priority offered no flexibility for emergent designs using qualitative methodology; and (3) addressed the number of institutes funded, stating that funding only one institute may disallow the participation of certain researchers.

Discussion: The Secretary believes that the priority allows for the kinds of research activities suggested by the commenter's first and second recommendations. Regarding the third issue, while the Secretary is unable to fund more than one institute due to constraints on available funds, all eligible applicants are allowed to apply for the award, and the evaluation of each application is based on the selection criteria in the program regulations.

Changes: None.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet any one of the following priorities. The Secretary funds

under this competition only applications that meet these absolute priorities:

Absolute Priority 1—Model Demonstration Projects for Young Children With Disabilities

Background: This priority supports projects that develop, implement, evaluate, and disseminate new or improved approaches for serving young children with disabilities (infants, toddlers, and children ages birth through eight) and their families. Projects supported under this priority are expected to be major contributors of models or components of models for service providers and for outreach projects under the program.

The Secretary anticipates funding projects for a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. Projects supported for an initial three-year period may be eligible for an additional two years of funding to field test the viability of their models at other site locations.

In determining whether to continue funding for the fourth and fifth years of the project period, the Secretary, in addition to applying the requirements of 34 CFR 75.253(a), considers the recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day site visit, are to be performed during a project's third year and may be included in that year's annual evaluation required under 34 CFR 75.590. The three-plus-two-year funding period is expected to determine whether models yielding positive results at an original site can be successfully replicated at other locations.

Priority: A model demonstration project considered for funding under this priority must—

(a) Address a specific service problem or issue;

(b) Address specific components or strategies and the rationale—based on theory, research, or evaluation—for those components or strategies;

(c) Delineate a specific population of children—i.e., by age, disability, diagnosis, level of functioning, and membership in a special population, if appropriate—and their families;

(d) Produce detailed procedures and materials that enable others to replicate the model as implemented at the original site;

(e) As appropriate, develop and evaluate the model in integrated, age-appropriate settings that facilitate the interaction between project participants and their peers without disabilities, including models developed for use in homes or in hospital settings (such as neonatal intensive care units); and

(f) Evaluate the model at the original model development site and—if approved for funding beyond the initial three years of the project period—at other sites to determine whether the model can be adopted by other sites and yield similar positive results. In its evaluation, a project must use multiple outcome measures to determine the effectiveness of the model and its component strategies, including measures of multiple, functional child and family outcomes, other indices of the effects of the model, and cost data associated with implementing the model.

In determining whether to continue a project for the fourth and fifth years of the project period, in addition to considering factors in 34 CFR 75.253(a), the Secretary considers the following:

(a) The degree to which the model developed by the project is, or would be by the end of year three, designed soundly and replicable by other agencies, and provides state-of-the-art interventions for the target population.

(b) The extent to which dissemination of the model would meet a significant or unique service need in other geographic locations.

(c) The degree to which the project has initially produced compelling, quantifiable evidence of the effectiveness of the model as implemented at the original development site.

(d) Availability of funding for the model from sources other than the Early Education Program for Children with Disabilities to support the operation of the model at the original development site during years four and five.

(e) The extent to which the project has documented the commitment of other agencies not affiliated with the original project to adopt its model and participate in evaluation of the model during years four and five of the project period.

(f) The extent to which the project has sound plans for aiding in replication and for evaluating its model at replication sites during years four and five of the project period.

A project that applies for funding for the fourth and fifth years must set aside in its budget for the third year funds to cover costs associated with the services to be performed by the review team appointed by the Secretary to evaluate the project in the third year. These funds are estimated to be approximately $4,000.

Competitive Priority: Within absolute priority 1, the Secretary, under 34 CFR 75.105(c)(2)(i), gives preference to applications that meet the following competitive priority. The Secretary awards up to 10 points to an application that meets this competitive priority in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program:

Projects designed to develop, implement, evaluate, and disseminate models that (1) incorporate the appropriate use of assistive technology to enhance services to young children with disabilities; or (2) address the unique needs of young children with low incidence disabilities, such as deaf-blindness.

Absolute Priority 2—Outreach Projects for Young Children With Disabilities

Background: This priority supports projects that build the capacity of educational and other agencies to adopt and implement proven models—including inservice training models—or components of those models based on specific needs. At this time States are striving to provide improved services to young children with disabilities (infants, toddlers, and children ages birth through eight) and their families. Thus, State agencies and local service agencies need information about and assistance in accessing the range of available, successful practices, curricula, and products.

The models or components of models selected for outreach needs have not been developed through this program. Projects may disseminate and help replicate multiple models or components of models that were not developed by the applicant. To enhance the visibility of the model or model components and to increase the impact of outreach activities, projects are encouraged to select sites in multiple States.

For projects planning to conduct outreach activities in multiple States, the plan of operation should only include plans concerning specific sites and activities for the initial year. During the first year of outreach funding, the contractor for the early childhood technical assistance development system funded under section 623(c) of the Individuals with Disabilities Education Act (IDEA) will contact States regarding outreach projects funded under this priority. The contractor will assist States and projects in matching needs with projects' resources. Outreach projects will use the information provided by States to propose plans for years two and three of the project period. These proposed plans will be finalized during negotiation of grant

awards for years two and three of the project period.

Priority: An outreach project considered for funding under this priority must—

(a) Disseminate information about and assist in replicating a proven model or models—or proven components of models—that provide or improve services for young children with disabilities and their families;

(b) Coordinate its dissemination and replication activities with the lead agency for Part H of the IDEA for early intervention services or the State educational agency for special education, as well as with relevant technical assistance, information, and personnel development networks within the State;

(c) Include approaches relevant to programming in natural or least restrictive environments; effective involvement of families in the design, implementation, and evaluation of project activities; and interagency coordination if multiple agencies are involved in the provision of services;

(d) Ensure that the model or components of models are consistent with Part B and Part H of IDEA, are state-of-the-art, match the needs of the proposed sites, and have recent unambiguous evaluation information supporting their effectiveness;

(e) Employ activities that include, but need not be limited to, public awareness, product development and dissemination, site development, training, and technical assistance;

(f) Describe the effects of model components (e.g., expected costs, needed personnel, staff training, equipment) on potential users, sequence of model implementation activities, and criteria for selecting cooperating sites; and

(g) Evaluate the outreach activities to determine their effectiveness. The evaluation must include measures of types and numbers of sites where outreach activities are conducted, number of persons trained, types of follow-up activities, number of children and families served at the site where models were adopted or adapted, child and family progress, and changes in the model made by sites.

Competitive Priority: Within absolute priority 2, the Secretary, under 34 CFR 75.105(c)(2)(i), gives preference to applications that meet the following competitive priority. The Secretary awards up to 10 points to an application that meets this competitive priority in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program:

Projects that provide evidence that they are designed to build the capacity of educational and other agencies to adopt and implement proven models or components of models that (1) address the needs of groups of infants, toddlers, or young children with disabilities and their families from cultural, linguistic, or racial minority groups; or (2) address the unique needs of young children with low incidence disabilities, such as deaf-blindness.

Absolute Priority 3—Early Childhood Model Inservice Training Projects

Background: This priority supports capacity building projects that develop, demonstrate, evaluate, and disseminate inservice training models and accompanying materials. The purpose of these models is to prepare professionals and paraprofessionals to provide, coordinate, or enhance early intervention, special education, and related services. These services will target infants, toddlers, and preschool-aged children with disabilities, birth through eight years of age, and their families, including children with disabilities who may be from cultural, linguistic, or racial minority groups.

Priority: A model inservice training project considered for funding under this priority must—

(a) Identify the target population to be trained, including their roles and responsibilities, and the national needs addressed by the model;

(b) Delineate a conceptual framework upon which the training model is to be based, including the changes in personnel roles and responsibilities and the skills needed to implement the new roles or responsibilities;

(c) Identify the content of training and the format for delivery of training and other activities of the model;

(d) Develop and demonstrate an inservice training model for professionals, paraprofessionals, or both, who are currently providing services to infants, toddlers, and preschool-aged children with disabilities and their families, or to those individuals who through retraining could provide those services;

(e) Include goals, objectives, and activities to ensure that personnel participating in the training acquire skills to work effectively with children and families who are members of cultural, linguistic, and racial minority groups;

(f) Include within the model an array of follow-up and support activities that ensure that personnel participating in the training acquire the skills being taught and use that knowledge in meeting the service needs of young children with disabilities and their families;

(g) Coordinate with the State agencies responsible for the Comprehensive System of Personnel Development (CSPD) under Part H or Part B of IDEA, and arrange for credit to be granted to trainees by appropriate agencies, organizations, or institutions of higher education; and

(h) Evaluate the inservice training model through direct assessment of participants' skills following the training and, after a period of time, include some direct observation measures of trainees in the service setting using standardized observational rating techniques.

Competitive Priority: Within absolute priority 3, the Secretary, under 34 CFR 75.105(c)(2)(i), gives preference to applications that meet the following competitive priority. The Secretary awards up to 10 points to an application that meets this competitive priority in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program:

Projects that provide evidence that they will develop, demonstrate, evaluate, and disseminate models that (1) incorporate collaborative, multi-disciplinary, team training approaches to personnel development; or (2) focus on paraprofessionals and address their unique training needs.

Absolute Priority 4—Early Childhood Research Institute on Integration

Background: This priority supports an Early Childhood Research Institute to (1) identify administrative, attitudinal and programmatic barriers to integrating young children with disabilities three through five years of age in preschool, day care, and other programs; (2) develop and test strategies that are designed to overcome those barriers; (3) identify and test approaches to service delivery that are designed to maximize the combined effects of special education and related services, individualized planning and instruction, developmentally appropriate practice, and organized interactions between children with disabilities and peers without disabilities in integrated settings; and (4) conduct preliminary studies to identify strategies that are likely to facilitate the participation of young children with disabilities and their families in the broader array of services and events available in the community, including social and recreational activities accessed by all families with young children.

To address these issues, the Institute will conduct a program of research consisting of studies carried out at the service delivery level (preschool, day care, and other service settings), at the community level, and at the systems level. The Secretary requires the Institute to coordinate its research activities with other relevant efforts sponsored by the Office of Special Education Programs, including State-wide Systems Change Projects and research institutes supported under the Program for Children and Youth with Severe Disabilities (Part C of the Individuals with Disabilities Education Act).

The Secretary anticipates funding one cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the Institute for the fourth and fifth years of the project period, the Secretary, in addition to applying the requirements of 34 CFR 75.253(a), considers the recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day visit to the project, are to be performed during the last half of the Institute's second year and may be included in that year's annual evaluation required under 34 CFR 75.590.

Priority: The Early Childhood Research Institute considered for funding under this priority must—

(a) Conduct a program of research that addresses the issues identified above;

(b) Identify specific interventions or strategies that will be investigated;

(c) Carry out the research within a conceptual framework, based on previous research or theory, that provides a basis for the interventions or strategies that will be studied, the research methods and instrumentation that will be used, and the specific target populations and settings that will be studied;

(d) Collect, analyze, and report a variety of descriptive and outcome data, including (1) specific information on the settings, the service providers, the children and families targeted by the project (e.g., age, disability, level of functioning and membership in a special population, if appropriate), and (2) multiple, functional outcome data for the children and families who are the focus of the interventions or strategies;

(e) Conduct the research in typical, integrated school and community settings;

(f) Conduct the research using methodological procedures that are designed to produce unambiguous findings regarding the effects of the interventions or strategies, as well as any findings on interaction effects between particular strategies and particular characteristics of participants or settings. These findings will be rendered through appropriate sample selection and adequate sample size to permit use of the findings in policy analyses;

(g) Design the research activities in a manner that is likely to lead to improved services for children with disabilities and their families, including those who are members of cultural, linguistic, or racial minority groups;

(h) Develop and field test a variety of products that can be used for training and technical assistance activities with policymakers, administrators, community leaders, parents, and service providers that are likely to facilitate the integration of young children with disabilities and young children without disabilities;

(i) Coordinate research activities with other relevant efforts sponsored by the Office of Special Education Programs, including State-wide Systems Change Projects and research institutes supported under the Program for Children and Youth with Severe Disabilities (Part C of IDEA); and

(j) Provide research training and experience for at least 10 graduate students annually.

In determining whether to continue the Institute for the fourth and fifth years of the project period, in addition to considering factors in 34 CFR 75.253(a), the Secretary considers the following:

(a) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Institute.

(b) The degree to which the Institute's research designs and methodological procedures demonstrate the potential for producing significant new knowledge and products.

In order to apply for funding for years four and five, the Institute must set aside in its budget for the second year, funds to cover costs associated with the services to be performed by the review team appointed by the Secretary to evaluate the project in the second year. These funds are estimated to be approximately $4,000.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Applicable Program Regulations: 34 CFR part 309.

Program Authority: 20 U.S.C. 1423.

(Catalog of Federal Domestic Assistance Number: Early Education Program for Children with Disabilities 84.024)

Dated: September 10, 1993.

Andrew Pepin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 93–22608 Filed 9–15–93; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
September 16, 1993

Part III

Department of Education

Early Education Program for Children With Disabilities; Inviting Application for New Awards for the Fiscal Year (FY) 1994; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.024]

Early Education Program for Children With Disabilities; Notice Inviting Application for New Awards for the Fiscal Year (FY) 1994

Purposes of Program: The purpose of the program is to provide Federal financial assistance (a) to address the special needs of children with disabilities, birth through age eight, and their families; and (b) to assist State and local entities in expanding and improving programs and services for these children and their families.

The competitions announced by this notice support National Education Goal 1 by assisting young children with disabilities to begin school ready to learn.

Eligible Applicants: Public agencies and nonprofit private organizations may apply under these competitions. In addition, profitmaking organizations are eligible to apply for Early Childhood Model Inservice Training Projects.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 85, and 86; and (b) The regulations for this program in 34 CFR part 309.

Priorities: The priorities in the notice of final priorities for this program, as published elsewhere in this issue of the **Federal Register**, apply to this competition.

EARLY EDUCATION PROGRAM FOR CHILDREN WITH DISABILITIES

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds	Estimated range of awards	Estimated size of awards	Estimated number of awards	Project period in months
Early Childhood Demonstration Projects (CFDA 84.024B).	1/10/94	3/12/94	$1,040,000	$120,000–140,000	$130,000	8	Up to 60.
Outreach Projects (CFDA 84.024D).	1/05/94	3/07/94	2,000,000	120,000–140,000	130,000	15	Up to 36.
Model Inservice Training Projects (CFDA 84.024P).	12/29/93	2/28/94	1,300,000	120,000–140,000	130,000	10	Up to 36.
Early Childhood Research Institute on Integration (CFDA 84.024K).	1/10/94	3/12/94	750,000	750,000	750,000	1	Up to 60.

Applications Available: October 20, 1993.

Note: The Department is not bound by any estimates in this notice.

For Applications: To request an application, telephone (202) 205–8485. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8169.

For Further Information Contact: Gail Houle, U.S. Department of Education, 400 Maryland Avenue, SW., room 4613, Switzer Building, Washington, DC 20202–2644. Telephone: (202) 205–9045. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8169.

Program Authority: 20 U.S.C. 1423.

Dated: September 10, 1993.

Andrew Pepin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 93–22609 Filed 9–15–93; 8:45 am]

BILLING CODE 4000–01–M

federal register

Thursday
September 16, 1993

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing

24 CFR Part 200 et al.
Appraisals and Property Valuation; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 204, 206 and 267

[Docket No. R–93–1626; FR–3027–P–01]

RIN 2502–AF25

Appraisals and Property Valuation

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish minimum standards for (1) real estate appraisals made by staff, fee or contract appraisers in determining the maximum insurable mortgage amount in most HUD/FHA single family (one-to-four family) and multifamily transactions, and (2) the selection of appraisers by mortgagees. It would distinguish those appraisals that may be performed by State licensed appraisers from those that must be performed by State certified appraisers.

DATES: Comment due date: November 15, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this Notice to the Office of General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Facsimile (FAX) are not acceptable. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: Single family programs: Morris Carter, Director of the Single Family Development Division, room 9270, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone, voice: (202) 708–2720; (TDD) (202) 708–4594. (These are not toll-free numbers.)

Multifamily programs: Linda Cheatham, Director, Office of Insured Multifamily Development, room 6134, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone, voice: (202) 708–3000; (TDD) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Information Collection

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980. No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**. Public reporting burden for the collection of information requirements contained in this rule is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the preamble heading, Other Matters. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410; and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

II. Background

The Department proposes to change its requirements with respect to the appraisal of both single family [1] and multifamily properties that are financed by mortgages insured by HUD/FHA under the National Housing Act (NHA).

There are two reasons for these changes. First, Congress has enacted legislation during the past three years that clearly points the direction which Federal agencies must follow to improve the quality of real property appraisals in federally related transactions. Title XI of Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), among other things, directs certain federal agencies which oversee financial institutions to adopt regulations governing the performance and use of appraisals in such transactions. In addition, the Department of Housing and Urban Development Reform Act of 1989 added section 202(e) to the NHA (12 U.S.C. 1708(e)) to require that the appraisal of all property securing an FHA-insured mortgage be performed in accordance with generally accepted appraisal standards and be prepared by a licensed or certified Appraiser. This latter requirement resembles the FIRREA mandate regarding appraisals for mortgage loans made by federally regulated financial institutions on or after December 31, 1992. Along with these legislative reforms, the Department proposes to implement another, quite different statutory addition. The Cranston-Gonzalez National Affordable Housing Act amended section 202(e) of the NHA to provide that single family Direct Endorsement (DE) lenders may select the appraiser for a given property evaluation and that the selection may include a corporate entity or other institution as well as an individual. That section also provides that an appraiser may enlist the assistance of other persons in performing the appraisal, but must maintain close supervision and accept ultimate responsibility for the result.

Second, apart from various legislative changes, this rulemaking reflects that HUD has been reevaluating the effectiveness of its current system of assigning single family property appraisers from fee panels. Experience has not shown to the Department's satisfaction that the delay and other administrative problems attendant with the use of a fee panel are justified by a commensurate benefit to the quality of appraisals. HUD is continuing to study the advisability of the panel system and for the present, although its use would be considerably diminished by these proposed changes, it would be retained for limited purposes as discussed below.

In light of these various considerations, the Department is proposing fundamental changes to its requirements for the appraisal (or whenever traditional comparison-based appraisal is not appropriate, a real estate consultation estimate) of both single and multifamily properties. Currently, HUD has a variety of approaches to standards for appraisers and appraisals, based to some extent on inherent differences between title I, title II single family, and title II multifamily programs. Approaches are very different, too, within the various multifamily programs because of particular statutory requirements.

For a single family mortgage insured under title II of the NHA, the appraised value of the home is typically a major factor in determining the maximum insurable amount. Appraisers are currently selected in either of two ways: The appraiser is assigned by HUD from a local fee panel of FHA approved independent appraisers, or the mortgagee may use one of its employees if both the mortgagee and the employee are approved for DE processing of

[1] In this preamble, the term "single family" is used synonymously with "1-to-4 family residential property;" each term also includes a manufactured home lot.

mortgage insurance applications. HUD admits only individuals to the panels; organizations are not empaneled. After section 202(e) was added to the NHA, the Department issued Mortgagee Letter 89–31, which requires that all fee and DE staff appraisers must meet State requirements in States with licensing or certification requirements. The appraisals themselves are governed by standards set out in HUD Handbook 4150.1 Rev. 1, "Valuation Analysis for Home Mortgage Insurance."

In many instances, HUD recognizes a Certificate of Reasonable Value issued by the Department of Veterans Affairs (VA) as evidencing compliance with HUD requirements for the design and construction of a single family property to be offered as security for an FHA insured mortgage loan. This would continue to be the case if VA appraisal requirements follow the provisions of FIRREA. The underlying principle of recognition matches that in § 267.3(c)(1) of this proposed rule. It should be noted that VA, for its part, could not recognize an appraisal performed for HUD/FHA purposes in any instance when the mortgagee had responsibility for selecting the appraiser as would be permitted under § 267.5. For VA purposes, lenders do not have such latitude, since 38 U.S.C. 1831 requires that each appraiser be assigned on a rotational basis from a fee panel selected and maintained by VA. Clearly, the legislative objective embodied in section 1831 does not yield to the existing policy of reciprocity between the two agencies.

In contrast to single family programs which basically address the financing of individual occupant-owned residences, multifamily programs are directed toward investment properties, primarily rental housing. The financing of income producing multifamily projects depends to a considerable extent upon the estimated net operating income resulting from gross rental income adjusted for vacancy and collection loss less operating expense and taxes, and the appraisal of such properties involves many considerations, e.g., economic life, market capitalization rates, mortgage interest rates, debt service rates, and rates of return on equity.[2] In the case of multifamily properties, HUD uses its staff or a contract appraiser for purposes of the appraisal and appraisal review, which are performed in accordance with Supplemental Standards contained in HUD Handbook 4465.1 Revision 2, Valuation Handbook for Multifamily Mortgage Insurance and other program guidelines.

Congress, moreover, has called for the use of different appraisal methods among FHA's multifamily programs, specifying for some a value approach based on economic soundness, while stating for others that financing must be measured in terms of an acceptable risk considering, among other things, replacement cost. The appraisal process becomes still more complex when subsidies are involved, and if the project will be financially sustained by any degree of government contribution, the appraiser must perform a real estate consultation to ascertain the mortgage amount which constitutes an acceptable risk in accordance with policies and instructions set forth in HUD Handbooks for the specific program and type of property concerned. Multifamily appraising is performed either by HUD staff or by qualified appraisers under contract to HUD.

Title I programs involve another, quite different approach to valuation. Appraisals play no role in determining the maximum insurable loan amount for smaller loans under the title I property improvement loan program, and only a limited role for the title I manufactured home loan program, since loans of both types are primarily character loans approved on the basis of the borrower's credit, rather than on the value of the security. Effective November 18, 1991, an appraisal is necessary for most property improvement loans which exceed $15,000 singly or in combination with other property improvement loans, since the borrower's equity in the property must be at least equal to the loan amount(s).[3] (See 24 CFR 201.20(a)(3).) The appraisal process in such cases is comparable to that for a single family purchase money mortgage insured under title II.

If the loan involves only the purchase of a manufactured home lot, the valuation process is also similar to a title II appraisal. If it involves a lot sold in combination with the purchase of a manufactured home, the appraised value of the lot is but one determinant of the maximum insurable loan amount which consists of the appraised value of the lot and unit together. Valuation of the lot involves real property, and thus resembles appraisal under title II, while valuation of the unit (including pad and hookup facilities) is performed under contract between HUD and an independent appraisal service for the benefit of the lender. Depending on whether it is new or existing, the value of the unit is based respectively on either dealer invoice or the adjusted values published by the National Automobile Dealers Association (NADA), using comparable sales as needed. Thus, title I appraisals of manufactured homes are more analogous to the appraisal of moveable non-residential personal property, such as an automobile, than to the appraisal of real property. HUD has concluded that the intent of section 202(e) is to require appraisal standards only for real property, not for personal property.

The new part 267 would therefore be limited in the extent of its applicability under the title I program to appraisals of homes securing either property improvement loans over $15,000 or manufactured home lots. Whenever an appraisal is required, it would be governed by the provisions of this proposed rule.

The Department has recently made a decision to require appraisals of single family properties held by the Secretary for disposition. These valuations, however, are different from the appraisal of a typical 1–4 family property in both objective and approach. Their purpose is not to determine the adequacy of the security for a loan, but to guide the Department in its judgment as to a reasonable price at which to offer a property. They represent an amount based initially on current market values as indicated by comparable sales, but adjusted to facilitate sale within 90 days by taking into consideration such factors as the local real estate market conditions and the Department's ability to dispose of property within the 90 day time frame. The process of pricing disposition properties involves an exchange of information and views between HUD and the appraiser and is characterized by a fair amount of flexibility. Furthermore, it has been described in issuances furnished to HUD Field Offices as well as those individuals and institutions concerned with the sale of Secretary-held properties. No purpose would be served by reiterating the process; therefore the proposed rule would not apply to cases involving HUD

[2] This description is necessarily general in nature and focuses on the more traditional FHA programs, such as those under sections 207 and 223(f) of the NHA, as well as mortgage insurance for manufactured home courts. Other multifamily programs raise special valuation problems. Thus, section 232 (nursing homes, intermediate care facilities and board and care facilities) requires a breakout of proprietary income, and section 242 (hospitals) is processed by the Department of Health and Human Services, pursuant to its special expertise, in accordance with standards set by that agency. Additionally, HUD administers programs such as sections 221(d) (3) and (4), section 213 (cooperatives) and group practice facilities under title XI which involve mortgage financing that must be based on replacement cost rather than value.

[3] An appraisal is not needed if the loan is originated by or on behalf of a governmental institution to provide housing assistance to a low or moderate income family.

property disposition. (See proposed § 267.1 below.)

III. Description of the Proposed Changes

The substance of changes affecting FHA appraisals would be contained in a new part 267 which includes §§ 267.1 through 267.6, with conforming amendments in parts 200, 203 and 206.

The single family appraisal provisions would be based largely on regulations issued pursuant to title XI of FIRREA by the Federal Financial Institution Regulatory Agencies (The Federal Deposit Insurance Corporation, Federal Reserve Board, Office of Thrift Supervision, National Credit Union Administration and Office of the Comptroller of the Currency) and the Resolution Trust Corporation (RTC), e.g., the final rule of the Board of Governors of the Federal Reserve System published on July 5, 1990, 55 FR 27762 (referred to as the "FIRREA regulations" in this discussion). In carrying out their responsibilities under title XI of FIRREA, these Federal Financial Institution Regulatory Agencies (FFIRA) together with the RTC have sought as their goal to develop uniform regulations regarding the appraisal requirements for federally related transactions. However, HUD's proposal and the regulations adopted by the FFIRA in conjunction with RTC have several differences in their principal provisions:

1. De minimis Test

None of the FFIRA requires a State certified or licensed appraiser for real estate-related transactions that involve less than a specified loan amount, such as $50,000. HUD would not recognize such a *de minimis* test, hence there will be cases for which HUD requires an appraisal when other agencies do not. If for any reason another agency nevertheless requires an appraisal performed in accordance with FIRREA standards, that appraisal would be accepted in the case of a one-to-four family dwelling as being in compliance with this part 267.

2. Use of Appraisers in Non-residential Property Transactions

The FFIRA provide extensively for appraisals of non-residential properties. They generally did not distinguish among different kinds of properties (e.g., single family, multifamily residential and non-residential) in their standards, which needed to cover the broad range of real estate-related financial transactions made by federally regulated depository institutions. HUD, on the other hand, deals with a limited number of insurance programs for specific kinds of real estate, and has determined that some differences in approach are appropriate depending on the nature of the program. Non-residential mortgages involving hospitals are excluded entirely from coverage of the proposed rule as explained below. Some multifamily residential mortgages would not be subject to all the provisions applicable to mortgages on single family homes. The differing treatment for these mortgage programs is explained below.

A section-by-section analysis follows, beginning with part 267.

Section 267.1 Applicability

This section would require that an appraisal must comply with part 267 if the maximum insurable mortgage or loan amount under any FHA program is based in whole or in part on a property appraisal. Certain exceptions are listed: (1) Insured mortgages which finance the sale of HUD-owned property pursuant to section 223(c) of the NHA and (2) title I manufactured home loans other than lot loans or combination loans, for reasons previously discussed. Also excluded are insured mortgages for hospitals, since such mortgages are processed by the Department of Health and Human Services. Although not specifically named here, certain additional types of mortgages insured under FHA programs would not be covered by part 267 because a property appraisal does not play any role in the determination of the maximum insurable mortgage amount. An example would be "streamlined" refinancing of insured single family loans pursuant to section 223(a)(7) of the NHA.

Finally, with respect to the scope of part 267, the reader should note that certification and licensing have a limited applicability to HUD staff appraisers. The Department does not interpret the Reform Act as covering the activities of HUD employees who conduct either desk or field reviews of appraisals prepared by others, and part 267 does not apply to such activities. However, in addition to their review responsibilities, HUD staff members sometimes perform appraisals on multifamily projects that will be covered by FHA insured mortgages. It is the Department's view that those of its employees who prepare and sign the appraisal report should be certified.[4] Congress, which could have provided an exemption for federal employees and did not, has directed in section 142 of the Reform Act that the Secretary establish uniform, generally accepted standards for the appraisal of all property securing mortgages insured by FHA. One aspect of those standards is the accreditation of individuals who perform the appraisals. The legislative message is clear: The quality of appraisals, regardless of who performs them, is an essential concern in resolving problems of the mortgage lending industry, and the appropriate means of accomplishing this objective is through a system of certification and licensing established and administered by the individual states. Although HUD appraisers must already meet the Department's well-established criteria for competence and experience, it is important that their professional standards correlate with those of the private sector. For this reason, HUD staff appraisers should be State accredited.

The professional qualifications of Department employees are typically the subject matter of an internal directive rather than a substantive rule. However, the decision to exempt review appraisers and the decision to cover HUD staff have significance for the public at large and both are being published for public comment.

For example, based on the rulemaking record, HUD might reconsider its position and require that its staff appraisal reviewers be certified and/or licensed. Such a change could have implications for non-HUD personnel, including individuals such as DE underwriters who review and sometimes amend appraisal reports on behalf of the mortgagees for whom they work.

Also, by its decision to require State accreditation for staff appraisers, the Department does not intend that a HUD employee be certified for every jurisdiction in which he or she may appraise property. Certification by any one state would suffice, even though the employee may be assigned to perform an appraisal on property located elsewhere. The Department expects that implementation of FIRREA with uniform testing standards and monitoring by the Appraisal Subcommittee will result in consistently high, comparable standards among the various jurisdictions. Consequently, there would be little benefit in duplicating the delay and expense of qualifying employees in each of those states where they may occasionally perform appraisals.

Section 267.2 Definitions

Among the defined terms are the following:

[4] Certification is the only consideration for HUD review appraisers, since HUD staff does not usually review single family appraisals where licensure is sufficient.

Appraisal. The proposed definition is in two parts. The first part, stated in terms of market value, follows the definition used by nineteen federal agencies prior to enactment of FIRREA, and now found in the FIRREA regulations.[5] Following this common definition will further an identity of interpretation with respect to the underlying process of determining market value and will encourage consistency among the appraisals themselves. The second part of the definition covers in broad terms the use of replacement cost.

Client. This definition is based on the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Foundation.

Complex one-to-four family residential property appraisal. The proposed rule would follow section 1113 of FIRREA, which allows the use of a State licensed appraiser for one-to-four family residential property appraisals, "unless the size and complexity requires a State certified appraiser." A complex appraisal is one in which the property itself, the form of ownership, or the market conditions are atypical. Thus the age and extent of improvements, architectural style, lot size, neighboring land use, potential environmental hazard liability, and the nature of the property interest, e.g., a complicated leasehold or a restricted fee, are factors which weigh upon the question of complexity. This list is far from exhaustive and is for illustration purposes only.

Consultation, Feasibility analysis, and *Market analysis.* These definitions would follow essentially those set forth in USPAP.

Market value. The definition proposed in § 267.2 is used in connection with mortgage lending by a number of government agencies,[6] lending institutions and others, and appears in the FIRREA regulations. The definition contemplates consummation of the sale by a specified date and passing of title from seller to buyer under the open and competitive conditions requisite to a fair transaction. Reference to market value is intended generally to provide a reliable measure of the economic potential of property involved in the transaction. Again, the Department believes that adopting a definition with widespread uniformity would encourage consistency in appraisal results.

When applying the definition of market value to one-to-four family residential properties, appraisers would need to adjust the data on comparables to allow for special or creative financing or for sales concessions, although no adjustment would be necessary for costs that are normally paid by the seller as a result of custom or law in a given market area. Such arrangements are usually readily identifiable since they appear as seller contributions in virtually all transactions within the area. Adjustment for special or creative financing could be made by comparing the indicated sale price with financing terms offered by a third party financial institution that is not involved in the property or transaction. An adjustment should not be calculated as a rote dollar-for-dollar allowance for the financing or concession amount; rather the size of each adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.[7]

Mortgage and mortgagee. The definition of "mortgage," which incorporates definitions in current regulations for both single and multifamily programs, would include a loan authorized for insurance under the NHA. In FHA regulations the term "loan" is often used to denote an unsecured loan or a loan secured by a junior mortgage. A "mortgagee" would be defined as the originator of a mortgage and could therefore be a Title I lender or loan correspondent.

One-to-four family residential property. This definition would include a manufactured home lot in addition to property with one-to-four family dwelling units.

Replacement cost. This term, which would follow the definition in HUD Handbook 4010.1, represents the Secretary's estimate of the construction cost of the property or project when the proposed improvements are completed. The replacement cost could include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary. For rehabilitation proposals, the replacement cost estimate would include the "as is" value of the property before rehabilitation, plus the cost of rehabilitation and appropriate carrying and financing charges.

State. This definition would follow that contained in section 204(a) of FIRREA.

State certified appraiser. This classification would apply to appraisers who are recognized by the States as being more knowledgeable about, and experienced in, appraisals than are licensed appraisers. Section 1116 of FIRREA provides that each State will adopt standards and procedures, consistent with the purposes of Title XI, for obtaining recognition as a State certified appraiser. To be consistent with title XI, each State must require that its certified appraisers satisfy, at a minimum, the criteria for certification issued by the Appraisal Qualifications Board of the Appraisal Foundation. Moreover, no State may certify an appraiser under title XI unless that individual passes an examination, administered by the State, that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraisal Foundation. Since the criteria mentioned are minimums, a State may establish additional certification criteria if it deems appropriate.

If, on the other hand, the policies, practices or procedures of a State are determined by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council to be inconsistent with title XI of FIRREA (See § 267.4(c)(3)), HUD would establish additional standards applicable to FHA transactions. This remedial role would extend to the criteria governing appraiser qualification. Thus, if the Appraisal Subcommittee were to find that the appraiser certification criteria of a given State are inadequate for specified reasons, an individual certified by that State would qualify for HUD programs as a State certified appraiser only if the individual complies with all State-imposed criteria together with other standards imposed by the Department.

State licensed appraiser. A State may elect to adopt licensing criteria that are less rigorous than certification criteria. However, the FIRREA regulations make it clear that the licensing criteria must be adequate to protect financial and public policy interests. The States are obliged to establish criteria ensuring that licensed appraisers have the experience and training needed to perform appraisals that comply with this part.

Moreover, the Appraisal Subcommittee may find that a State's

[5] The proposed regulations are based in part on rules adopted pursuant to FIRREA by the agencies represented on the FFIRA and the RTC. See, for example, the final rule adopted by the Board of Governors of the Federal Reserve System, 55 FR 27762, July 5, 1990.

[6] See 49 CFR part 24, "Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs."

[7] This paragraph regarding comparables is taken from the standard definition of "market value" used by the Federal Home Loan Mortgage Corporation ("FHLMC"), the Federal National Mortgage Association ("FNMA"), and OTS, among others.

criteria are inadequate and not in compliance with the requirements of title XI. As in the case of State certified appraisers, only if the Department were to impose additional remedial requirements would it be possible for the appraiser to qualify.

Section 267.3 Transactions Requiring a State Certified or Licensed Appraiser

Under this section, an FHA insured mortgage transaction might require an appraisal by either a State certified appraiser or by a State licensed appraiser, or it might require no appraisal at all.

General certification, as defined by the Appraisal Qualifications Board of the Appraisal Foundation, would be required for the appraiser of every multifamily property regardless of value because of the complexity of multifamily valuations in general. In addition, General or Residential certification would be required for the appraiser of any one-to-four family residential property when the loan amount is $1,000,000 or more. At present, this limit is a theoretical one since statutory limits on the size of FHA-insured single family mortgages are all currently under this amount. Certification would also be required for the appraiser of any complex one-to-four family residential property, as previously defined, regardless of value. Licensing would be required for the appraiser of any one-to-four family residential property which does not qualify as complex when the loan amount is less than $1,000,000. Of course, when a licensed appraiser is called for, a certified appraiser might be employed instead. Neither a certified nor licensed appraiser would be required if the property were being sold by the Secretary from HUD's property disposition inventory or if it involved the sale of a manufactured housing unit, as contrasted with the site on which the unit would be placed because such transactions are excluded from the scope of proposed party 267.

For single family transactions, one obvious question is how does a mortgagee about to assign an appraiser know whether certification or licensing is appropriate? Is the appraisal going to be complex? Before hiring an appraiser, must the mortgagee assess the situation to determine the qualifications that an appraiser will need to complete the assignment? As a general rule, it would be reasonable for the mortgagee to assign a State licensed appraiser, on the assumption that the appraisal of one-to-four family residential property will not prove to be complex, unless information to the contrary were readily available. Often the loan application will furnish sufficient information for making this decision.

If a licensed appraiser discovers during the assignment that the appraiser is complex or outside the appraiser's expertise, then he or she would be required to disclose this situation to the mortgage and take action to remedy the deficiency. A certified appraiser could be employed instead or the licensed appraiser could complete the appraisal and have a certified appraiser review and co-sign the appraisal report.

Paragraph (c) explains that for single family programs, an appraisal satisfying the requirements of another federal agency that has adopted FIRREA standards would comply with part 267. For multifamily programs, however, such is not the case.

Section 267.4 Appraisal Standards

(a) *Minimum standards.* In enacting section 202(e) of the NHA, Congress was responding to problems in the appraisal industry which were identified by the House committee on Government Operations during a series of hearings,[8] and which are mentioned repeatedly in the legislative history of title XI of FIRREA.[9] Section 202(e) instructs the Department to prescribe standards for the performance of appraisals of all property to be insured by FHA. The law states further that those standards must, at a minimum, require appraisers' work to be in writing and in conformance with generally accepted appraisal standards such as those promulgated by the Appraisal Standards Board of the Appraisal Foundation and titled the Uniform Standards of Professional Appraisal Practice (USPAP), as amended by HUD requirements set forth in Supplemental Standards.

HUD is empowered to set additional standards. Thus, § 267.5 as proposed, would set forth not only HUD's standards based upon USPAP, but also certain additions which the Department has determined to be appropriate and necessary with respect to HUD-related single family property transactions. These additional requirements would be similar to the appraisal standards promulgated by the FFIRA (see the rule of the board of Governors of the Federal Reserve System at 55 FR 27762, published July 5, 1990). Supplemental standards relating to multifamily programs would continue to be found in various Department issuances such as Handbooks, notices and memoranda.

It should be noted that this proposed rule does not reproduce USPAP in whole or in part, since it was published in the **Federal Register** in connection with the FIRREA regulations, 55 FR 53610, December 31, 1990, and should be readily available to the appraisers and mortgagees who would be subject to the requirements of this rule.

Accordingly, HUD proposes to adopt the following twelve additional standards.

(1) The first standard would set forth the requirement for compliance with USPAP, and clarify that the Departure Provision [10] in the USPAP is inapplicable to appraisals conducted in connection with FHA single family mortgage insurance transactions. The Department believes that the Departure Provision provides for appraisal services which formulate a result different from the appraisal contemplated by section 202(e) of the NHA and title XI of FIRREA. For example, in accordance with the Departure Provision and consistent with current USPAP requirements, a letter opinion might be produced that is silent about trends of rents, vacancies, or overbuilding. Explanatory comments on the USPAP regarding the Departure Provision cite examples of when the Departure Provision might apply; [11] however, for purposes of this proposed rule, those examples do not constitute FHA appraisals. The Department believes that adherence to the Departure Provision could result in the omission of data that should be included in determining and reporting the value of property in connection with FHA related transactions and has therefore determined that the Departure Provision would not apply to such appraisals. It is essential in this context to distinguish between the Departure Provision, which HUD does not recognize, and the use of Supplemental Standards authorized by USPAP. HUD adheres to the latter, particularly with respect to various multifamily programs, by issuing in the form of Handbooks, Notices, and memoranda, instructions which are

[8] House Comm. on Government Operations, Impact of Appraisal Problems on Real Estate Lending, Mortgage Insurance, and Investment in the Secondary Market, H.R. 99–891, 99th Cong., 2d Sess. (1986).

[9] See, e.g., 135 Cong. Rec. S4004 (daily ed. April 17, 1989) (statement of Sen. Dodd); H.R. Rep. No. 100–1001, 100th Cong. 2d Sess. pt. 1, at 19, 21–26; 133 Cong. Rec. H10709 (daily ed. Nov. 20, 1987) (statement of Rep. Barnard); 132 Cong. Rec. H3452 (daily ed. June 6, 1986) (statement of Rep. Barnard).

[10] The Departure Provision enables appraisers to "perform an assignment that calls for something less than or different from the work that would otherwise be required by the (USPAP)."

[11] These examples include introducing into evidence during a judicial proceeding a one page summary that incorporates by reference an appraiser's file or preparing a brief update of a previously prepared appraisal.

used to promulgate various requirements that supplement USPAP.

(2) Under the second standard on disclosure of competency, an appraiser would be required to have the appropriate knowledge and experience that will be required to complete an assignment competently. If such knowledge and experience were initially lacking, the appraiser would have to disclose in the appraisal both this fact and the steps taken to comply with the Competency Provision in the USPAP.

(3) The third standard, market value or replacement cost, as appropriate, both defined in § 267.2, would be required to be documented by the appraiser in the appraisal report or real estate consultants report for a single family or multifamily property. The market value definition was developed by FNMA and FHLMC with the input of numerous professional appraisal organizations and has two purposes: First, it clarifies for the appraiser that the market value approach must not include an allowance for favorable financing, going concern value, or a special value for a specific user; second, it assures that each party to a transaction has the information necessary to understand the determination of value. HUD's rule would also point out that market value cannot exceed replacement cost (see § 267.2(1)).

(4) The fourth standard relating to appropriate information to be provided in the appraisal would iterate the legislative mandate that all appraisals must be in writing. The standard would also require that an appraisal be sufficiently descriptive for a client, user or reviewer to ascertain readily the estimated value and the rationale for that estimate. The appraisal would have to comply with all provisions of the proposed rule and this could be easily and reliably accomplished by use of required forms. In practice, the Department expects that the Uniform Residential Appraisal Report would be used in virtually all single family valuations. For multifamily projects, the appraiser's or consultant's report would need to be on the forms specified in the rule. However, regardless of its format, the report would need to be readily understandable by a third party and must reflect the complexity of the appraisal so that the reader can independently judge its adequacy giving consideration to the characteristics of the property appraised.

(5) This standard relating to sales history would enable the reader of an appraisal report to compare an appraiser's opinion of a property's market value with recent sales prices. In addition to giving the reader a basis upon which to evaluate the accuracy of the subject property appraisal, it would also assist in identifying recent trends in market prices. For instance, a sales history might identify a single sale or a series of sales at artificially inflated prices. A sales history covering one year would be required for a one-to-four family residential property and three years or longer (more than three years may be needed to examine the last arms-length transaction) would be required for all property involving five or more dwelling units. The longer term is appropriate for multifamily property in view of (i) the typically slower turnover of such properties and (ii) the fact that larger loan amounts are generally involved with greater individual risk to the insurance fund.

(6) With respect to revenues, expenses, and vacancies under standard number 6, an appraisal should disclose current income produced by a property if the property will continue to be used to generate income after the transaction is consummated. Note, however, that only current revenues, expenses, and vacancies for such property are relevant. The appraisal should be based upon income that can realistically be earned under current market and economic conditions (in light of revenues being earned on comparable properties), rather than upon estimated or projected income that cannot be supported by current market conditions. It is important to examine unusual or atypical data. For example, if an appraiser reports a high current vacancy rate, he or she would have to ascertain the reason and determine whether it is apt to recur. If so, the lender might need to impose a special condition on the loan.

(7) Standard number 7, marketing period, would require the appraiser to employ a marketing period that is reasonable in light of both a given property's characteristics and the general market conditions, and to disclose the assumptions used. An appraiser's opinion of market value would depend in part on the appraiser's estimate of how long a given piece of property will remain for sale. For instance, an appraisal using a long marketing period is likely to produce a higher market value than would an appraisal using a shorter marketing period. This information would better enable the reader to use the appraisal properly.

(8) With respect to trend analysis under standard number 8, an appraisal should inform the reader of any market trends, regardless of whether the trend reflects rising or declining values. Such trends might include, for example, increasing vacancy rates, greater use of sales or rent concessions, declining sales prices, or other objective and measurable factors. Identification of negative trends is particularly important for the underwriter. Trends might be indicated by market activity for the subject property, such as listings, options, or sales agreements and activity of this nature should be disclosed. Note, however, that while the appraiser should indicate observed market trends as a part of the appraisal report, a trend should not be factored into the estimate of value. See the preceding discussion of standard (6).

(9) Standard number 9, prohibited influences, requires that an appraisal be performed without pressure, express or implied, from someone interested in a specific value. In a similar vein, the appraisal must not be influenced by perceptions about the neighborhood surrounding the property on the part of either the appraiser or his or her employer. This is especially important with regard to the neighborhood's racial/ethnic or socioeconomic composition. The Fair Housing Act and HUD regulations (24 CFR 100.135) specifically prohibit discrimination in the performance of real estate appraisals.

The purpose of the appraisal is to reach an independent, objective valuation of the property, not to lend credibility to a questionable underwriting decision or to buttress the bargaining position of one or more parties to the transaction. Accordingly, every appraisal covered by this proposed rule would have to include a certification to the effect that employment of the appraiser was not conditioned, expressly or impliedly, upon the appraisal having established a specific value or range of values, or upon perceptions of the surrounding neighborhood on the part of the appraiser. Similarly, an appraiser's future employment prospects should not be influenced by whether the appraisal results in a particular value, nor should the appraiser's employment and compensation be based on whether a loan application is approved, as this, too, would exert pressure on an appraiser to render whatever appraisal is necessary for the loan to be approved. It is essential to avoid apparent, as well as actual conflicts of interest. Thus, appraisers who are employed by a mortgagee should not be supervised by the mortgagee's loan officers or by a member of its underwriting, investment or collection departments.

In addition, any instruction or suggestion by a mortgagee that an independent appraiser reconsider his or her report must be documented by the mortgagee, and, if the report is consequently modified, by the appraiser who should indicate the amount of, and basic for the change. In the event the appraiser is unwilling to modify the appraisal, the mortgagee must so indicate in the loan file. If the mortgagee then decides to modify the appraised value on its own initiative, the mortgagee's employee who makes that decision must: In a multifamily case, sign the appraisal report and accept responsibility for the appraisal; in a single family case, indicate the change and the basis for it on a separate form prescribed by HUD for that purpose.[12]

When the appraisal is performed by an employee of the mortgagee, any material modification of the original appraisal report should be documented and justified by whoever is responsible for the change just as though the appraiser were independent.

(10) Standard number 10, self-contained appraisals, would require an appraisal to contain all information necessary to enable the reader to understand the basis of the appraiser's opinion. The appraisal should not reference material that is difficult for the reader to obtain; rather it should enable the reader to understand the conclusion that was reached without having to research other documents. That conclusion, moreover, would have to be reasonable in light of the information set forth in the appraisal report. These requirements would encourage the appraiser to obtain all relevant data and present it when issuing an opinion of value.

(11) Standard number 11 concerns the description of the property being appraised. A legal description of the property would have to be included together with, or as a part of, the appraisal report in order to avoid any confusion that may arise from less precise identification. This requirement would enable a reader to compare the description in the appraisal with that in the loan documents, and for this purpose the description contained in the deed would be sufficient. The legal description would be required in addition to, and not in lieu of, the identification required under USPAP, which calls for any combination of legal description, address, map reference, survey or map copy, property sketch and/or photograph that identifies the particular property.

[12] See Mortgagee Letter 91–43, September 16, 1991.

(12) Standard number 12, use of recognized appraisal approaches, describes the valuation method applicable to most HUD single family programs and those HUD multifamily programs based on value rather than replacement cost. This standard would require that an appraiser address the recognized approaches to market value required by the Secretary in the case of a single family property, as well as in the case of a multifamily property under a multifamily program using value rather than replacement cost. If, in the judgment of the appraiser, one or more approaches is not appropriate, then the appraiser would be required to explain a decision to use a particular approach. This proposed requirement is intended to produce appraisals which have benefitted from the appraiser's consideration and (where appropriate) reconciliation of all the required recognized approaches to determining market value, in order to test and improve accuracy. Disclosure that an approach was not used with an explanation should help the reader in evaluating the adequacy of the appraisal.

The standard also addresses multifamily replacement cost programs (and mortgage insurance for single family properties under section 220) by indicating that the mortgage amount must be an acceptable risk based upon the estimated replacement cost.

(b) *Unavailability of information.* Of course some of the information that is described by USPAP or this proposed rule as a necessary part of the appraisal report could, on occasion, be unavailable. For example, historic rents will not exist for a building under construction at the time of appraisal. The appraisal should inform its reader of any material information that is unavailable and the reason why.

(c) *Additional standards.* (1) The standards to be required by this proposed regulation are minimum standards to be met by every appraisal. Mortgagees would be permitted to adopt additional standards applicable to their respective underwriting practices if the additions are reasonable, appropriate and consistent with HUD standards.

(2) HUD could impose additional requirements whenever the Appraisal Subcommittee determines that a State's policies, practices, and procedures regarding licensing or certification are inconsistent with title XI of FIRREA or its implementing regulations, or whenever the Appraisal Subcommittee under its statutory waiver authority has granted a waiver of appraiser qualification requirements to a State or a portion of a State.

(3) Changes to the USPAP made after the date of publication of this Notice of Proposed Rulemaking would not apply to FHA transactions until the Department has had an opportunity to consider a given change and its consequences for HUD programs. The Department would therefore defer adoption of a change to USPAP for a period of 90 days following the date the change is approved by the Appraisal Standards Board of the Appraisal Foundation as indicated on its notice to members and subscribers. If, at the end of that period, the Department has not announced otherwise, it would be deemed to have adopted the change. On the other hand, the Department could, before the end of the period, indicate by **Federal Register** publication that it is giving further consideration to the change and could invite public comment on the question of its adoption by HUD.

Section 267.5 Selection of Appraisers by Mortgagees; Appraiser Independence

Paragraph (a) *Selection method.* Methods of selection differ among various HUD program areas. This paragraph generally outlines those differences.

Paragraphs (b) *Staff appraisers* and (c) *Mortgagees, staff and fee appraisers; conflict of interest.* An appraiser's goal should be to produce an objective opinion about the market value of a property. This objectivity could be compromised if the appraiser is involved in the transaction. If, for example, he or she were to have either a direct or indirect interest in the property appraised, the fairness of the appraisal would be compromised in appearance and perhaps in reality. A direct interest would involve ownership or lease of the property. A typical indirect interest would arise if an appraiser were to own property adjacent to the property being appraised or if the appraiser were employed by an entity related to the buyer or seller of the property being appraised. The indirect interest would extend to any property whose value is likely to be affected by the appraisal. An interest could also be nonpecuniary such as the desire to help an associate obtain a loan. The appraiser would not be permitted to have any direct interest in the property being appraised, and is permitted an indirect interest only by reason of his or her employment, subject to any stated limitations imposed on the employing mortgagee.

The Department particularly wishes to call attention of the commenting public to two somewhat controversial provisions based upon recent

legislation. First, the proposed rule would implement section 322 of the Cranston-Gonzalez National Affordable Housing Act (which amends section 202(e) of the National Housing Act) by allowing Direct Endorsement mortgagees to contract for appraisal services from sources chosen at the discretion of the mortgagee and by permitting a corporation or partnership, as well as a sole proprietorship, to contract to perform the appraisal. The proposed rule would make clear that there could be no financial tie or business affiliation between the mortgagee and the appraiser, whether the latter be an individual or an institution (except that in the case of Direct Endorsement processing, a lender could rely upon staff appraisers if the lender's appraisal operations are independent of its loan production activities).

The Department is especially interested in public comment on its effort to carry out the provisions of section 322. Various organizations and individuals have already expressed widely divergent opinions about that section and its possible consequences. Some expressions of opinion are already matters of record, as for example, the statement of the House Committee on Appropriations in its report on H.R. 2519, directing the Department to disregard as an unsound underwriting practice the pertinent provision of section 322 and to "* * * continue to assign an appraiser for each property to be insured by the FHA." H.R. Rep. No. 102–94, 102d Cong., 1st Sess., p. 29 (1991).

Second, amended section 202 of the National Housing Act permits a corporation or partnership as well as a sole proprietorship to contract for the appraisal. The proposed rule, however, states that while the contracting party can be an organization, the individual appraiser who performs and signs the report would be personally responsible for the thoroughness, accuracy and objectivity of the appraisal, a responsibility the Department has determined is shared with the employing appraisal organization. Moreover, the mortgagee would be responsible for insuring that the appraiser is qualified for the assignment, has the necessary HUD directives, instructions and other guidance and is in all respects familiar with HUD requirements, policies and procedures relating to appraisals. The Department proposes to hold the appraiser(s), the appraisal organization and the DE mortgagee all accountable for a poor or fraudulent appraisal.

Paragraph (d) *Fee appraisers for one-to-four family properties.* While a number of practical considerations, such as experience and availability, would play a role in the selection of the appraiser for a single family property, there are two threshold requirements that the appraiser would have to satisfy. First, he or she would need to be either State licensed or certified, as circumstances dictate. Second, at the time of selection he or she would need to be registered with the appropriate HUD Field Office in accordance with the following procedures.

For its programs that involve one-to-four family dwellings, HUD proposes to establish a nationwide Appraisal Roster of acceptable appraisers and appraisal organizations with whom lenders can contract. For an appraiser to be placed on this Roster:

1. The appraiser would apply to each of the HUD Offices having jurisdiction over the areas where he or she will practice. An appraiser practicing in more than one jurisdiction would register with the Field Office for each jurisdiction of practice. Thus, while each Field Office would independently examine the appraiser's qualifications and decide his or her eligibility to perform appraisals within its sphere of authority, information showing which jurisdiction(s) have registered the appraiser would be maintained on a nationwide basis. HUD proposes to charge a registration fee to defray its costs.[13]

2. At the time of requesting registration, the appraiser would need to possess and show evidence of a current license or certification by a state whose qualification standards are recognized by the Appraisal Subcommittee.

3. At the time of requesting registration, the appraiser would need to possess and provide evidence that he or she holds a measure of insurance coverage against errors and omissions that is acceptable under standards to be prescribed by HUD.

4. The appraiser would need to include, as part of the request for registration, a signed certification that he or she is knowledgeable of FHA appraisal requirements and policies and that he or she has not defaulted on an FHA-insured loan or caused HUD to pay a insurance claim on his or her behalf within the last three years. An appraiser complying with these requirements would be assigned a HUD identification number in order to be identified in HUD's automated processing system, the Computerized Home Underwriting Management System (CHUMS). This CHUMS identification number and system of registration would enable HUD to monitor the work of appraisers (through field reviews of appraisals and other checks) and to withdraw registration from appraisers who, in the judgment of one or more HUD Offices, have performed poor quality or fraudulent appraisals. Appraisers would be registered for one year. Sixty days before the anniversary date of registration, the appraiser would have to submit a written request for re-registration with a current update of the information presented at initial registration, along with a fee for re-registration. An individual or entity whose integrity, professional competence or past business conduct is unacceptable in the judgment of the Field Office would not be registered or re-registered. Furthermore, HUD would report any appraiser withdrawn from the Roster for poor quality or fraudulent appraisals to the appropriate state licensing and certifying agency for its appropriate action.

HUD does not propose, at this time, to dissolve or terminate its existing fee panels of appraisers for individual Field Offices, since non-DE approved lenders would not be able to contract with appraisers selected by the mortgagee rather than HUD, and some DE lenders may wish to continue using the fee panel. In addition to selection from a fee panel, the rule would also permit HUD to assign appraisers at its discretion when the mortgagee is not permitted to, or does not wish to, select an appraiser from the Roster or use a staff appraiser. HUD proposes to continue to regulate the appraisal fee charged to borrowers in FHA single-family transactions. See § 267.5(g).

Paragragh (e) *Contract appraisers and real estate consultants for multifamily properties.* This provision covers HUD contracts for services in support of multifamily mortgage insurance (Delegated Processing and Technical Disciplines). These contracts are awarded pursuant to the Federal Acquisition Regulation (48 CFR Ch. I) and provide HUD with a means of obtaining multifamily appraisals.

Under paragraph (f), *Assistance of others,* the appraiser would be able to engage or accept the services of other persons when conducting the appraisal, but the appraiser would have to directly supervise all work performed and be fully accountable for the product, as reflected by the appraiser's signature which must appear on the appraisal

[13] While the amount of the fee may change and would not be specified in the rule, an initial fee of $200 is contemplated. For re-registration, the fee would be $50. Fees for both registration and re-registration would apply in each jurisdiction where the applicant does business.

report. The State certified or licensed appraiser who signs the report would be required to certify that he or she personally inspected both the property being appraised and the properties used as comparables. This requirement would be of particular significance if the report were being provided by a corporation or partnership, rather than by an individual.

Finally, paragraph (h), *Transfer of appraisal between mortgagees,* would permit a Direct Endorsement mortgagee to accept an appraisal prepared for another mortgagee but not for the mortgagor. The mortgagee accepting the appraisal would review the appraisal report and incorporate in the case file an express finding that the appraisal complies with this part 267 and other HUD requirements. Note that appraisal materials and reports may not be transferred between mortgagees when multifamily programs are involved.

Section 267.6 Professional Association Membership: Competency, Nondiscrimination and Lender Reporting

(a) *Membership in appraisal organizations.* The legislative history of title XI evidences an intent to prohibit discrimination against appraisers solely on the basis of membership or lack of membership in a particular appraisal organization.[14] This rule would prohibit any mortgagee from basing the decision to hire or retain an appraiser solely on whether the individual or firm is a member of an appraisal organization. Non-membership in a professional organization does not reflect on an appraiser's competence or character. Moreover, mortgagees should focus on the qualifications of the particular appraiser rather than the credentials of a professional organization if the appraiser is a member.

(b) *Discrimination prohibited.* The proposed rule would prohibit discrimination in the selection of an appraiser on the basis of race, color, religion, national origin, sex, age or handicap. In accordance with HUD regulations at 24 CFR 121.2, each mortgagee would be required to report annually on the total number of appraisals ordered for FHA transactions.[15] As part of the report, the mortgagee would include a determination of the number of appraisals that were performed by minority persons or females. It may, therefore, be necessary for mortgagees, when contracting with appraisal organizations, to agree that such data will be furnished to the mortgagee in a timely manner. The data would pertain only to the individuals signing appraisal reports and not to others who might have provided assistance as permitted by the proposed rule. All such information would be kept available at HUD Headquarters for a reasonable period of time (three years is contemplated) to enable public inspection. Submission dates for this information will vary with the many parties involved, and filing will for that reason occur at differing times throughout the year, but the Department intends to publish periodic notices in the Federal Register reminding interested persons that the data, brought up to date, may be inspected and copied at an identified Headquarters office.

(c) *Competency.* Not all appraisers are competent to perform every type of appraisal. For example, an appraiser who is experienced in appraising single-family properties may not possess the expertise to appraise a multifamily project. The mortgagee should look beyond an individual's designation or affiliation to determine if he or she has the experience and training needed to perform the appraisal. If the mortgagee in a single family program contracts with an organization rather than an individual, the contract would have to obligate the organization to assure that the individual appraiser is competent, although including such an obligation among the contract provisions would not of itself discharge the mortgagee from responsibility if the mortgagee knew, or should reasonably have known, that the particular appraiser was not competent.

The proposed competency provision is not intended to prohibit an individual from appraising a type of property with which he or she is not familiar. An appraiser who is unfamiliar with the type of property involved could still perform the appraisal, but only in accordance with the terms of USPAP. Similarly, an individual who is not State certified or State licensed could assist in the preparation of an appraisal, but only if he or she is directly supervised by the State licensed or State certified appraiser, whichever the case calls for, and the appraisal report is approved and signed by a State certified or State licensed appraiser. In this circumstance, the approving appraiser bears the same responsibility for, and relationship to, the product of one who is not experienced in the particular type of work (or who is not accredited by the State) as does an appraiser who uses the assistance of other persons. See the previous discussion of § 267.5(f).

Finally, it should be noted that the rule would make certain conforming changes to parts 200, 204 and 206.

Part 200—Introduction

In part 200, the requirements under HUD's lead-based paint program would be revised to enable any appraiser registered with the Department in accordance with part 267 to inspect the property for a lead paint hazard, as is necessary when the dwelling was constructed prior to 1978. Section 200.810(b) presently calls for a "fee panel or direct endorsement appraiser" in this context. This is a simple conforming amendment.

Part 204—Coinsurance

Section 204.3, which currently specifies "staff or fee appraisers" would be changed to reflect the proposed standards of part 267. This is a simple conforming amendment.

Part 206—Home Equity Conversion Mortgage Insurance

The amendment to part 206 reflects the fact that an appraisal is not used to establish a maximum insurable amount for a mortgage insured under the home equity conversion mortgage (reverse mortgage) insurance demonstration program. Instead, the appraisal is used to set an upper limit on the "maximum claim amount" for the mortgage; the maximum claim amount is then used as one factor in determining the "principal limit," which effectively determines how much the mortgagor can borrow. Because there is no reason to distinguish the actual appraisal process for reverse mortgages from the process for a mortgage to finance a house purchase, the proposed rule would amend the definition of "maximum claim amount" to require that appraised value be determined by an appraisal performed in accordance with proposed part 267.

Other Matters

Proposed Financial Agency Appraisal Rule

On June 4, 1993 (58 FR 31878) the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision solicited comments on proposed amendments to the agencies' regulations regarding appraisals of real estate, adopted pursuant to title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

[14] See e.g., House Banking Committee Report at 484; see also H.R. Conf. Rep. No. 101–222, 101st Cong., 1st Sess., p. 457 (1989).

[15] See in this regard 24 CFR part 121.

The proposed amendments would increase to $250,000 the threshold level at or below which appraisals are not required pursuant to title XI, expand and clarify existing exemptions to the title XI appraisal requirement, and identify additional circumstances when appraisals are not required under title IX. In addition, the proposal would amend existing requirements governing appraisal content and appraiser independence.

The agencies are proposing these amendments as a result of experience gained from implementing their appraisal regulations.

The Department, in developing a final rule, will be taking into consideration any amendments to title XI regulations developed as a consequence of this June 4, 1993 or other proposed rules and will address, in its final rule, the comments the Federal financial agencies as well as those of the public with respect to the relationship between title XI and this rule.

Executive Order 12291

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order 12291, issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individuals, industries, Federal, State, or local government, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Section 202(e) of the National Housing Act requires the Department to establish standards for performing appraisals in connection with FHA transactions and to distinguish those transactions that require State certified appraisers from those that require State certified or licensed appraisers. This regulation is in response to this statutory requirement. The Department anticipates that the proposed regulatory changes would cause a slight increase in the cost of FHA transactions. Weighed against these increased costs should be savings to the insurance funds produced by better loan documentation that enables the Department to improve its risk evaluation and avoid potential losses.

Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibiliy Act, 5 U.S.C. 605(b), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The eligibility and performance requirements proposed by this rule are consistent with requirements already established by other government agencies for lender eligibility. Accordingly, the economic impact of this rule would be minimal, and would affect small and large entities equally.

Environmental Impact

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969. (42 U.S.C. 4332) The Finding of No Significant Impact is available for public inspection and copying Monday through Friday, 7:30 a.m. until 5:30 p.m. in the office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

HUD's Semiannual Agenda

This rule was listed under Office of Housing as sequence number 1419 in the Department's Semiannual Agenda of Regulations published on April 26, 1993 (58 FR 24382, 24404) under Executive Order 12291 and the Regulatory Flexibility Act.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have federalism implications and, thus, are not subject to review under the Order. The rule is limited to imposing additional eligibility and performance requirements on private lenders. The only point of policy proposing in part 267 with even an indirect implication for Federal-state relationships is the decision that a HUD appraiser should be subject to the certification requirements of any one state, but not necessarily other states in which he or she is assigned to perform appraisals. As explained previously, the standards of various jurisdictions developed pursuant to FIRREA should result in a reasonably uniform level of competence, and qualifying HUD employees in every jurisdiction would involve many dollars and staff hours spent on a largely duplicative effort. For purposes of section 142 of the Reform Act, certification by any one state should therefore be sufficient. In reaching this conclusion, HUD parallels OMB's decision with FIRREA that:

Federal employees who choose to become State-licensed or certified real estate appraisers need only be licensed or certified in one State or territory to perform real estate appraisal duties as Federal employees in all States and territories.[16]

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have a potential significant impact on family formation, maintenance and general well-being, and, thus is not subject to review under the Order. No significant change in existing HUD policies or programs, as those policies related to family concerns, will result from promulgation of this rule.

Public Reporting Burden

The information collection requirements contained in this proposed rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. The Department estimates that 8,200 institutions will be affected by these recordkeeping requirements. Each FHA transaction is expected to require, on average, 15 minutes for review and recordkeeping. The total reporting burden is estimated to be 205,000 hours, as calculated below, which represents less than one percent of total annual FHA reporting burden. In accordance with 5 CFR 1320.21, the following table discloses the Department's estimated burden for each collection of information in the proposed rule.

[16] OMB Bulletin 92-06, March 16, 1992.

	Number of respondents	×	Annual frequency	×	Estimated average number of hours per response	=	Total annual burden hours
Total FHA mortgagees	8,200		100		.25		205,000

These figures are based on projections for single family programs only; it is not expected that multifamily programs would impose any additional information collection burden as a result of this rulemaking.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 204

Mortgage insurance.

24 CFR Part 206

Aged, Condominiums, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 267

Appraisals, Property valuation, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, the Department proposes to amend 24 CFR parts 200, 204, and 206, and to add a new part 267, as follows:

PART 200—INTRODUCTION

1. The authority citation for 24 CFR part 200 would be revised to read as follows:

Authority: 12 U.S.C. 1701–1715z–18a; 12 U.S.C. 3535(d). Subpart T is issued under 12 U.S.C. 1701s, 1715z–11; and 42 U.S.C. 3543. Subpart U is issued under 42 U.S.C. 3543. Subpart V is issued under 12 U.S.C. 1701s, 1715z–11; and 42 U.S.C. 3544.

2. Section 200.810(b) would be revised to read as follows:

§ 200.810 Single family insurance and coinsurance.

* * * * *

(b) *Appraisal.* The appraiser, who shall be listed on the HUD Appraiser Roster under § 267.5(d)(2) of this chapter, shall, when appraising a dwelling constructed prior to 1978, inspect the dwelling for defective paint surfaces.

* * * * *

PART 204—COINSURANCE

3. The authority citation for 24 CFR part 204 would be revised to read as follows:

Authority: 12 U.S.C. 1715z–9, 1715(b); 42 U.S.C. 3535(d).

4. Section 204.3(b) would be revised to read as follows:

§ 204.3 Authority to determine eligibility.

* * * * *

(b) In making the determination set forth in this section the mortgagee shall utilize an appraiser who meets the requirements of part 267 of this chapter and mortgage credit examiners and inspectors approved by the Commissioner.

PART 206—HOME EQUITY CONVERSION MORTGAGE INSURANCE

5. The authority citation for 24 CFR part 206 would be revised to read as follows:

Authority: 12 U.S.C. 1715b, 1715z–20; 42 U.S.C. 3535(d)).

6. Section 206.3 would be amended by adding at the end of the definition of "Maximum claim amount" the following sentence:

§ 206.3 Definitions.

* * * * *

Maximum claim amount means * * *. Appraised value shall be determined by an appraisal performed in accordance with part 267 of this chapter.

* * * * *

PART 267—APPRAISALS AND PROPERTY VALUATION

7. A new part 267 would be added to read as follows:

Sec.
267.1 Applicability.
267.2 Definitions.
267.3 Transactions requiring a State certified or State licensed appraiser.
267.4 Appraisal standards.
267.5 Selection of appraisers by mortgagees; appraiser independence.
267.6 Professional association membership; competency, nondiscrimination and lending reporting.

Authority: 12 U.S.C. 1708(e) 1715b; 42 U.S.C. 3535(d).

§ 267.1 Applicability.

(a) *General rule.* If the maximum insurable amount for a mortgage insured under any program covered by this Subchapter is based in whole or in part upon the value of security as determined by an appraisal, the appraisal must comply with this part 267.

(b) *Exceptions.* This part does not apply:

(1) If title to the property is held by the Secretary and a determination of value is needed for disposition of the property;

(2) To appraisal of manufactured homes for purposes of § 201.10 of this chapter;

(3) To appraisals of one-to-four family dwellings for purposes of property improvement under title I of the National Housing Act if the total principal balance of the loan (including any other improvement loan on the property) does not exceed $15,000 (fifteen thousand dollars); however, notwithstanding the amount of the loan, an appraisal is not needed if the loan is originated by or on behalf of a governmental institution in order to provide housing assistance to a low or moderate income family;

(4) If the insured mortgage is secured by a hospital.

§ 267.2 Definitions.

(a) *Acceptable risk* means that a project's net operating income covers the mortgage debt service requirement and provides an appropriate return to the owner's equity, and that the mortgage does not exceed the appropriate percentage of estimated replacement cost, and any other supplemental standards concerning particular programs contained in handbooks and other directives.

(b) *Appraisal* means a written report independently and impartially prepared by a qualified appraiser setting forth an opinion as to:

(1) The market value of an adequately described property as of a specific

date(s), which statement is supported by the presentation and analysis of relevant market information and, in the case of a multifamily project requiring economic soundness, is in accordance with the supplemental standards as set forth in the Department's appraisal instructions, or

(2) In the case of any one-to-four family residential property or multifamily project which is not based on a determination of economic soundness, *appraisal* means replacement cost, which shall be estimated by HUD staff or by an appraiser under contract with HUD to perform a real estate consultation, as provided in § 267.5(e).

(c) *Appraisal Foundation* means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(d) *Appraisal Subcommittee* means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(e) *Client* means any party for whom an appraiser performs a service.

(f) *Complex one-to-four family residential property appraisal* means an appraisal in which the nature of the property, the form of ownership, or the market conditions are atypical.

(g) *Consultation or consultancy* means the act or process of providing information, analysis of real estate data, and recommendations or conclusions on diversified problems in real estate, other than estimating value. *Consultant,* which refers to an appraiser performing a real property consultation for HUD, means the person who provides such information, analysis, and recommendations or conclusions.

(h) *Economic soundness* refers to a project that has had its underwriting risk analyzed on the basis of three approaches to value.

(i) *Feasibility analysis* means a study of the cost-benefit relationship of an economic endeavor.

(j) *Fee appraiser* means an individual or organization which performs appraisals, inspections or valuation consultation services in return for an agreed-upon fee.

(k) *Market analysis* means a study of real estate market conditions for a specific type of property.

(l) *Market value* means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, provided that the price is not affected by stimulus. Implicit in this definition is the consummation of a sales of a specified date and the passing of title from seller to buyer under conditions whereby:

(1) Buyer and seller are typically motivated;

(2) Both parties are well informed or well advised, and acting in what they consider their own best interests;

(3) A reasonable time is allowed for sales exposure in the open market;

(4) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and

(5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Market value cannot exceed replacements cost, i.e., the reasonable estimated cost of replacing the property.

(n) *Mortgage* means a mortgage as defined in this Chapter, or a loan authorized for insurance under the Nation Housing Act.

(o) *Mortgagee* means the originator of a mortgage and includes a lender holding a Title I contract of insurance and a Title I loan correspondent.

(p) *Multifamily project* or *multifamily property* means a project containing five or more family units (or in the case of a mortgage to be insured under section 220 of the NHA, two or more rental units), a nursing home, an intermediate care facility or a board and care home. The term also includes a manufactured home court or park as provided in § 207.33 of this chapter.

(q) *One-to-four-family residential property* means a manufactured home lot or real property upon which is located a structure containing not less than one, nor more than four, dwelling units (or 11 units for a mortgage to be insured under subpart A of part 220 of this chapter), including, four purposes of a mortgage to be insured under part 201 or § 203.50 of this chapter, a structure that will contain such units after rehabilitation.

(r) *Replacement cost* means the Secretary's estimate of the construction cost of the property or project when the proposed improvements are completed. The replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary. For rehabilitation proposals, the replacement cost estimate includes the "as is" value of the property before rehabilitation, plus the cost of rehabilitation and appropriate carrying and financing charges.

(s) *State* means any State of the United States, any territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(t) *State certified appraiser* means any individual who has satisfied the requirements for certification in a State which has adopted criteria that currently meet or exceed the minimum certification criteria issued by the Appraiser Qualifications Board of the Appraisal Foundation. The State criteria must include a requirement that the individual has achieved a satisfactory grade on a State-administered examination that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualifications Board of the Appraisal Foundation. Furthermore, if the Appraisal Subcommittee has issued a finding that the policies, practices, or procedures of the State are inconsistent with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), an individual must comply with any additional standards for State certified appraisers imposed by the Department under § 267.4(c)(3)

(u) *State licensed appraiser* means any individual who has satisfied the requirements for licensing in a State which has adopted criteria that currently meet or exceed the minimum licensing criteria issued by the Appraiser Qualifications Board of the Appraisal Foundation. The State criteria must include a requirement that the individual has achieved a satisfactory grade on a State-administered examination that is consistent with, and equivalent to, the Uniform State Licensing Examination issued or endorsed by the Appraiser Qualifications Board of the Appraisal Foundation. Furthermore, if the Appraisal Subcommittee has issued a finding that the policies, practices, or procedures of the State are inconsistent with title XI of FIRREA, an individual must comply with any additional standards of State licensed appraisers imposed by the Department under § 267.4(c)(3).

§ 267.3 Transactions requiring a State certified or State licensed appraiser.

(a) *Appraisal by either a State certified or State licensed appraiser.* Every appraisal shall be performed by either a State certified appraiser or a State licensed appraiser, except as provided in paragraph (b) of this section. With respect to HUD employees, this requirement is satisfied whether or not the property is located in the certifying or licensing State. All

appraisers shall comply with HUD policies and procedures as set forth in the Department's handbooks and other issuances, whether or not a State-certified or State-licensed appraiser is required.

(b) *Appraisal by a State certified appraiser only.* An appraisal shall be prepared by a State certified appraiser if it is:

(1) Required in connection with a loan in an amount of one million dollars ($1,000,000) or more, or a mortgage on a multifamily property; or

(2) A complex one-to-four family residential property appraisal.

(c) *Recognition of appraisals not governed by this part.* (1) An appraisal of a one-to-four family residential property prepared in accordance with standards prescribed under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) and in response to the requirements of any Federal Financial Institution Regulatory Agency or the Resolution Trust Corporation will comply with this part.

(2) Notwithstanding the requirements of any other Federal agency, a multifamily property appraisal must comply with this part.

§ 267.4 Appraisal standards

(a) *Minimum standards.* Each appraisal or real estate consultation shall, at a minimum:

(1) Conform to the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundational in the case of both single family and multifamily appraisals. With respect to HUD single family property transactions the Departure Provision of the USPAP shall not apply. with respect to multifamily appraisals the Department may add requirements in accordance with the Supplementary Standards Provision of USPAP.

(2) Disclose any steps taken that were necessary or appropriate to comply with the Competency Provision of the USPAP.

(3) Be based on market value or replacement cost, as set forth in the relevant section of the National Housing Act.

(4) Provide appropriate information as follows:

(i) The report shall:

(A) In the case of one-to-four family residential property appraisals, be written and presented in either narrative format or on the Uniform Residential Appraisal Report form;

(B) Apply, for multifamily appraisals, USPAP Standard 2, Real Estate Appraisal Reporting; except that under the Supplemental Standards Provision of USPAP, reports by appraisers or consultants shall be in writing using the following forms:

(*1*) HUD–92264, HUD–92264NH or HUD–92264B, with attachments as required;

(*2*) Trial form HUD–92264A.

(ii) The report shall clearly state the market value or estimated replacement cost for the subject property with an explanation of how it was determined. The explanation shall be sufficiently descriptive to enable the reader to understand the rationale for the estimate.

(iii) The report shall provide detail and depth of analysis that reflect the complexity of the property appraised.

(5) Analyze and report in reasonable detail all prior sales of the property being appraised that occurred within the following time periods:

(i) For a one-to-four family residential property, one year preceding the date when the appraisal is prepared; and

(ii) for all other property, three years preceding the date when the appraisal is prepared, or beyond three years if necessary to include the last arms-length transaction.

(6) Analyze and report data on current revenues, expenses, and vacancies for the property if it currently is, and will continue to be, income-producing.

(7) Analyze and report a reasonable marketing period for the subject property.

(8) Analyze and report on current market conditions and trends that will affect income or the absorption period, to the extent they affect the value of the property.

(9) Include in the certification required by USPAP a statement that the appraisal or consultation assignment was not based on a requested minimum valuation, a specified valuation or range of values, or upon approval of the loan. The certification shall also include a statement that the racial/ethnic or socioeconomic composition of the neighborhood surrounding the property in no way affected the appraisal determination.

(10) Contain sufficient supporting documentation with all pertinent information reported so that the appraiser's logic, reasoning, judgment, and analysis in arriving at a conclusion indicate to the reader the reasonableness of the value reported or the consulting recommendations or conclusions provided.

(11) Includes a legal description of the real estate being appraised in addition to the description required by USPAP.

(12) Follow a reasonable valuation method that:

(i) For a one-to-four family residential property appraisal, except an appraisal with respect to a mortgage to be insured under part 220 of this chapter, addresses the direct sales comparison, income, and cost approaches to market value required by the Secretary, reconciles or explains any differences those approaches yield in determining the value of the property in question, and gives the reason(s) for rejecting each approach that was not used.

(ii) For a multifamily appraisal, when the program involved is based on market value rather than replacement cost, addresses the direct sales comparison, income, and cost approaches to market value, reconciles or explains any differences those approaches yield in determining value of the property in question, and gives the reason(s) for rejecting each approach that was not used. For valuation consultant services under replacement cost programs, the mortgage amount must be an acceptable risk based upon the estimated replacement cost, and supplemental standards in HUD handbooks and other program directives.

(b) *Unavailable information.* If information required by this section is not available, that fact shall be disclosed and explained in the appraisal report.

(c) *Additional standards.* (1) The Direct Endorsement lender may adopt generally, or may impose in specific cases, such additional standards as are reasonable, appropriate, and consistent with the Secretary's requirements for the appraisal of single family properties.

(2) For multifamily programs, the appraiser must follow the requirements of this § 267.4 as supplemented by HUD processing instructions which comprise Supplemental Standards authorized in accordance with USPAP.

(3) The Department may, in instances where the Appraisal subcommittee has determined that the policies, practices, and procedures of a State are inconsistent with Title XI of FIRREA, impose such additional requirements as may be appropriate.

(4) A change to USPAP will not be adopted by HUD until the Department has had an opportunity to consider its applicability and consequences for HUD programs. Adoption will be deferred for a period of 90 days following its approval by the Appraisal Foundation, or such longer period as the Department may announce. At the end of that period, if the Department has not announced otherwise, the change will be deemed to have been adopted by HUD.

(5) The Department may, in instances where the Appraisal Subcommittee has

determined that the requirements of FIRREA may be waived in accordance with 12 U.S.C. 3348(b), impose such additional requirements as may be appropriate.

§ 267.5 Selection of appraisers by mortgagees; appraiser independence.

(a) *Selection method.* The method of selecting the appraiser depends upon the program involved.

(1) For a one-to-four family property mortgage insured under title II of the National Housing Act, the appraiser may be:

(i) Employed on the staff of the Direct Endorsement mortgagee or selected by the mortgagee, provided the appraiser is listed on the Appraiser Roster provided for in this § 267.5; or

(ii) Assigned by HUD from membership on its fee panels. The criteria in paragraph (d) of this section govern the selection of the appraiser.

(2) For a multifamily property mortgage insured under title II of the National Housing act, the appraiser or consultant may be:

(i) A member of HUD staff; or

(ii) An appraiser or consultant under contract with HUD.

The criteria in paragraph (e) of this section govern the selection of the appraiser.

(3) For a property improvement loan insured under title I of the National Housing Act, unless otherwise provided, the appraiser shall be selected in accordance with part 201 of this chapter and related HUD issuances.

(4) For a manufactured home loan under title I of the National Housing Act, the appraiser shall be selected in accordance with the terms and conditions of a contract negotiated between HUD and the institution performing the appraisal.

(b) *DE Staff appraisers.* An appraiser who is a staff employee of a Direct Endorsement mortgagee shall be independent of the loan officers and the loan production operations of the mortgagee.

(c) *Mortgagees, staff and fee appraisers: conflicts of interests.* A mortgagee must avoid conflicts of interest and other relationships which affect, either in reality or in appearance, the credibility of the appraisal. The mortgagee may not:

(1) Contract with an appraiser or appraisal organization, i.e., fee appraiser, to perform appraisals, if the mortgagee owns, is owned by, is affiliated with or has a financial interest in the appraiser or appraisal organization; or

(2) Contract with an appraiser or appraisal organization to perform an appraisal of a property, if the building or seller of the property owns, is owned by, is affiliated with, or has a financial interest in the appraiser or appraisal organization. A fee appraiser may not have any interest, direct or indirect, in the property being appraised. A DE staff appraiser may not have any direct interest, financial or otherwise, in the property being appraised, and is permitted an indirect interest only by reason of his or her employment by a lender that has its appraisal operations isolated from its other activities in accordance with paragraph (b) of this section.

(d) *Fee appraisers for one-to-four family residential property—*

(1) *General rule for Direct Endorsement cases.* If the mortgage is to be processed by Direct Endorsement, the fee appraiser contracting with the mortgagee to perform appraisal services may be either an individual or a corporation, partnership, or sole proprietorship which the mortgagee has chosen at its sole discretion, provided that:

(i) The individual who performs the appraisal is either State certified or State licensed as required under § 267.3;

(ii) The appraiser is registered with the appropriate HUD Field Office and has a current HUD identification number in accordance with this paragraph (d);

(iii) The appraiser is not, at the time of his or her selection by the mortgagee, debarred, suspended, or in any other way disqualified from participating in HUD programs; and

(iv) The mortgagee accepts full responsibility for the accuracy, integrity and thoroughness of the appraisal. This provision does not relieve the appraiser from a concurrent responsibility with the mortgagee.

(2) *Appraiser Roster.* HUD will maintain a nationwide listing on an Appraisal Roster of appraisers that are qualified to perform appraisals in connection with one-to-four family residential property mortgage insurance programs. Listing on the Roster does not indicate a warranty or endorsement by HUD of any appraiser or appraisal, and § 200.145(c) of part 200 of this chapter applies to each appraisal performed in accordance with this part. To be eligible for selection under HUD's one-to-four family residential property programs, an appraiser shall be listed on the Roster. Each applicant for listing or periodic relisting must provide evidence that he or she:

(i) Holds a current certification or license from a State whose qualification standards are in compliance with title XI of FIRREA, as determined by the Appraisal Subcommittee;

(ii) Holds an acceptable measure of insurance coverage against errors and omissions;

(iii) Is knowledgeable about HUD/FHA appraisal requirements and policies;

(iv) Is not, at the time of application, listed on HUD's Credit Alert System;

(v) Is not, at the time of application, debarred, suspended or in any other way disqualified from participating in HUD programs; and

(vi) Has paid a listing fee, and when required a relisting fee, each such fee to be in an amount to be determined by the Secretary.

(3) *Removal from the Roster.* HUD may remove the appraiser from the Roster at any time for cause. Cause includes, but is not limited to, significant deficiencies in appraisals, failure to maintain standing as a State certified or State licensed appraiser, failure to maintain adequate insurance coverage against errors and omissions and prosecution for committing or attempting to commit fraud, misrepresentation or some other offense that may reflect on the applicant's character and integrity to perform as an appraiser. Such removal shall not be governed by the procedures of part 24 of this title. An appraiser shall, however, be subject to other sanctions in accordance with part 24 of this title.

(4) *Fee panels.* If a mortgage is not processed through the Direct Endorsement procedure, the appraiser will be assigned by HUD from a fee panel or otherwise designated by HUD. A mortgagee using the Direct Endorsement procedure may also request HUD to assign an appraiser from a fee panel or otherwise.

(e) *Contract appraisers and consultants for multifamily properties.* Appraisers and consultants performing services under HUD contracts for Delegated Processing and Technical Discipline assignments will be selected on the basis of criteria and procedures set forth in the solicitation, pursuant to the Federal Acquisition Regulation, 48 CFR Ch. I.

(f) *Assistance of others.* In conducting an appraisal, the appraiser may use the assistance of individuals who do not qualify to perform appraisals under this part. Such individuals shall be under the direct supervision of the appraiser. The appraiser shall personally inspect the property being appraised as well as all properties used as comparables, and shall certify in the appraisal report that he or she has personally performed or directly supervised all work in regard to the appraisal and has personally

inspected the appraised property and the properties used as comparables.

(g) *Appraisal fees and charges.* The appraisal fee charged to the borrower or other party shall be reasonable. If not specified by agreement between HUD and the mortgage or title I lender, the fee may be prescribed by rule or other HUD issuance.

(h) *Transfer of appraisals between mortgagees.* With respect to one-to-four family residential family properties only, a Direct Endorsement mortgagee may accept an appraisal that was prepared for another mortgagee by an appraiser selected in accordance with this section, provided that the appraisal was performed in accordance with this part and that the mortgagee accepting the appraisal has:

(1) Adopted appraisal review procedures in accordance with this part;

(2) Reviewed the appraisal report under its review procedures;

(3) Found the appraisal to be acceptable; and

(4) Documented its review and finding in writing and has included a copy of that documentation in the HUD case binder submitted for endorsement.

(i) *Non-transferability of multifamily property appraisals.* Appraisal materials and reports may not be transferred between mortgagees with respect to properties involved in multifamily program transactions.

§ 267.6 Professional association membership: competency, nondiscrimination and lender reporting.

(a) *Membership in appraisal organizations.* A State certified appraiser or State licensed appraiser may not be excluded from consideration for an assignment solely because of membership or lack of membership in a particular appraisal organization.

(b) *Discrimination prohibited.* In the selection of an appraiser, there shall be no discrimination on the basis of race, color, religion, national origin, sex, age or handicap.

(1) Each mortgagee or other institution or individual who conducts or contracts for appraisals under HUD programs shall monitor data, and on the basis of its monitoring shall report annually to the Department on the number of appraisals which it has had performed (i) by staff appraisers; (ii) by fee panel appraisers; and (iii) by appraisers whose services it has contracted for; or (iv) by any combination of persons in the described categories; during the reporting year. The report, which is in furtherance of the purpose stated in 24 CFR 121.1, shall disclose how many of the appraisals were performed by minority and by female appraisers. A minority appraiser is one who is: Hispanic, Hispanic black, non-Hispanic black, Asian/Pacific Islander, Asian Indian American, or American Indian/Alaskan Native.

(2) Each HUD approved mortgagee, title I lender and title I loan correspondent shall submit the data described in paragraph (b)(1) of this section as part of the mortgagee's annual request for reapproval. Each institution or individual who performs underwriting as a Delegated Processor or who performs Technical Disciplines, but who is not approved by HUD, shall submit the data not later than the anniversary date of the agreement with HUD which determines that party's responsibilities.

(3) The data shall be submitted to the Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0050, where it will be available for public inspection during regular business hours.

(c) *Competency.* Although appraisers performing appraisals with respect to HUD programs must be either State licensed or certified, as appropriate, an appraiser shall not be considered competent or suitable solely by reason of having been licensed or certified by a State. Every determination of competency shall be based upon the appraiser's individual qualifications and character and upon his or her experience and educational background as they relate to a particular appraisal assignment.

Dated: August 19, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 93–22465 Filed 9–15–93; 8:45 am]

BILLING CODE 4210–27–M

federal register

Thursday
September 16, 1993

Part V

Department of Transportation

Coast Guard

46 CFR Parts 10 and 12

Five-Year Term of Validity for Certificates of Registry and Merchant Mariner's Documents; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 12

[CGD 91–211]

RIN 2115–AD92

Five-Year Term of Validity for Certificates of Registry and Merchant Mariner's Documents

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing regulations to implement the provisions of the Oil Pollution Act of 1990 (OPA 90) that require certificates of registry (CORs) and merchant mariner's documents (MMDs) to be renewed every 5 years. A 5-year renewal period will allow the Coast Guard to ensure that vessel personnel continue to be qualified to operate a vessel safely. A schedule is proposed for renewing existing CORs and MMDs. Proposed user fees for COR and MMD renewal transactions also are included.

DATES: Comments must be received on or before November 15, 1993.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 91–211), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

Comments on collection of information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: James W. Cratty, Project Manager, Oil Pollution Act (OPA 90) Staff, (202) 267–6742, between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 91–211) and the specific section of this proposal to which each comment applies, and give a reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. A person wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under "ADDRESSES." The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information

The principal persons involved in drafting this document are James W. Cratty, Project Manager, and Jacqueline L. Sullivan, Project Counsel, OPA 90 Staff.

Background and Purpose

The Coast Guard issues certificates of registry (CORs) under the authority of 46 U.S.C. chapters 71 and 75. CORs are issued to provide registry of staff officers for service in positions such as pursers, medical doctors, and professional nurses. The Coast Guard issues merchant mariner's documents (MMDs) under the authority of 46 U.S.C. chapters 73 and 75. MMDs authorize individuals to work in different capacities on deck and in the engine and steward's departments on seagoing vessels over 100 gross tons. The MMD, with an appropriate endorsement, also identifies qualified tankermen.

Section 4102(b) of the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101–380) amends 46 U.S.C. 7107 by limiting the term of a COR to 5 years. Section 4102(c) of OPA 90 amends 46 U.S.C. 7302 by establishing the same limited term for MMDs. The Conference Report on OPA 90 (H.R. Conf. Rep. No. 101–653) explains that a 5-year renewal period will allow the Coast Guard to ensure that vessel personnel continue to be qualified to operate a vessel safely.

The Ominbus Budget Reconciliation Act of 1990 amended 46 U.S.C. 2110 to require the Coast Guard to establish and collect user fees for services it provides under subtitle II of title 46, United States Code, including the issuance and renewal of CORs and MMDs. A final rule was published in the Federal Register (58 FR 15228; March 19, 1993) entitled "User Fees for Marine Licensing, Certificate of Registry and Merchant Mariner Documentation" (CGD 91–002), but it did not establish fees for COR and MMD renewals. The fees for COR and MMD renewals are addressed in this notice of proposed rulemaking (NPRM).

Sections 4101 (a) and (b) of OPA 90 also amend 46 U.S.C. 7101 and 7302, respectively, to require every person who applies for the issuance or renewal of a license, COR, or MMD to have a chemical test for dangerous drugs. For ease of review, the Coast Guard is issuing a separate NPRM in the Federal Register on the chemical testing requirements for renewal of licenses, CORs, or MMDs. However, one final rule will be issued combining the requirements for chemical testing and regulations for the terms of validity for licenses, CORs, and MMDs. As required by OPA 90, the Coast Guard also is developing an NPRM addressing National Driver Register record and criminal record review that will become part of the license, COR, and MMD renewal process.

Discussion of the Proposed Amendments

The procedures proposed for renewal of CORs and MMDs are patterned after those already established for renewal of licenses (46 CFR part 10). Renewal requirements are similar to qualification standards for original issuance of CORs, MMDs, and endorsements to MMDs. The basic renewal process for CORs and MMDs set out in the proposed amendments involves the following factors:

1. *Professional requirements.* Medical doctors and professional nurses must present evidence of holding a valid medical license to be registered as staff officers. The same requirements would apply for renewals.

Staff officers seeking a chief purser, purser, or senior assistant purser COR are not required to present recent evidence of shipboard experience for original issuance of a COR, and the Coast Guard finds there is no compelling reason to require proof of service for renewal of these CORs.

With respect to MMDs with qualified ratings, sea time and related service are valuable indicators of continued proficiency. The term "qualified rating" is defined in 46 CFR 12.01–6 to mean

various categories of able seaman, qualified member of the engine department, tankerman, or a lifeboatman endorsement on an MMD. Sea service enables mariners to maintain a working familiarity with the skills necessary to work within the industry. The proposed proficiency requirement for renewal of an MMD endorsed with a qualified rating is at least 1 year of sea service during the past 5 years of one of the following substitutes:

(a) Successful completion of a comprehensive, open-book test covering topics of both general and technical knowledge for each qualified rating endorsed on the MMD.

(b) Successful completion of a refresher training course approved for each qualified rating endorsed on the MMD.

(c) Evidence of employment in a position closely related to the operation, construction, or repair of vessels (either deck or engineer as appropriate) for at least 3 years during the past 5 years.

An applicant for original issuance of an entry level MMD (i.e., an MMD not endorsed with a qualified rating) is not required to show service experience. Therefore, the proposed regulations provide for renewal of an entry level MMD without a sea service requirement.

2. *Physical requirements.* There are no physical requirements for the issuance of CORs and entry level MMDs, and none will be required for renewal by this proposed regulation. However, there are physical requirements for the original issuance of all MMD qualified rating endorsements, except lifeboatman. The Coast Guard is proposing that renewal of an MMD endorsement will require compliance with the same physical requirements as the initial issuance.

3. *Renewal of expired MMDs with qualified ratings.* CORs and MMDs will be valid for 5 years. These credentials are not valid for use after the expiration date. The expiration date of an MMD is not extended by the addition of endorsements, unless the MMD is also renewed.

The proposed regulations provide that an expired MMD with qualified ratings may be renewed up to 12 months after expiration without the necessity of retaking an examination for each endorsement. This proposal is intended to minimize costs to the mariner who would otherwise have to take all of the examinations for an expired MMD endorsed with qualified ratings.

A mariner who fails to renew an expired MMD within 12 months of expiration must demonstrate continued proficiency by completing an approved refresher course or by passing the complete examination for each qualified endorsement sought. This provision is not necessary for renewal of expired CORs or MMDs with no qualified rating endorsements because no examination is required to acquire these credentials.

4. *Concurrent renewal of licenses, CORs, and MMDs.* Current Coast Guard practice is to allow renewal of licenses no more than 12 months in advance of the expiration date. Because many license holders and all staff officers have MMDs, the requirements for COR and MMD renewals will increase the number of credentials that mariners will have to renew. To lessen the burden and inconvenience on merchant mariners who must renew more than one credential, the Coast Guard proposes to allow concurrent renewal of all merchant mariner credentials whenever possible regardless of when they expire. For example, an MMD may be renewed when an accompanying license is raised in grade. All renewal requirements for each license, COR, and MMD must be satisfied. The Coast Guard solicits comments on concurrent renewals of merchant mariner credentials.

5. *Renewal by mail.* The proposed regulations provide the opportunity to renew CORs and MMDs by mail. The process of renewing CORs and MMDs by mail will be similar to the process now used for license renewals.

6. *Expiration of existing CORs and MMDs.* The Coast Guard estimates the total number of CORs ever issued to staff officers to be several hundred thousand. The Coast Guard also has issued approximately 1.3 million MMDs since they came into use in 1937. The Coast Guard anticipates that the total pool of active mariners who will seek renewal of CORs and MMDs to be approximately 90,000.

Section 4102(d) of OPA 90 limits the term of validity of all existing CORs and MMDs and provides for staggered expirations over a 5-year span. The statutory language provides that CORs and MMDs issued before August 18, 1990 expire on the day they would have expired if they had been issued for a term of 5 years and been renewed at the end of each succeeding 5-year period. This avoids the problems that would have been encountered if all CORs and MMDs expired at the same time. If this language is interpreted so that the 5-year period began on August 18, 1990, the date OPA 90 was enacted, documents would have expired at a time when no review and renewal procedures were in place. Mariners with such an expired document could not continue working, placing a tremendous burden on both individual mariners and the maritime industry. The Coast Guard interprets the statutory language to include an additional 5-year renewal cycle to avoid such a harsh result. Therefore, in this proposed rule, a mandatory 5-year renewal period would begin on the effective date of these regulations.

Pending the development of these proposed procedures for renewal of CORs and MMDs, the Coast Guard has been issuing CORs and MMDs that are valid for a period of 5 years since March 1991. In addition, the Coast Guard has been renewing some existing CORs and MMDs along with other transactions.

This NPRM proposes a schedule for expiration of all existing CORs and MMDs that were issued without expiration dates. The expiration date for an existing COR or MMD issued without an expiration date is calculated by referring to the issue year and adding time blocks in 5-year increments up to the year falling between 1994 and 1998, inclusive. The month and day of expiration are the same as the month and day of issuance. For example, an MMD issued on July 12, 1971, will expire on July 12, 1996. Charts to aid in computing existing COR and MMD expiration dates are provided in proposed §§ 10.811 and 12.02–29 of this NPRM.

7. *MMD renewal with inactive endorsements.* An applicant for renewal of an MMD endorsed with qualified ratings who is unwilling or otherwise unable to meet the professional or physical requirements for the endorsement may renew the MMD without that endorsement. In these cases, as long as the application remains valid, the qualified rating may be reendorsed on the MMD if the applicant meets the requirements for renewal and pays the issuance fee for the endorsed MMD.

8. *User Fees.* As required under 46 U.S.C. 2110, the Coast Guard proposes to establish fees for renewing CORs and MMDs. To determine the fees for the services provided in this proposal, the Coast Guard reviewed the license renewal procedures in 46 CFR part 10. The COR and MMD renewal process generally will be similar to the process currently established for licenses, and the proposed fees for COR and MMD renewals are similar to the fee requiremetns for license renewals.

Adjustments of fees to accommodate changes in the cost of providing services are permitted under 46 U.S.C. 2110. The Coast Guard will review the renewal fees annually during its review of other licensing and merchant mariner documentation user fees and will revise the fees when costs change because of

inflation, deflation, or changes in the way services are provided.

Consistent with procedures for other licensing and merchant mariner documentation user fees, the Coast Guard proposes that fees be paid prior to receiving a particular service. The Coast Guard incurs costs each time an individual is provided a service, regardless of the result achieved by the individual. Collecting fees in advance ensures that payments are received for services provided, even though some applicants may not complete the entire renewal process. For some renewals, there may be up to three identifiable phases in the overall process: evaluation of the application, examination of the applicant, and issuance of the COR or MMD. The Coast Guard proposes to establish fees for each of these phases to facilitate effective fee collections. Repeating a phase would result in a new fee. The fees proposed for each of the three phases are discussed in the following paragraphs.

(a) *Evaluation fees.* The evaluation phase begins when the Coast Guard receives a renewal application package. This phase involves review of the renewal application form, updating files, searching Coast Guard and other government records, making verifications, and conducting follow-up telephone calls. The evaluation phase is completed when the Coast Guard determines whether an applicant meets all the prerequisite renewal requirements. The evaluation fee would be paid when the individual submits the application package to the Coast Guard.

Applicants for renewal of medical doctor and professional nurse CORs need only present evidence of a valid license as physician, surgeon, or registered nurse and complete an application form. Applicants for renewal of chief purser, purser, senior assistant purser, or junior assistant purser CORs do not have to present evidence of meeting current professional requirements. Because evaluation of applications for renewal of CORs is minimal, the Coast Guard proposes no fee for evaluations of these applications.

Applicants for renewal of an entry level MMD (i.e., with no qualified rating endorsements) do not have to meet any professional requirements. The Coast Guard proposes no fee for evaluation of an application for renewal of an entry level MMD because there is minimal processing of the application prior to issuance of the renewed MMD.

The evaluation of an application for renewal of an MMD endorsed with a qualified rating is similar to the evaluation required for renewal of a lower level license. The proposed evaluation fee for these MMDs is $45, which is the same fee proposed for evaluation of an application for renewal of a lower level license. An application for renewal of an MMD that is endorsed with more than one qualified rating will be considered one evaluation with a single evaluation fee of $45.

Individuals who apply for renewal of a license, a COR, or an MMD with a qualified rating at different times must pay the fees associated with each renewal transaction. However, the evaluation fee for a license renewal will also include the cost of evaluating an MMD endorsed with qualified ratings, if the applications for renewal are submitted at the same time. By allowing these renewal activities to be covered under a single evaluation fee, the Coast Guard seeks to encourage holders of multiple merchant mariner's credentials to renew all of their credentials at the same time whenever possible.

(b) *Examination fees.* Renewal of CORs and entry level MMDs do not involve written examinations. However, renewal of MMDs that are endorsed with qualified ratings may involve either an open-book exercise or a complete written examination, if the recent service requirements cannot be met. An open-book exercise may be required if the MMD is renewed within 12 months of its expiration. An applicant for renewal of an expired MMD that is beyond the 12-month grace period could be required to complete a written examination covering each qualified rating sought. Open-book exercises and written examinations would have a fee of $40.

The examination phase of the renewal process usually involves scheduling, proctoring and grading the examination, and notifying the applicant of results. Payment of the examination fee is required on or before the test date if the examination is administered at an Regional Examination Center (REC). Under existing Coast Guard policy, examination fees are to be paid at least 1 week prior to the examination date for examinations administered by Traveling Examination Teams at locations other than a REC. If the applicant misses taking a scheduled examination, the Coast Guard would allow rescheduling without an additional fee as long as the individual's application remains valid.

For a single application, the Coast guard also proposes to charge only one examination fee of $40, even when more than one exercise or examination is required so long as the application remains valid, and provided an issuance has not occurred. Once an MMD is renewed, a separate examination cycle will begin anew and appropriate fees will become payable. If, for enhancement of employment opportunities or some other reason, the mariner desires to submit subsequent applications or receive separate MMD endorsement renewal issuances, additional evaluation, examination, and issuance fees will apply.

(c) *Issuance fees.* The issuance phase of the renewal process includes preparation of forms and review and signature of documents by appropriate Coast Guard REC personnel. Issuance of CORs and MMDs in the renewal process involves time and costs similar to the original issuance process. Because the issuance of renewals is similar to original issuance, the issuance fee will be the same for all categories of licenses, CORs, and MMDs—$35. Applicants for renewal of multiple merchant mariner's credentials will be charged $35 for each license, COR, and MMD renewed. The issuance fee must be paid before the credential is issued.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11304; February 26, 1979). A draft Regulatory Evaluation is available in the docket for inspection or copying where indicated under "ADDRESSES." The following information is taken from the draft regulatory evaluation.

1. *Government/Coast Guard costs.* Government and Coast Guard costs attributable to implementing renewal requirements for merchant mariner credentials would be primarily incurred by the 17 Coast Guard RECs. These costs would consist of evaluating renewal applications, administering examinations, and issuing renewed CORs and MMDs. Projections of costs and impacts for renewal of CORs and MMDs are based upon the calculations of current merchant marine licensing and documentation program costs using information from a workload analysis study, hourly standard rates provided in the Coast Guard Standard Rate Instruction (COMDTINST 7310), and the Coast Guard Staffing Standards Manual (COMDTINST M5312.11A).

The Coast Guard calculates the projected personnel and associated infrastructure costs for COR and MMD renewal activities to be approximately $1.23 million annually, which will be offset by approximately $1.16 million annually in user fees. User fee receipts will be deposited in the general fund of the U.S. Treasury as offsetting receipts

of the Department of Transportation and ascribed to Coast Guard activities.

2. *Costs to the public.* The Coast Guard estimates a total pool of 1,500 active staff officers and 88,500 active MMD holders who may seek renewal of CORs and MMDs. One-fifth of the total pool is expected to renew each year, resulting in 300 COR and 17,700 MMD renewals annually. Because the renewal process occurs once every 5 years, total costs can be divided by 5 to determine an annualized cost. Costs incurred by merchant mariners seeking renewal of CORs and MMDs will consist of user fees, photographs for MMDs, physical examinations, and time spent in the actual renewal process itself. This aggregate cost represents the highest average amount a mariner may expect to pay. However, variations in fees and renewal requirements will result in significantly lower costs for many mariners. The costs estimates are as follows:

	Total cost	Annualized
Individual Mariner	$278.84	$55.77
Whole Pool Impact	25,095,600	5,019,120

3. *Benefits.* Direct and societal benefits resulting from periodic renewal of CORs and MMD may be substantial. This renewal process will eventually include three additional regulatory initiatives implementing OPA 90 to ensure continuing qualification of merchant mariners: (1) criminal record reviews, (2) national driver register checks, and (3) chemical drug testing.

All merchant mariners play a crucial and responsible role in the safe operation of a vessel. It is imperative that merchant mariners know that they are going to sea with a competent crew and that other vessels are operated by equally competent mariners. This rulemaking will protect the employees, employer, marine environment, and the general public. Some of the direct benefits will include the following:

a. Potentially fewer groundings, accidents, losses of property, and releases of hazardous materials into the marine environment.

b. Potentially fewer personal injuries to shipping company employees.

There is insufficient historical data to quantify the benefits of this proposal. However, should this program manage to save even two lives per year at $2.5 million per statistical life saved (which recent research shows is a reasonable estimate of people's willingness-to-pay for safety), its benefits would exceed its cost. If maritime accidents were reduced even by a small percentage, savings would accrue to the maritime industry through lower repair and medical costs and to the public through environmental protection.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

The proposal identifies individual applicants for issuance and renewal of CORs and MMDs as responsible for payment of issuance and renewal fees to the Coast Guard. Some firms in the maritime industry may now voluntarily pay employees' fees associated with obtaining CORs and MMDs. Some firms might choose to pay some or all of their employees' additional fees which would result from this rulemaking. However, the proposal does not require any firms to pay for document issuance or document renewal fees in lieu of the application, in whom the proposal vests responsibility. Some small entities—for example, the 355 United States inland barge operators with fleets of 10 or fewer barges—are not and will not be required to incur costs for applicant renewals of CORs and MMDs.

Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection of information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, recordkeeping, notification, and other similar requirements.

This rulemaking proposal contains collection of information requirements in §§ 10.209 and 12.02–27. The following particulars apply:

DOT No: 2115.
OMB Control No.: 2115–0514.
Administration: U.S. Coast Guard.
Title: Five-year Term of Validity for Certificates of Registry and Merchant Mariner's Documents.
Need for Information: Sections 7107 and 7302 of title 46, United States Code mandate the Secretary to limit the term of a COR and MMD to 5 years.
Proposed Use of Information: This information is used by the Coast Guard licensing officer at a REC. It is used to determine the applicant's qualification to receive or continue to hold a COR or MMD.
Frequency of Responses: Every 5 years.
Burden Estimated: The Coast Guard estimates the total annual burden on merchant mariners will be 15,261 hours per year.
Respondents: The regulatory impact will fall on those approximately 18,000 respondents.
Forms: Application for Original, Supplemental or Duplicate Merchant Mariner's Document CG–719B and Application for License as Officer, Operator or Staff Officer CG–866.
Average Burden Hours per Respondent: The average burden hours per respondent is 0.83 hours (50 minutes) per respondent.

The Coast Guard has submitted the requirements to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under "ADDRESSES."

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. Section 2.B.2.1 of that instruction excludes administrative actions and procedural regulations and policies which clearly do not have any environmental impacts. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

List of Subjects

46 CFR Part 10

Fees, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 12

Fees, Reporting and recordkeeping requirements, Seamen.

For the reasons set out in the preamble, the Coast Guard proposes to amend 46 CFR parts 10 and 12 as follows:

PART 10—LICENSING OF MARITIME PERSONNEL

1. The authority citation for part 10 continues to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2103, 7701; 49 CFR 1.45, 1.46; Section 10.107 also issued under the authority of 44 U.S.C. 3507.

2. Section 10.109 is amended by adding paragraph (d)(3) to read as follows:

§ 10.109 Fees.

* * * * *

(d) * * *

(3) For renewal of a Certificate of Registry:

(i) For evaluation for renewal of a certificate of registry, no fee.

(ii) For issuance of a renewed certificate of registry, $35.

* * * * *

3. Section 10.202 is amended by revising the section heading and paragraphs (a), (b), and (c) to read as follows:

§ 10.202 Issuance of licenses and certificates of registry.

(a) Applications for original licenses, original certificates of registry, raises of grade, extensions of route, or endorsements must be current and up-to-date with respect to service and the physical examination, as appropriate. Physical examinations and approved applications are valid for 12 months.

(b) Any person who is found qualified under the requirements set forth in this part is issued an appropriate license or certificate of registry valid for a term of 5 years from date of issuance.

(c) A license or certificate of registry is not valid until signed by the applicant and the OCMI (or the OCMI's designated representative).

* * * * *

§ 10.203 [Amended]

4. The table in § 10.203 is amended by changing the first word in the heading of column 5 from "Experiment" to "Experience".

5. Section 10.209 is amended by removing "and," at the end of paragraph (e)(3)(i)(D) and by removing the period at the end of paragraph (e)(3)(i)(E) and adding in its place "; and", revising the section heading and paragraphs (a), (b), (e)(2), (e)(3)(i) introductory text, (e)(3)(i)(A) and (B), (e)(3)(iii), and (f), and adding paragraphs (c)(5), (d)(4), and (e)(3)(i)(F) to read as follows:

§ 10.209 Requirements for renewal of licenses and certificates of registry.

(a) *General.* Except as provided in paragraph (g) of this section, an applicant for renewal of a license or certificate or registry shall establish possession of all of the necessary qualifications before the issuance of a renewal of a license or certificate of registry.

(1) Each application must be on a Coast Guard furnished form and accompanied by the evaluation fee set out in § 10.109. An approved application is valid for 12 months.

(2) The applicant may apply in person at any Regional Examination Center listed in § 10.105 or may renew the license or certificate of registry by mail under paragraph (e)(3) of this section.

(3) The applicant shall submit the license or certificate of registry to be renewed. A photocopy may be submitted instead of the actual license or certificate.

(b) *Fitness.* No license or certificate of registry will be renewed if it has been suspended without probation or revoked as a result of action under part 5 of this chapter, or facts that would render a renewal improper have come to the attention of the Coast Guard.

(c) * * *

(5) An applicant for renewal of a medical doctor or professional nurse certificate or registry shall, in addition to meeting the requirements of paragraphs (a) and (b) of this section, present a currently valid appropriate license as physician, surgeon, or registered nurse issued under the authority of a State or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia. This medical license will be returned to the applicant. A certified copy may be presented instead of the actual medical license.

(d) * * *

(4) Physical examinations of staff officers are not required for renewal of certificates of registry.

(e) * * *

(2) *Concurrent renewal of licenses, certificates of registry, and merchant mariner's documents.* An applicant may renew a license, a certificate of registry, and a merchant mariner's document at the same time. An applicant for concurrent renewal of a license, a certificate of registry, and a merchant mariner's document shall satisfy the individual renewal requirements and pay the applicable fees required by §§ 10.109 and 12.02–18 of this chapter for each license, certificate of registry, or merchant mariner's document being renewed. However, only one evaluation fee is required for an applicant who concurrently renews more than one credential in a single transaction.

(3) *Renewal by mail.* (i) An applicant may renew a license or certificate of registry by mail by submitting an application to the Coast Guard office that issued the license or certificate or registry or holds the applicant's file. The following documents must be submitted:

(A) A properly completed application on a Coast Guard furnished form and the evaluation fee required by § 10.109;

(B) The expired license or certificate of registry to be renewed; or, if it has not expired, a photocopy of the license or certificate, including the back and all attachments;

* * * * *

(F) If the applicant desires to renew a medical doctor or professional nurse certificate of registry by mail, a certified copy of a currently-valid, appropriate license as physician, surgeon, or registered nurse, issued under the authority of a State or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia.

(ii) * * *

(iii) Upon receipt of the renewed license or certificate of registry, the applicant shall sign it in order to validate the license or certificate.

(f) *Reissuance of expired license or certificate of registry.* (1) Whenever an applicant applies for reissuance of a license more than 12 months after expiration, the applicant shall demonstrate continued professional knowledge by completing an approved course, or by passing the complete examination for that license. The examination may be oral-assisted if the expired license was awarded on an oral exam. The fees listed in § 10.109 apply to these exams. In the case of an expired radio officer's license, the license may be reissued upon presentation of a valid first- or second-class radiotelegraph operator license issued by the Federal Communications Commission.

(2) An applicant applying for reissuance of a certificate of registry more than 12 months after expiration shall meet renewal requirements and pay the appropriate fees for renewal of the certificate, as provided for in §§ 10.109. There are no additional requirements for certificates of registry that are expired for more than 12 months.

* * * * *

6. Section 10.805 is amended by adding paragraph (f) to read as follows:

§ 10.805 General requirements.

* * * * *

(f) A certificate of registry is valid for a term of 5 years from the date of

issuance. Procedures for renewing certificates of registry are found in § 10.209. The expiration date of an existing certificate of registry issued without an expiration date shall be determined in accordance with § 10.811.

7. Section 10.811 and Table 10.811 are added to read as follows:

§ 10.811 Expiration of existing certificates of registry.

The expiration year of a certificate of registry issued without an expiration date is calculated by adding 5-year increments to the issuance date of the certificate of registry, up to the first applicable year falling between 1994 and 1998, inclusive. The day and month of expiration are the same as that of issuance. Table 10.811 is provided as an aid for calculating the expiration date of a certificate of registry issued without an expiration date. A certificate of registry is not valid for use after the expiration date calculated under this section, but may be renewed in accordance with the requirements of § 10.209.

TABLE 10.811.—EXPIRATION OF CERTIFICATES OF REGISTRY ISSUED WITH NO EXPIRATION DATE[1]

Expiration Year	1998	1997	1996	1995	1994
Issue Year	1993	1992	1991	1990	1989
Do	1988	1987	1986	1985	1984
Do	1983	1982	1981	1980	1979
Do	1978	1977	1976	1975	1974
Do	1973	1972	1971	1970	1969
Do	1968	1967	1966	1965	1964
Do	1963	1962	1961	1960	1959
Do	1958	1957	1956	1955	1954
Do	1953	1952	1951	1950	1949
Do	1948	1947	1946	1945	1944
Do	1943	1942	1941	1940	1939
Do	1938	1937	.....	.....	.....

[1] Find the year in which the certificate of registry was issued (Issue year), then move up the column to find the Expiration year. Month and day of expiration correspond to the month and day of issue.

PART 12—CERTIFICATION OF SEAMEN

8. The authority citation for part 12 continues to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2103, 2110, 7301, 7701; 49 CFR 1.46.

9. Section 12.02–9 is amended by adding paragraph (e) to read as follows:

§ 12.02–9 Application for documents.

* * * * *

(e) Approved applications are valid for 12 months.

10. Section 12.02–15 is revised to read as follows:

§ 12.02–15 Oath requirement.

An applicant for a merchant mariner's document for any rating shall take an oath before an Officer in Charge, Marine Inspection, or other official authorized to give such oath, or a commissioned officer of the Coast Guard authorized to administer oaths under 10 U.S.C. 936 or 14 U.S.C. 636, that the applicant will faithfully and honestly perform all the duties required of the applicant by law and carry out all lawful orders of the applicant's superior officers on shipboard. Such an oath remains binding for all subsequent merchant mariner's documents issued to that person unless specifically renounced in writing.

11. Section 12.02–17 is amended by revising paragraph (b) to read as follows:

§ 12.02–17 Rules for the preparation and issuance of documents.

* * * * *

(b) Upon determining that the applicant satisfactorily meets all requirements for the document and any endorsements requested, the Officer in Charge, Marine Inspection, shall issue the appropriate document to the applicant. A merchant mariner's document is valid for a term of 5 years from the date of issuance. The expiration date of a merchant mariner's document is placed on the face of the document.

* * * * *

12. Section 12.02–18 is amended by adding paragraph (a)(7) to read as follows:

§ 12.02–18 Fees.

(a) * * *

(7) For renewal of a merchant mariner's document:

(i) For evaluation for renewal of a merchant mariner's document endorsed with a qualified rating, $45.

(ii) For evaluation for renewal of a merchant mariner's document when submitted with a license where a renewal evaluation fee already applies, no additional fee.

(iii) For evaluation for renewal of a merchant mariner's document without a qualified rating endorsement, no fee.

(iv) For administration of an examination or open-book exercise if required under § 12.02–27, $40.

(v) For issuance of a renewal or reissuance of a merchant mariner's document, $35.

* * * * *

13. Section 12.02–27 is added to read as follows:

§ 12.02–27 Requirements for renewal of a merchant mariner's document.

(a) *General.* Except as provided in paragraph (g) of this section, an applicant for renewal of a merchant mariner's document shall establish possession of all of the qualifications necessary before issuance of a renewal of a merchant mariner's document.

(1) Each application must be on a Coast Guard furnished form and accompanied by the evaluation fee established in § 12.02–18. An approved application is valid for 12 months.

(2) The applicant may apply in person or by mail to any Regional Examination Center listed in § 10.105.

(3) The expiration date of a merchant mariner's document issued without an expiration date is determined in accordance with § 12.02–29.

(b) *Fitness.* No merchant mariner's document will be renewed if it has been suspended without probation or revoked as a result of action under part 5 of this chapter, or facts that would render a renewal improper have come to the attention of the Coast Guard.

(c) *Professional requirements.* (1) In order to renew a merchant mariner's document endorsed with a qualified rating, the applicant shall pay the

appropriate fees set out in § 12.02–18 and meet one of the following criteria:

(i) Present evidence of at least 1 year of sea service during the past 5 years.

(ii) Pass a comprehensive, open-book exercise covering the general subject matter contained in appropriate sections of this part.

(iii) Present evidence of completion of an approved refresher training course.

(iv) Present evidence of employment in a position closely related to the operations, construction, or repair of vessels (either deck or engineer as appropriate for the endorsement) for at least 3 years during the past 5 years.

(2) There are no professional requirements for renewal of a merchant mariner's document that is not endorsed with any qualified ratings.

(d) *Physical requirements.* An applicant for renewal of a merchant mariner's document endorsed with a rating that has physical requirements for original issuance shall meet the same physical requirements for renewal of the endorsed document.

(e) *Special circumstances.*—(1) *Grace period.* Except as provided in this paragraph, a merchant mariner's document may not be renewed more than 12 months after it has expired. To obtain a reissuance of the merchant mariner's document, an applicant shall comply with the requirements of paragraph (f) of this section. When an applicant's merchant mariner's document has expired during a time of service with the Armed Forces and there was no reasonable opportunity for renewal, including by mail, this 12-month grace period may be extended. The period of military service following the date of merchant mariner's document expiration that precluded renewal may be added to the 12 month grace period. The 12 month grace period, and any extension, does not affect the expiration date of the document. A merchant mariner's document, and any endorsements that it contains, is not valid for use after the expiration date.

(2) *Concurrent renewal of licenses, certificates of registry, and merchant mariner's documents.* An applicant may renew a license, certificate of registry, and merchant mariner's document at the same time. An applicant for concurrent renewal shall satisfy the individual renewal requirements for each document or endorsement and pay applicable fees required by §§ 10.109 and 12.02–18 of this chapter for each license, certificate of registry, or merchant mariner's document being renewed. However, only one evaluation fee is required for an applicant who renews his or her license, certificate of registry, and merchant mariner's document in a single transaction.

(3) *Renewal by mail.* Applications for renewal of merchant mariner's documents by mail may be sent to any Coast Guard Regional Examination Center.

(f) *Reissuance of expired merchant mariner's documents.* Whenever an applicant applies for reissuance of a merchant mariner's document endorsed with a qualified rating more than 12 months after expiration, the applicant shall demonstrate continued professional knowledge by completing an approved course, or by passing the complete examination for each qualified rating for which reissuance is sought. The appropriate fees listed in § 12.02–18 apply to these exams. An applicant applying for reissuance of a merchant mariner's document without any qualified rating endorsements more than 12 months after expiration shall meet the requirements for renewal of the merchant mariner's document.

(g) *Renewal of merchant mariner's document with endorsements.* An applicant for renewal of a merchant mariner's document that is endorsed with qualified ratings, who is unwilling or otherwise unable to meet the requirements of paragraphs (c) or (d) of this section, may renew the merchant mariner's document without the qualified ratings. The ratings may be reendorsed within 12 months by satisfying the renewal requirements in paragraphs (c) and (d) of this section and paying the appropriate fees set out in § 12.02–18.

14. Section 12.02–29 and Table 12.02–29 are added to read as follows:

§ 12.02–29 Expiration of existing merchant mariner's documents.

The expiration year of a merchant mariner's document issued without an expiration date is calculated by adding 5-year increments to the issuance date of the document, up to the first applicable year falling between 1994 and 1998, inclusive. The day and month of expiration are the same as that of issuance. Table 12.02–29 is provided as an aid for calculating the expiration date of a document issued without an expiration date. These merchant mariner's documents shall be renewed in accordance with the requirements of § 12.02–29. A merchant mariner's document is not valid for use after its expiration date.

TABLE 12.02–29.—EXPIRATION OF MERCHANT MARINER'S DOCUMENTS ISSUED WITH NO EXPIRATION DATE[1]

Expiration year	1998	1997	1996	1995	1994
Issue year	1993	1992	1991	1990	1989
Do	1988	1987	1986	1985	1984
Do	1983	1982	1981	1980	1979
Do	1978	1977	1976	1975	1974
Do	1973	1972	1971	1970	1969
Do	1968	1967	1966	1965	1964
Do	1963	1962	1961	1960	1959
Do	1958	1957	1956	1955	1954
Do	1953	1952	1951	1950	1949
Do	1948	1947	1946	1945	1944
Do	1943	1942	1941	1940	1939
Do	1938	1937			

[1] Find the year in which the merchant mariner's document was issued (issue year), then move up the column to find the Expiration year. Month and day of expiration correspond to the month and day of issue.

Dated: September 9, 1993.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–22577 Filed 9–15–93; 8:45 am]

BILLING CODE 4910–14–M

federal register

Thursday
September 16, 1993

Part VI

The President

Memorandum of September 11—Streamlining the Bureaucracy

Proclamation 6589—Commodore John Barry Day, 1993

Proclamation 6590—Gold Star Mother's Day

Proclamation 6591—Minority Enterprise Development Week, 1993

Federal Register
Vol. 58, No. 178
Thursday, September 16, 1993

Presidential Documents

Title 3—

The President

Memorandum of September 11, 1993

Streamlining the Bureaucracy

Memorandum for Heads of Departments and Agencies

Consistent with the National Performance Review's recommendation to reduce the executive branch civilian work force by 252,000, or not less than 12 percent, by the close of fiscal year 1999, I hereby direct each head of an executive department or agency to prepare, as a first step, a streamlining plan to be submitted to the Director of the Office of Management and Budget not later than December 1, 1993.

The streamlining plans shall be prepared in accordance with the following:

1. Each executive department's and agency's plans should address, among other things, the means by which it will reduce the ratio of managers and supervisors to other personnel, with a goal of reducing the percentage who are supervisors or managers in halving the current ratio within 5 years.

2. The streamlining plans should be characterized by (a) delegation of authority, (b) decentralization, (c) empowerment of employees to make decisions, and (d) mechanisms to hold managers and employees accountable for their performance.

3. Each plan shall address ways to reduce overcontrol and micromanagement that now generate "red tape" and hamper efficiency in the Federal Government. Each streamlining plan should also propose specific measures to simplify the internal organization and administrative processes of the department or agency.

4. The streamlining plans should further seek to realize cost savings, improve the quality of Government services, and raise the morale and productivity of the department or agency.

5. All independent regulatory commissions and agencies are requested to comply with the provisions of this memorandum.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
Washington, September 11, 1993.

[FR Doc. 93–22878
Filed 9–15–93; 11:40 am]
Billing code 3110–01–P

Presidential Documents

Proclamation 6589 of September 13, 1993

Commodore John Barry Day, 1993

By the President of the United States of America

A Proclamation

During its War for Independence, our Nation faced a great and proven sea power. The young Continental Navy, which had been established by the Continental Congress in October 1775, was only a fraction of the size of the British fleet. Nevertheless, the small American naval force not only achieved several key victories during the War but also established a tradition of courageous service that continues to this day. On this occasion, we honor the memory of one of America's first and most distinguished naval leaders, Commodore John Barry.

After immigrating to the United States from Ireland, John Barry became a successful shipmaster in Philadelphia. He was also an enthusiastic supporter of American independence, and when the Revolutionary War began, he readily volunteered for service and became one of the first captains of the Continental Navy.

Captain Barry served bravely and with distinction throughout the course of the War. While commanding the brig LEXINGTON, he captured the British sloop EDWARD in April 1776. This victory marked the first capture in battle of a British vessel by a regularly commissioned American warship. Later in 1776, he led a raid by four small boats against British vessels on the Delaware River and seized a significant quantity of supplies meant for the British Army. Seven years later, Captain Barry participated in the last American naval victory of the War, leading the frigate ALLIANCE against HMS SYBILLE in March 1783.

Serving as a volunteer artillery officer in December of that year, Captain Barry participated in General George Washington's celebrated campaign to cross the Delaware River, which led to victory at the Battle of Trenton.

Captain Barry continued to serve our country after the end of the Revolution, helping to make the American victory a meaningful and enduring one. Active in Pennsylvania politics, he became a strong supporter of the Constitution, which was ratified by the State Assembly on December 12, 1787. In June 1794, President George Washington appointed him as commander of the new frigate USS UNITED STATES, one of six that were built as part of a permanent American naval armament. For the remaining years of his life, Commodore Barry helped to build and lead the new United States Navy, commanding not only USS UNITED STATES but also "Old Ironsides," USS CONSTITUTION.

Commodore John Barry died on September 13, 1803, but his outstanding legacy of service is carried on today by all the brave and selfless Americans who wear the uniform of the United States Navy.

The Congress, by House Joint Resolution 157, has designated September 13, 1993, as "Commodore John Barry Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim September 13, 1993, as Commodore John Barry Day. I invite all Americans to observe this day with appropriate ceremonies and activities in honor of those individuals, past and present, who have served in the United States Navy.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of September, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 93–22883
Filed 9–15–93; 11:46 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6590 of September 13, 1993

Gold Star Mother's Day

By the President of the United States of America

A Proclamation

To become a parent is one of life's greatest joys. We devote ourselves to our children, investing our hopes and dreams in them and protecting them so that they may have a better life than we have had. There is probably no greater pain, therefore, than the loss of a child. None of us expects to outlive our children, and when mortal hands rob us of our posterity, the loss is devastating.

Every Gold Star Mother has experienced this pain. As much as the soldiers themselves, these brave women know the meaning of sacrifice for country. Long after a slain soldier is laid to rest, that young man or woman's mother will remember her loss every day for the rest of her life. When a mother bids farewell to a child in uniform, she begins to serve her country in her own private way, worrying that her child will be in harm's way and that this young man or woman, in whom she has invested so much love and care, may pay the ultimate price on the battlefield. And when the unthinkable does happen, the Gold Star Mother must carry the wounds within her heart forever.

We have a sacred duty to remember the devotion of Gold Star Mothers. Like the brave soldiers who have lain down their lives in defense of our freedoms, their mothers have earned our deepest honor and sympathy, having sacrificed so much for America, yet continuing to give of themselves to ensure that the ideals of freedom and democracy live on for future generations. Their losses and their contributions can be no greater, and our obligation to them cannot be measured.

To pay fitting tribute to these women, the Congress, by Senate Joint Resolution 115 on June 23, 1936 (49 Stat. 1895), designated the last Sunday in September as "Gold Star Mother's Day" and authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim September 26, 1993, as Gold Star Mother's Day. I call on all government officials to display the United States flag on government buildings on this solemn day. I additionally urge the American people to display the flag and to hold appropriate meetings in their homes, places of worship, or other suitable places, as public expression of the sympathy and the respect that our Nation holds for its Gold Star Mothers.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of September, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 93-22884
Filed 9-15-93; 11:48 am]
Billing code 3195-01-P

Presidential Documents

Proclamation 6591 of September 13, 1993

Minority Enterprise Development Week, 1993

By the President of the United States of America

A Proclamation

The national observance of Minority Enterprise Development Week is a decade-old tradition in which Americans of all races and ethnic groups convene to recognize and promote the achievements of more than one million minority business owners and entrepreneurs who support this Nation's continued economic growth. During Minority Enterprise Development Week, Americans also honor the many diligent minority business advocates in government and the corporate sector whose constant pursuit of excellence keeps our economy strong.

Minority-owned businesses are valuable assets for America. Each year, minority business enterprises return valuable resources to their communities in the form of taxes and provide wages and employment for thousands—particularly for minority workers. Each day, successful minority entrepreneurs fulfill an even more vital function by serving as teachers, mentors, and models for young Americans who are our business and civic leaders of tomorrow.

There is room in the free enterprise system for anyone who has the skill and the determination to compete. Therefore, it is fitting that we encourage all Americans to participate in business enterprise, create their own wealth, and promote the general welfare. Minority business women and men have proven time and again that they possess the talent and dedication required for success. By improving the availability of capital sources for business starts and expansions in the minority community, by increasing access to state-of-the-art information resources for minority business owners, by promoting the minority entrepreneur's entrance into new domestic and international markets, and by opening all doors to economic progress for minority citizens, all of American society will benefit.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim the week of October 3 through 9, 1993, as Minority Enterprise Development Week. I heartily encourage the people of the United States to commemorate this important event with appropriate ceremonies and celebrations.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of September, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 93–22889
Filed 9–15–93; 11:49 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 59, No. 178

Thursday, September 16, 1993

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection desk	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials.	202–275–1538, or 275–0920

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

46073–46528.....1
46529–46758.....2
46759–47014.....3
47015–47198.....7
47199–47370.....8
47371–47618.....9
47619–47820.....10
47821–47982.....13
47983–48258.....14
48259–48444.....15
48445–48590.....16

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Memorandums:
September 11, 1993.....48583
Presidential Determinations:
No. 93–35 of August 30, 1993.....48259
No. 93–36 of August 30, 1993.....48261
No. 93–37 of September 2, 1993.....48263
Executive Orders:
11858 (Amended by EO 12860).....47201
12334 (Revoked by EO 12863).....48441
12537 (Revoked by EO 12863L.....48441
12775 (See DOT rule of Sept. 2).....46540
12779 (See DOT rule of Sept. 2).....46540
12860.....47201
12863.....48441
Proclamations:
6587.....47199
6588.....47981
6589.....48585
6590.....48587
6591.....48589

5 CFR

831.....48265
837.....48265
841.....48265
842.....48265
844.....48265
846.....47821, 48265
870.....47823
871.....47823
872.....47823
873.....47823
890.....47823
Ch. XXVI.....47619
Proposed Rules:
2634.....46096

7 CFR

246.....47015
Ch. III.....47206
400.....47203
406.....46073
781.....48273
915.....46759
946.....47025
947.....46760, 47025
948.....47025
953.....47025
955.....47023
958.....47025
982.....47025
989.....47028, 48274
1160.....46761
1220.....47983
1230.....47204
1910.....48275
1924.....48275
1941.....48275
1943.....48275
1944.....48300
1945.....48275
1955.....48275
1962.....46074
1980.....48275
Proposed Rules:
52.....47071
319.....47074
1007.....47653
1093.....47653
1094.....47653
1096.....47653
1108.....47653
1160.....46877
1405.....46886
1413.....46886
1755.....46097, 46110
1786.....48465
1944.....48330
1980.....46889

9 CFR

Ch. I.....47206
51.....47984
78.....48445
96.....47029
317.....47624
381.....47624
Proposed Rules:
78.....47222
82.....46569
92.....47084, 48003
94.....47834
113.....47222
313.....47673

10 CFR

73.....48424
860.....47984
Proposed Rules:
2.....48004
20.....47676
72.....47222, 48004
430.....47326

12 CFR

7.....46529
34.....46529
208.....47206
211.....46076, 47206
225.....47206
262.....47985
931.....47181
932.....47181

933.....47181
Proposed Rules:
3.....48206
208.....48206
215.....47400
325.....48206
620.....47836
936.....46569

13 CFR

107.....47031
121.....47371
Proposed Rules:
121.....46573, 47181

14 CFR

25.....46536, 47628
39.....46076, 46766, 46767, 46768, 46769, 46770, 46771, 46772, 47033, 47034, 47035, 47036, 47038, 47209, 47825, 47826, 47827, 47828, 47986
71.....46539, 47039, 47040, 47041, 47042, 47043, 47044, 47045, 47371, 47372, 47373, 47374, 47375, 47631, 47633, 47635, 47829, 47830, 48301
97.....47046, 47048
121.....46500
Proposed Rules:
Ch. I.....46585, 47405, 47678
39.....46135, 46136, 46137, 46139, 46914, 46916, 46917, 47085, 47224, 47225, 47227, 47405, 47407, 47409, 47678, 47837, 47839, 48009, 48010
71.....46586, 47087, 47411, 47413, 47680, 48331
382.....47681

15 CFR

770.....47052
771.....47049, 47051, 47052
774.....47052
775.....47051, 47052
776.....47052
777.....47049
778.....47049
779.....47049, 47052
785.....47051, 47052
799.....47049, 47322, 48302
Proposed Rules:
295.....46919

18 CFR

2.....47636

19 CFR

Proposed Rules:
175.....47413
284.....48332

21 CFR

206.....47948
207.....47948
310.....46744, 46746, 46749,
314.....47340, 47948
330.....47948
510.....47056, 47376
520.....47210
522.....47376
556.....47210
558.....47056, 47962
573.....47962
804.....46514
807.....46514
Proposed Rules:
207.....46587
211.....47088
314.....47088
334.....46589
514.....47088
870.....46919

22 CFR

42.....48446, 48447
121.....47636
514.....48447

24 CFR

25.....47377
86.....47056
201.....47319, 47377
203.....47319
234.....47319
Proposed Rules:
200.....48556
204.....48556
206.....48556
267.....48556

26 CFR

1.....46773, 46828, 46835, 47060, 47061, 47639, 47639, 47784
Proposed Rules:
1.....47013, 47089, 47090

27 CFR

24.....48424
47.....47831
Proposed Rules:
5.....46141

28 CFR

23.....48448
527.....47976
Proposed Rules:
58.....48472

29 CFR

2619.....48305
2676.....48306
Proposed Rules:
1910.....47690
1915.....47690
1917.....47690
1918.....47690
1926.....47690
1928.....47690

30 CFR

913.....46845
914.....46857
935.....46861
948.....46676
Proposed Rules:
840.....48332
842.....48332
843.....48332
913.....47237, 48333
917.....48333
935.....48333

31 CFR

500.....47643
515.....47643
550.....47643
575.....47643
580.....46540, 47643
585.....47643

32 CFR

40.....47619
342.....48306
371.....48308
Proposed Rules:
199.....47692, 48473

33 CFR

100.....46078
117.....46080, 47067, 47068
156.....48434
161.....46081
165.....46078, 46082, 46083, 47069, 47987, 47988, 47989, 47990, 47991
323.....48424
328.....48424
334.....47788
Proposed Rules:
100.....47099
162.....46144
334.....47786

34 CFR

21.....47192
232.....46756
649.....47069
Proposed Rules:
607.....48478

36 CFR

Proposed Rules:
7.....48336
242.....46678

38 CFR

3.....46865
21.....46865, 46866
47.....48455
Proposed Rules:
3.....46919, 48483
20.....47100

40 CFR

52.....46541, 46867, 47211, 48309, 48312, 48315 47379, 47383, 47385, 47391, 47831
73.....48318
80.....46508
81.....47391
180.....46084, 46087, 47214, 47215, 48320
185.....46087, 48456
186.....48322, 48322
228.....46544
271.....47216
281.....47217
300.....46087
712.....47647
716.....47647
Proposed Rules:
Ch. I.....47414, 48012
52.....47101, 47103, 47239, 47414, 47415, 47701, 47705, 47707, 47840, 48339, 48344
122.....47845
123.....46145, 47417, 47845
131.....47845
148.....48092
132.....47845
180.....46147, 46149
260.....48092
261.....48092
268.....48092
271.....48092
372.....46596, 47709
721.....46921, 48346, 48347, 48348
745.....46921

41 CFR

101–49.....46088
Proposed Rules:
105–57.....46596

42 CFR

412.....46270
413.....46270
493.....48323
Proposed Rules:
417.....46925

43 CFR

3160.....47354
Proposed Rules:
5450.....47241
5460.....47847
5510.....47847
8360.....46151
9230.....47847
9260.....47847
Public Land Orders:
6989.....48545
6995.....48458
6996.....48458

44 CFR

3.....47218
206.....47992, 47994
353.....47996

45 CFR

400.....46089
Proposed Rules:
301.....47417
305.....47417
607.....46597
608.....46600
1207.....46602
1208.....46602

46 CFR

171.....47784
Proposed Rules:
10.....48572
12.....48572

47 CFR

43.....48323
61.....48323
21.....46547
22.....46547
73.....46090, 46550, 46551, 48323, 48324, 48325, 48326
76.....46718
94.....46547
95.....48459
97.....47218, 48459
Proposed Rules:
73.....46152, 46605, 48349
76.....46737

48 CFR

232.....46091
252.....46091
522.....47398
552.....47398
1808.....47219

1852.....47219
2017.....47220
2052.....47220
Proposed Rules:
215.....47242
225.....47243, 48484, 48545
252.....47243, 48484, 48545
1815.....47244
1831.....47244
1852.....47244

49 CFR

107.....46872
171.....47650
172.....47650
173.....47650
174.....47650
179.....47650
192.....48460
571.....46551, 46873
585.....46551
Proposed Rules:
27.....47681
173.....48485
174.....48485
180.....48485
571.....46928, 46938, 47426, 47427, 48350
572.....48350
1312.....47104

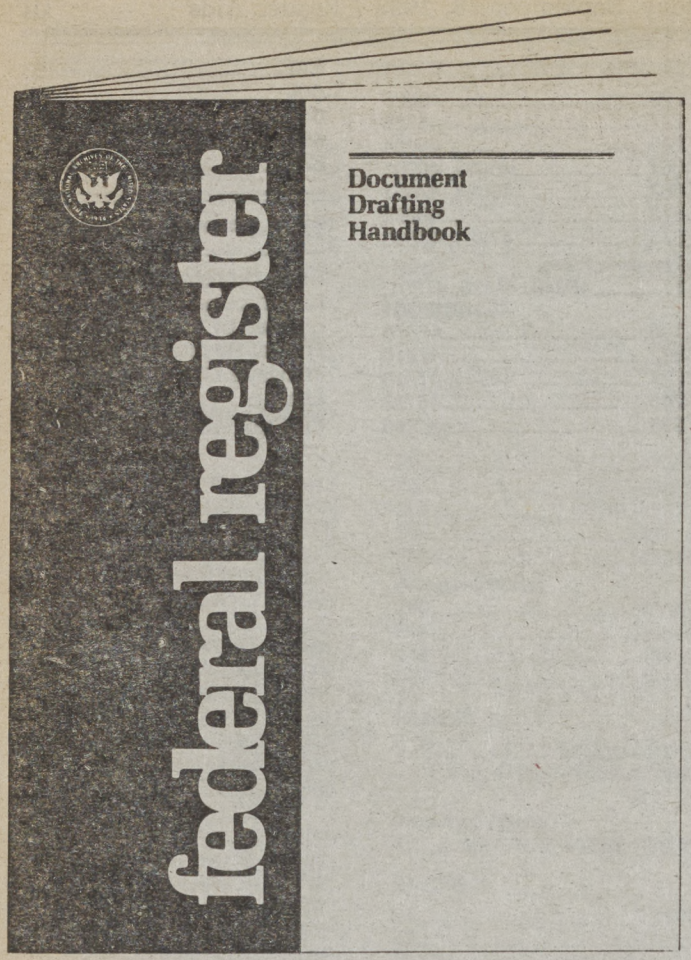
50 CFR

222.....48326
227.....48326
285.....48464
661.....46093, 48001
663.....46094, 47651
672.....46095
675.....47221, 47833
Proposed Rules:
17.....46940, 47428, 47851, 48012, 48351
100.....46678
222.....47710
227.....46944, 47710
285.....46153
625.....47245
630.....46153
641.....48502
642.....47428
650.....46606
678.....46153

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List August 19, 1993



Federal Register Document Drafting Handbook

A Handbook for Regulation Drafters

This handbook is designed to help Federal agencies prepare documents for publication in the Federal Register. The updated requirements in the handbook reflect recent changes in regulatory development procedures, document format, and printing technology.

Price $5.50

Superintendent of Documents Publication Order Form

Order processing code: *6133

Charge your order. It's easy!

To fax your orders and inquiries—(202) 512-2250

☐ **YES,** please send me the following indicated publications:

_____ copies of **DOCUMENT DRAFTING HANDBOOK at $5.50 each.** S/N 069-000-00037-1

1. The total cost of my order is $_____ Foreign orders please add an additional 25%. All prices include regular domestic postage and handling and are subject to change.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____) _____
(Daytime phone including area code)

3. Please choose method of payment:

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____
(Credit card expiration date)

Thank you for your order!

_____
(Signature)

(Rev 12/91)

4. **Mail To:** New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954

rder Now!

he United States
overnment Manual
993/94

s the official handbook of the Federal Government, *Manual* is the best source of information on the ivities, functions, organization, and principal officials he agencies of the legislative, judicial, and executive nches. It also includes information on quasi-official ncies and international organizations in which the ited States participates.

Particularly helpful for those interested in where to go d who to see about a subject of particular concern is h agency's "Sources of Information" section, which vides addresses and telephone numbers for use in aining specifics on consumer activities, contracts and nts, employment, publications and films, and many er areas of citizen interest. The *Manual* also includes mprehensive name and agency/subject indexes.

Of significant historical interest is Appendix C, ich lists the agencies and functions of the Federal vernment abolished, transferred, or changed in me subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal gister, National Archives and Records Administration.

0.00 per copy



Superintendent of Documents **Publications** Order Form

Processing Code:
6395

Charge your order. It's easy!

To fax your orders (202) 512–2250

☐ **YES,** please send me _____ copies of the **The United States Government Manual, 1993/94** S/N 069–000–00053–3 at $30.00 ($37.50 foreign) each.

The total cost of my order is $ _____. Price includes regular domestic postage and handling and is subject to change.

_____
mpany or personal name) (Please type or print)

_____
ditional address/attention line)

_____
reet address)

_____
ty, State, Zip code)

_____
aytime phone including area code)

_____
rchase order no.)

Please choose method of payment:

❑ Check payable to the Superintendent of Documents

❑ GPO Deposit Account ☐☐☐☐☐☐☐–☐

❑ VISA ❑ MasterCard Account

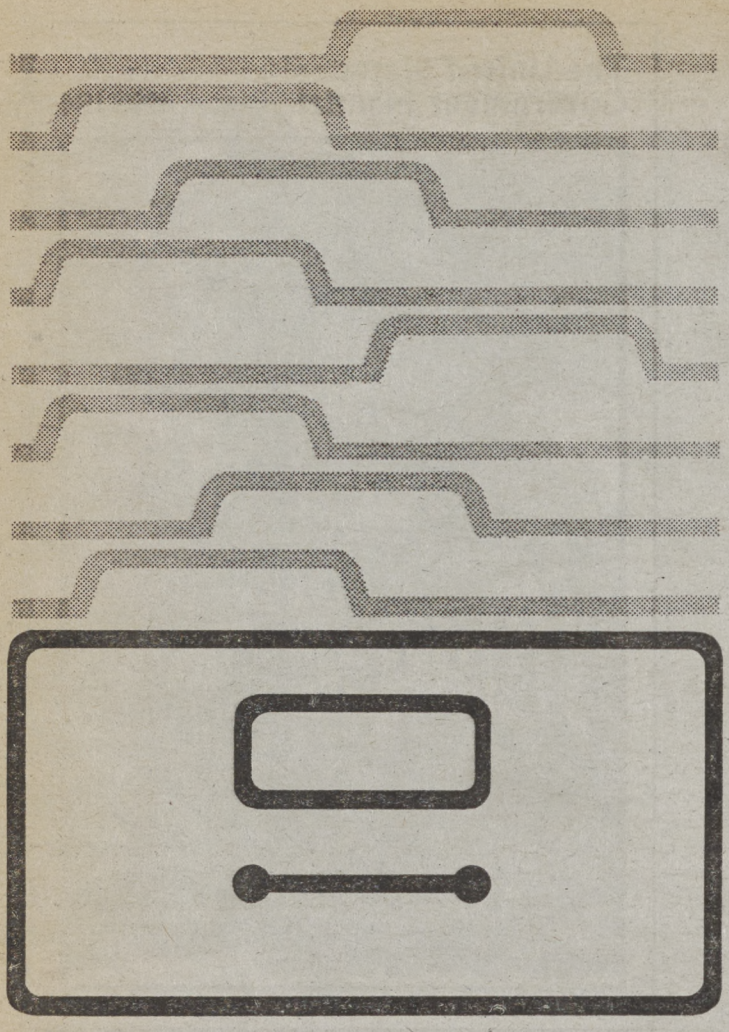
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

_____
(Authorizing signature) (Rev 9/93)

Mail to: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954



Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1992

SUPPLEMENT: Revised January 1, 1993

The GUIDE and the SUPPLEMENT should be used together. This useful reference tool, compiled from agency regulations, is designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The GUIDE is formatted and numbered to parallel the CODE OF FEDERAL REGULATIONS (CFR) for uniformity of citation and easy reference to the source document.

Compiled by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Publications** Order Form

Order Processing Code:

*

P3

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512-2250

☐ **YES**, please send me the following:

_____copies of the 1992 GUIDE TO RECORD RETENTION REQUIREMENTS IN THE CFR S/N 069-000-00046-1 at $15.00 each.

_____copies of the 1993 SUPPLEMENT TO THE GUIDE, S/N 069-001-00052-1 at $4.50 each.

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

_____
(Company or Personal Name) (Please type or print)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

_____
(Daytime phone including area code)

_____
(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

_____
(Authorizing Signature) (5/93)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954



Printed on recycled paper