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Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

WASHINGTON, DC
(TWO BRIEFINGS)

WHEN: January 13 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

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Presidential Documents

Title 3—

The President

Presidential Determination No. 94–5 of December 3, 1993

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $20,000,000 be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of certain refugees, conflict victims, and displaced persons in Africa. These funds are to be contributed to the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and the International Federation of Red Cross and Red Crescent Societies.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority and to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, December 3, 1993.

Billing code 3195–01–M

Justification for Presidential Determination Authorizing the Use of $20,000,000 From the United States Emergency Refugee and Migration Assistance Fund

Under section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), the President may authorize the furnishing of assistance from the United States Emergency Refugee and Migration Assistance Fund (the Fund) to meet "unexpected urgent refugee and migration" needs whenever he determines it is "important to the national interest" to do so. A drawdown from the Fund of up to $20,000,000 is required to respond to unexpected urgent needs of certain African refugees, conflict victims and displaced persons. This drawdown furthers the U.S. national interest by providing humanitarian support and reducing the potential for further conflict.

Burundi Refugees **$5,000,000**

The unsuccessful coup d'etat in Burundi in late October sparked renewed ethnic violence between the majority Hutu tribe and the minority Tutsis. Over 675,000 refugees have fled Burundi for safety in Rwanda, Tanzania and Zaire, bringing the total number of Burundi refugees to nearly one million. The new refugees are in dire need of food, medicine, shelter and other assistance. The United Nations High Commissioner for Refugees (UNHCR) has issued an initial appeal for $17,000,000, and the International Federation of Red Cross and Red Crescent Societies (IFRC) has issued an appeal for $3,200,000. These urgent needs could not be foreseen when the FY 1994 budget was prepared. A drawdown of $5,000,000 is proposed to respond to the UNHCR and IFRC appeals.

Sierra Leonean Refugees and Liberian Displaced Persons **$2,500,000**

The signing of the most recent Liberian peace accord has facilitated the extension of relief operations to conflict areas in Liberia previously inaccessible for security reasons, revealing large populations utterly destitute and on the brink of famine. In Lofa County, Liberia, 175,000 Sierra Leonean refugees and displaced Liberians suffer widespread malnutrition and illness. UNHCR has just issued a special appeal for $9,500,000 to bring urgent assistance to these victims. These urgent needs could not be foreseen when the FY 1994 budget was prepared. A drawdown of $2,500,000 is proposed to respond to this appeal.

International Committee of the Red Cross Emergency Appeal for Africa **$12,500,000**

The International Committee of the Red Cross (ICRC) provides vital services to conflict victims in Africa. In addition to its ongoing relief operations, for which the U.S. government has provided funding, new crises and needs in Africa this year have required ICRC responses in Angola, Burundi, Rwanda, Liberia, Sudan, Zaire and Chad. In 1993, the ICRC's emergency needs have exceeded expectations. To date, the ICRC has identified additional funding required for African emergencies in the amount of $54,000,000 and is expected to need further resources for its Burundi and Angolan programs. These additional urgent needs could not be foreseen when the FY 1994 budget was prepared. A drawdown of $12,500,000 is proposed to respond to increased ICRC needs in Africa.

[FR Doc. 93–30602
Filed 12–10–93; 3:14 pm]
Billing code 4710–10–M

Presidential Documents

Proclamation 6635 of December 9, 1993

To Amend the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Pursuant to sections 501 and 502 of the Trade Act of 1974, as amended (19 U.S.C. 2461 and 2462) ("Trade Act"), and having due regard for the eligibility criteria set forth therein, I have determined that it is appropriate to designate Kyrgyzstan as a beneficiary developing country for purposes of the Generalized System of Preferences ("GSP").

2. Section 604 of the Trade Act (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule ("HTS") the substance of the provisions of that Act, and of other acts affecting import treatment, and actions thereunder.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to sections 501 and 604 of the Trade Act, do proclaim that:

(1) General note 3(c)(ii)(A) to the HTS, listing those countries whose products are eligible for benefits of the GSP, is modified by inserting "Kyrgyzstan" in alphabetical order in the enumeration of independent countries.

(2) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this proclamation are hereby superseded to the extent of such inconsistency.

(3) The modifications to the HTS made by paragraph (1) of this proclamation shall be effective with respect to articles that are: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after 15 days after the date of publication of this proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of December, 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. 93–30627
Filed 12–10–93; 4:27 pm]
Billing code 3195–01–P

Rules and Regulations

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

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

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations, Subpart A—Size Eligibility Provisions and Standards; Function and Responsibilities of SBA Offices; Size Policy Board

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) hereby amends its regulations governing the composition and responsibilities of its Size Policy Board. This final rule reorganizes the membership of the Size Policy Board and places the Board under the direct authority of the Deputy Administrator. This rule abolishes the Technical Size Advisory Board.

DATES: This rule is effective December 14, 1993.

FOR FURTHER INFORMATION CONTACT: Gary M. Jackson, Director, Size Standards Staff, Tel.: (202) 205–6618.

SUPPLEMENTARY INFORMATION: The SBA Size Policy Board considers and makes recommendations to the Administrator relating to improvements in SBA regulations, procedures and directives concerning size matters. Most importantly, the SBA Size Policy Board is responsible for reviewing and approving recommendations to increase the size standard for a particular industry or SBA program. On August 20, 1992, the SBA issued a final rule establishing a new membership of the Size Policy Board.

That rule also established a Technical Size Advisory Board to address technical issues related to size policy. SBA now believes that one board is sufficient to accomplish the desired goals and objectives of the Agency. The SBA believes that with the representation of senior program managers on the Size Policy Board, the intent and function of the Technical Size Advisory Board can be incorporated into one Board. This reorganization is designed to achieve this goal by recomposing the membership of the Board to include, as its voting members, the Deputy Administrator, serving as the Chairperson, two Associate Administrators, two Assistant Administrators, and the Chief Counsel for Advocacy. Four additional non-voting members are also included in the composition of the Board: A Regional Administrator, as designated by the Administrator, General Counsel, Assistant Administrator for Hearings and Appeals, and the Director of the Size Standards Staff. Furthermore, from time to time, with prior approval from the Deputy Administrator, other senior program managers or their respective representatives will be afforded the opportunity to express their views and concerns regarding issues before the Board that may have an effect on their respective programs. The Technical Size Advisory Board no longer exists as a result of the reorganization of the Size Policy Board.

Due to the fact that this final rule governs matters of Agency organization, management, and personnel and makes no substantive change to the current regulation, SBA is not required to determine if this constitutes a major rule for purposes of Executive Order 12866, to determine if it has a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, or to do a Federalism Assessment pursuant to Executive Order 12612. For purposes of the Paperwork Reduction Act, 44 U.S.C. ch. 35, SBA certifies that this rule will not impose any new reporting or recordkeeping requirements. Finally, for purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

SBA is publishing this rule governing Agency organization, procedure, and practice without prior notice and opportunity for public comment pursuant to authority contained in the Administrative Procedure Act, 5 U.S.C. 553(b)(A).

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Grant programs—business, Loan programs—business, Small business.

For the reasons set forth above, subpart A of part 121 of title 13, Code of Federal Regulations, is amended as follows:

PART 121—[AMENDED]

1. The Authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a), and 644(c).

2. In § 121.303, The Size Policy Board, is revised to read as follows:

§ 121.303 The Size Policy Board.

(a) The SBA Size Policy Board considers and makes recommendations to the Administrator relating to improvements in SBA regulations, procedures, and policy concerning size matters, including size standards.

(b) The members of the SBA Size Policy Board are as follow:

(1) Deputy Administrator, Chairperson;

(2) Associate Administrator for Procurement Assistance;

(3) Associate Administrator for Minority Small Business and Capital Ownership Development;

(4) Assistant Administrator for Financial Assistance;

(5) Assistant Administrator for Innovation, Research & Technology;

(6) Chief Counsel for Advocacy;

(7) Regional Administrator (designated by the Administrator), non-voting;

(8) General Counsel, non-voting;

(9) Assistant Administrator for Hearings and Appeals, non-voting; and,

(10) Director, Size Standards Staff, non-voting.

(c) In the event that no SBA Deputy Administrator has been appointed, the Administrator may appoint an Acting Chairperson to the SBA Size Policy Board.

(d) In the event the Deputy Administrator is unable to serve as Chairperson, the Deputy Administrator or Administrator may appoint an Acting Chairperson.

(e) In the event a voting or non-voting member is unable to participate in a Board meeting, his or her deputy, or other representative approved by the

Chairperson, may participate in the meeting on his or her behalf.

Date: December 6, 1993.

Erskine B. Bowles,

Administrator.

[FR Doc. 93–30470 Filed 12–13–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–ASW–18; Amendment 39–8724; AD 93–21–10]

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 214B and 214B–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Bell Helicopter Textron, Inc. Model 214B and 214B–1 helicopters, that requires a reduction of the retirement life of the main rotor yoke assembly (assembly) from 5,000 to 3,750 hours' time-in-service and requires repetitive inspections of the assembly for straightness at intervals not to exceed 1,200 hours' time-in-service. This amendment is prompted by a recent analysis that revealed a deterioration of residual compressive stresses in the assembly with increased time-in-service. The actions specified by this AD are intended to prevent failure of the assembly, loss of the main rotor, and subsequent loss of control of the helicopter.

EFFECTIVE DATE: January 18, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Bell Helicopter Textron, Inc., Attention: Customer Support, P.O. Box 482, Fort Worth, Texas 76101. This information may be examined at the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, 4400 Blue Mound Road, bldg 3B, room 158, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Tom K. Henry, Aerospace Engineer, Rotorcraft Certification Office, FAA, Rotorcraft Directorate, Southwest Region, Fort Worth, Texas 76193–0170, telephone (817) 624–5168, fax (817) 740–3394.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to Bell Helicopter Textron, Inc. (BHTI) Model 214B and 214B–1 helicopters was published in the **Federal Register** on July 6, 1992 (57 FR 29683). That action proposed to require a reduction in the retirement life of the main rotor yoke assembly (assembly) from 5,000 to 3,750 hours' time-in-service and to require repetitive inspections of the assembly for straightness at intervals not to exceed 1,200 hours' time-in-service. Additionally, it proposed to require installation of an airspeed versus altitude decal, part number (P/N) 214–075–256–105 for BHTI Model 214B–1 helicopters or P/N 214–075–256–107 for BHTI Model 214B helicopters.

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

The FAA estimates that 54 helicopters of U.S. registry will be affected by this AD, that it will take approximately 17 work hours per helicopter to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $13,250 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $765,990.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 93–21–10 Bell Helicopter Textron, Inc. (BHTI): Amendment 39–8724. Docket Number 91–ASW–18.

Applicability: Model 214B and 214B–1 helicopters, serial numbers (S/N's) 28001 through 28070, equipped with main rotor yoke assembly (assembly), part number (P/N) 214–010–105–001, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the assembly, loss of the main rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) For assemblies that have 3,700 hours' or less time-in-service on the effective date of this airworthiness directive (AD), replace the assembly on or before reaching 3,750 hours' time-in-service. For assemblies that have more than 3,700 hours' time-in-service on the effective date of this AD, replace the assembly within the next 50 hours' time-in-service.

(b) Within 50 hours' time-in-service after the effective date of this AD, install new airspeed versus altitude decals, P/N 214–075–256–105 for BHTI Model 214B–1 and P/N 214–075–256–107 for Model 214B helicopters.

(c) Within 50 hours' time-in-service after the effective date of this AD and thereafter at intervals of 1,200 hours' time-in-service, inspect the yoke for straightness in accordance with the applicable maintenance manual.

Note: BHTI Alert Service Bulletin No. 214–87–37, Revision A, dated September 10, 1987, pertains to this AD.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Rotorcraft Certification Office, FAA, Rotorcraft Directorate, Fort Worth, Texas 76193–0170. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or

comment and then send it to the Manager, Rotorcraft Certification Office.

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

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

(f) This amendment becomes effective on January 18, 1994.

Issued in Fort Worth, Texas, on October 26, 1993.

Henry A. Armstrong,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 93–30366 Filed 12–13–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–CE–36–AD; Amendment 39–8765; AD 93–24–16]

Airworthiness Directives: Puritan Bennett Aero Systems Protective Breathing Equipment, 119003 and 119003–01 Units

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Puritan Bennett Aero Systems protective breathing equipment (PBE), 119003 and 119003–01 units, that are installed on aircraft. This action requires inspecting the affected PBE unit for existence of a yellow label attached to the red rip tag, and removing from service any unit that does not have this yellow label. Reports of deteriorated neck seals on several of the affected PBE units prompted this action. The actions specified by this AD are intended to prevent this possible reduced protection because of a deteriorated neck seal on a PBE unit.

EFFECTIVE DATE: February 4, 1994.

ADDRESSES: Service information that is referenced in this AD may be obtained from Puritan Bennett Aero Systems Company, Attention: Customer Service Department, 10800 Pflumm Road, Lenexa, Kansas 66215; telephone (913) 469–5400, extension 240; facsimile (913) 469–8419. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Flores, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4133; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain Puritan Bennett Aero Systems PBE, 119003 and 119003–01 units, that are installed on aircraft was published in the **Federal Register** on June 25, 1993 (58 FR 34382). The action proposed to require inspecting the affected PBE units for existence of a yellow label attached to the red rip tag, and removing from service any unit that does not have this yellow label. PBE units that have this yellow labelare not susceptible to neck seal deterioration, and therefore removing these units from service is not required. Figure 1 of Puritan Bennett Aero Systems Service Bulletin No. 119003–35–1, dated February 15, 1993, illustrates the location of this yellow label.

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

One commenter concurs with the proposed requirement of replacing these PBE units. This commenter also recommends examining these PBE units to ensure that the packaging is secure, but yet is not so difficult to open as to cause a new problem when a crewmember puts it on (don). The FAA does not concur that this examination should be mandatory by AD action. The Puritan Bennett PBE 119003 and 119003–01 units are within the requirements of Technical Standard Order (TSO)-C116, Crewmember Protective Breathing Equipment. TSO–C116 requires that crewmembers be able to don and activate these units within 15 seconds. Puritan Bennett has provided test data that shows that units incorporating the proposed action meet TSO–C116 requirements. The original PBE units tested were folded with the potassium superoxide canister and the oral-nasal cone compressed against each other. The PBE hoods manufactured after August 1, 1992 (units with a yellow tag and, therefore not susceptible to neck seal deterioration), are folded with the canister behind the oral-nasal cone. This new configuration prevents the hood from pinching when it is removed from the stowage container, and also improves access to the hood. The proposed AD remains unchanged as a result of the comment.

Two commenters request a change in the compliance time. One recommends 18 calendar months instead of 12 calendar months in order to allow Puritan Bennett enough time to support the affected operators with adequate parts. The other recommends 24 calendar months instead of 12 calendar months in order to allow the airlines and industry the needed scheduling time to accomplish the proposed action. The FAA has determined that both of these recommendations are valid and, because the unsafe condition referenced in the proposed AD is one that is dependent upon the occurrence of another unsafe condition (i.e., an aircraft fire), the proposed compliance time is changed from 12 calendar months to 24 calendar months. The FAA believes that most operators will accomplish the proposed action within 12 calendar months.

One commenter explains that the FAA's determination of the cost impact upon U.S. operators is misleading in that the FAA estimates that 12,000 airplanes are affected, and then bases the total fleet cost based upon 12,000 units (one unit per airplane). In actuality, each airplane is equipped with a minimum of three Puritan Bennett PBE units, which, with the way the proposed AD is worded, would affect at least 36,000 units (12,000 airplanes X 3 units each). The FAA concurs that the cost information is misleading. In actuality, there are 12,000 PBE units affected and not 12,000 airplanes. The cost analysis paragraph of the proposed AD has been revised accordingly.

After careful review of all available information, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the change in the compliance time and minor editorial corrections. The FAA has determined that this change and the minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

This AD action is presented in calendar time instead of hours time-in-service because the condition occurs regardless of whether the airplane is utilized, and is corrected through a factory modification. For these reasons, the airplane operator will have 24 calendar months to comply with the required action.

The FAA estimates that 12,000 units in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per unit to accomplish the required action, and that the average labor rate is approximately $55 an hour.

Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $660,000. This figure is based upon the assumption that all units will be removed from service. The FAA believes that many of these units are already removed from service, thus reducing the cost impact upon U.S. operators.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93-24-16 Puritan Bennett Aero Systems: Amendment 39-8765; Docket No. 93-CE-36-AD.

Applicability: Crewmember Protective Breathing Equipment (PBE), 119003 and 119003-01 Units, that are installed on, but not limited to the following airplanes (all serial numbers), certificated in any category:

Manufacturer	Models
Airbus Industries	A300, A310, and A320.
Boeing	727, 737, 747, 757, and 767.
McDonnell Douglas	DC8, DC9, DC10, MD11, MD80, MD81, MD82, and MD83.
de Havilland	DHC-8.
British Aerospace	BAe 146 and BAe 31.
Lockheed	L1011.
Fokker	100.
SAAB	SF340.
Aerospatiale	ATR42 and ATR72.
Canadair	RJ.
Shorts	360.

Compliance: Required within the next 24 calendar months after the effective date of this AD, unless already accomplished.

To prevent failure of a PBE unit because of a deteriorated neck seal, accomplish the following:

(a) Inspect the affected PBE unit for existence of a yellow label attached to the red rip tag. Remove from service any unit that does not have this yellow label.

Note 1: Figure 1 of Puritan Bennett Aero Systems SB No. 119003-35-1, dated February 15, 1993, illustrates the location of this yellow label.

Note 2: PBE units not having a yellow tag may be shipped to the manufacturer at the address specified in paragraph (d) of this AD. The unit will then be modified and shipped back with a yellow tag attached to the red rip tag.

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

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Puritan Bennett Aero Systems Company, Attention: Customer Service Department, 10800 Pflumm Road, Lenexa, Kansas 66215; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) This amendment (39-8765) becomes effective on February 4, 1994.

Issued in Kansas City, Missouri, on December 8, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-30423 Filed 12-13-93; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 90F-0225]

Indirect Food Additives: Paper and Paperboard Components; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of October 6, 1993 (58 FR 51994). The document amended the food additive regulations to provide for the safe use of dimethylamine-epichlorohydrin copolymer as a sizing agent in the manufacture of paper and paperboard products intended for use in contact with food. The document was published with errors. This document corrects those errors.

DATES: Effective October 6, 1993; written objections and requests for a hearing by November 5, 1993.

FOR FURTHER INFORMATION CONTACT: Robin Thomas Johnson, Office of Policy (HF-27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

In FR Doc. 93-24473, appearing on page 51994 in the **Federal Register** of Wednesday, October 6, 1993, the following correction is made:

On page 51996, in the third column, in the authority for part 176, in the third line, "CFR" is removed and "379(e)" is corrected to read "379e".

Dated: December 6, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93-30427 Filed 12-13-93; 8:45 am]

BILLING CODE 4160-01-F

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Penicillin G Benzathine and Penicillin G Procaine Sterile Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Anthony Products Co. The NADA provides for subcutaneous over-the-counter and prescription use of penicillin G benzathine and penicillin G procaine sterile suspension in beef cattle, intramuscular prescription use in horses, and subcutaneous and intramuscular prescription use in dogs for the treatment of bacterial infections due to penicillin susceptible microorganisms.

EFFECTIVE DATE: December 14, 1993.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1623.

SUPPLEMENTARY INFORMATION: Anthony Products Co., 5600 Peck Rd., Arcadia, CA 91006, has filed NADA 65–506 which provides for subcutaneous over-the-counter and prescription use of penicillin G benzathine and penicillin G procaine sterile suspension in beef cattle, intramuscular prescription use in horses, and subcutaneous and intramuscular use in dogs for the treatment of bacterial infections due to penicillin susceptible microorganisms. The product is used in cattle and horses for the treatment of bacterial pneumonia caused by *Streptococcus* spp., *Corynebacterium pyogenes*, and *Staphylococcus aureus*, and upper respiratory infections such as rhinitis or pharyngitis caused by *C. pyogenes*; in horses for equine strangles caused by *Streptococcus equi*; in cattle for blackleg caused by *Clostridium chauvoei*; and in dogs for the treatment of bacterial pneumonia caused by *Streptococcus* spp., *C. pyogenes*, *S. aureus*, and upper respiratory infections such as rhinitis or pharyngitis caused by *C. pyogenes*. When labeled for treating horses, beef cattle and dogs, the product is limited to veterinary prescription use. When labeled for treating beef cattle only, the product is for over-the-counter use. The NADA is approved as of November 8, 1993, and the regulations are amended in 21 CFR 522.1696a to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval does not qualify for marketing exclusivity because no new clinical or field investigations (other than bioequivalence or residue studies) and no new human food safety studies (other than bioequivalence or residue studies) were essential to the approval and conducted or sponsored by the applicant.

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

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.1696a [Amended]

2. Section 522.1696a *Penicillin G benzathine and penicillin G procaine sterile suspension* is amended in paragraph (b)(1) by revising the phrase "See Nos. 000008, 000029, 000856, and 010515" to read "See Nos. 000008, 000029, 000856, 000864, and 010515" and in paragraph (b)(3) by revising the phrase "See Nos. 000069 and 010515" to read "See Nos. 000069, 000864, and 010515".

Dated: December 3, 1993.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 93–30430 Filed 12–13–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR PART 110

[CGD 09–92–023]

Disestablishing Special Anchorage Area, Lake Erie, Put-In-Bay, OH

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is disestablishing the Special Anchorage Area in Put-In-Bay, Lake Erie. The regulation as it stands, allows vessels to remain in the anchorage area in periods of darkness without displaying anchor lights as required by the Navigational Rules. In the interest of safety and the prevention of marine incidents, the Coast Guard intends to remove the status of "Special Anchorage Area" from Put-In-Bay due to harbor traffic congestion.

DATES: This regulation becomes effective on December 14, 1993.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Scott J. Smith, U.S. Coast Guard, Aids to Navigation and Waterways Management Branch, Ninth Coast Guard District, room 2083, 1240 East Ninth Street, Cleveland, Ohio, 44199–2060, (216) 522–3990.

SUPPLEMENTARY INFORMATION: On October 16, 1992, the Coast Guard published a Notice of Proposed Rulemeking in the **Federal Register** (57 FR 47432, October 16, 1992) which considered the disestablishment of the special anchorage area previously in effect at Put-In-Bay, Lake Erie, under 33 CFR 110.84a.

Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of this regulation are Captain Roderick A. Schultz, U.S. Coast Guard, project officer, Chief, Ninth Coast Guard District Aids to Navigation and Waterways Management Branch, and Lieutenant Karen E. Lloyd, U.S. Coast Guard, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

Maritime recreational use of this area has increased decidedly since the issue

date of the original regulation. Customary anchoring extends well outside the limits of the special anchorage area and consists of transient vessels that use their anchor lights. The regulation as it stands, allows vessels to remain in the anchorage area in periods of darkness without displaying anchor lights as required by the Navigational Rules. In the interest of safety and the prevention of marine incidents due to congestion, the Coast Guard is removing the status of "Special Anchorage Area" from Put-In-Bay.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. These regulations do not impose any new regulatory requirements in an area not heretofore regulated by the Federal Government, and do not impose any requirements or restrictions on State or local authorities.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, they are categorically excluded from further environmental documentation.

Economic Assessment and Certification

This regulation is not considered a significant regulatory action under Executive Order 12866 and is not significant under Department of Transportation regulatory policies and procedures (44 FR 11034 of February 26, 1979). The impact of these regulations is expected to be minimal, and the Coast Guard therefore certifies that, if adopted, they will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

Collection of Information

These regulations will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulations

In consideration of the foregoing, the Coast Guard amends part 110 of title 33, Code of Federal Regulations, as follows:

PART 110—ANCHORAGE REGULATIONS

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

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

§ 110.84a [Removed]

2. In Part 110, Section 110.84a is removed.

Dated: December 6, 1993.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 93–30490 Filed 12–13–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH–13–1–5175; FRL–4813–7]

Approval and Promulgation of Air Quality Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is disapproving a requested revision to the Ohio State Implementation Plan (SIP) for particulate matter (PM) and nitrogen oxides (NO_x) for sources within specified source categories that require continuous emission monitoring (CEM) and recording. USEPA's action is based upon a revision request submitted by the State to satisfy the requirements of the Clean Air Act.

EFFECTIVE DATES: This action will be effective February 14, 1994, unless notice is received by January 13, 1994, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and USEPA's technical support document are available for inspection during normal business hours at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE–17J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Maggie Greene, Air Enforcement Branch, Regulation Development Section (AE–17J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6088.

SUPPLEMENTARY INFORMATION:

On January 5, 1987, the State of Ohio submitted to the USEPA a revision to the Ohio State Implementation Plan (SIP) for particulate matter and nitrogen oxides for sources within specified source categories that require continuous emission monitoring (CEM) and recording. The revision request consists of CEM requirements contained in operating permits for 116 associated sources, at 37 facilities.

The requirements at issue are necessary to meet the general guidelines established in section 110(a)(2)(F)(i), (ii), and (iii) of the Clean Air Act and the specific provisions described in 40 CFR part 51, appendix P. Section 110(a)(2)(F) provides that the SIP must require the installation of equipment to monitor emissions from stationary sources, periodic reporting of such emissions and correlation of such reports with any emission limitations established in the SIP for these source categories. In appendix P, USEPA described specific minimum requirements for CEM that each SIP must include in order to be approved under the provisions of 40 CFR 51.214. CEM plans are required by 40 CFR 51.214 to provide, as a minimum, legally enforceable procedures for requiring the stationary sources to install and operate CEM equipment.

The source categories and the respective monitoring requirements identified in 40 CFR part 51, appendix P are listed below:

1. Fossil fuel-fired steam generators. This category shall be monitored for opacity, nitrogen oxide emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.

2. Fluid bed catalytic cracking unit catalyst regenerators. This category shall be monitored for opacity.

3. Sulfuric acid plants. This category shall be monitored for sulfur dioxide emissions.

4. Nitric acid plants with greater than 300 tons per day production capacity shall be monitored for nitrogen oxide emissions.

This revision request applies to the source categories of fossil fuel-fired steam generators (except for sulfur dioxide (SO_2) emissions), fluid bed catalytic cracking unit catalyst generators, and nitric acid plants. This revision request does not apply to the

monitoring of SO_2 emissions at fossil fuel-fired steam generators and sulfuric acid plants. These two emission sources are covered in a separate **Federal Register** rulemaking (54 FR 1693), dated January 17, 1989. The State indicated that there are no nitric acid plants in Ohio with a production capacity greater than 300 tons per day.

Following is a list of the 37 facilities in Ohio that are subject to the CEM requirements in the SIP revision request:

Cincinnati Gas and Electric (CG&E) Company–W.C. Beckjord Station
CG&E Miami Fort Station
Cleveland Electric Illuminating (CEI) Company (Centerior Energy) Ashtabula Plant "A"
CEI Ashtabula Plant "C"
CEI Avon Lake Plant
CEI Eastlake Plant
CEI Lakeshore Plant
Columbus and Southern Ohio Electric (C&SOE) Company–Conesville Station
C&SOE Poston Station
C&SOE Pickaway Station
Dayton Power and Light (DP&L) Company–Longworth Station
DP&L J.M. Stuart Station
DP&L Hutchings Station
Mead Paper-Chillicothe Facility
Ohio Edison (OE) Company Niles Station
OE R.E. Burger Station
OE Toronto Station
OE W.H. Sammis Station
OE Edgewater Station
OE Gorge Station
Ohio Power (OP) Company–Gavin Plant
OP Cardinal Operating Company
OP Buckeye Power, Inc.
OP Muskingum River Plant
Ohio Valley Electric (OVE) Company–Kyger Creek Station
Orrville Municipal Power Plant
Toledo Edison (TE) Company (Centerior Energy)–Acme Station
TE Bay Shore Station
Piqua Municipal Power Plant
Elkem Metals Company
Goodyear Tire and Rubber Company–Akron Plant II
Procter and Gamble Company
The Standard Oil Company–Lima Refinery
The Standard Oil Company–Oregon
Sun Refining and Marketing Company–Toledo Refinery
Champion International, Hamilton Mill Champion Papers
Hamilton Municipal Electric Plant

The opacity CEM requirements apply to 34 of the above facilities with fossil fuel-fired steam generators, and 3 of the above facilities with petroleum refinery fluid bed catalytic cracking unit catalyst regenerators.

The State of Ohio furnished USEPA with the following supplemental information regarding these facilities subsequent to submittal of the SIP revision request. The Columbus and Southern Ohio Electric Company has changed its name to the Columbus Southern Power Company (CSPC). CSPC's Poston Station was permanently shut down on October 27, 1987. The Standard Oil Company of Ohio is now owned and operated by the British Petroleum Oil Company. On September 1, 1988, the American Municipal Power-Ohio, Inc. (AMP-Ohio) took over the ownership and operation of the Elkem Metals Company boilerhouse.

Final Action

USEPA is disapproving the requested revision to the Ohio SIP for particulate matter for the sources listed above that require CEM and recording. CEM plans are required by 40 CFR 51.214 to contain legally enforceable procedures for requiring stationary sources listed in 40 CFR part 51, appendix P, to install and operate CEM equipment. Ohio's CEM requirements for monitoring and reporting are contained in operating permits that have expired and are, therefore, no longer enforceable.

Because USEPA considers this action noncontroversial and routine, we are disapproving it without prior proposal. The action will become effective on February 14, 1994. However, if we receive notice by January 13, 1994, that someone wishes to submit critical comments, then USEPA will publish: (1) A notice that withdraws the action; and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in the context of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. The USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The Office of Management and Budget has agreed to continue the temporary waiver until such time as it rules on USEPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

USEPA's disapproval of the State request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, USEPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, USEPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new Federal requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 14, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 2, 1993.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 93–30462 Filed 12–13–93; 8:45 am]

BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–38 and 101–39

[FPMR Amendment G–105]

Motor Vehicles

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation updates fuel economy objectives, deletes motor vehicle acquisition procedures, and implements the revised Standard Form (SF) 91, Motor Vehicle Accident Report. This regulation is issued to reflect new fuel economy standards issued by the Secretary of Transportation, to delete sections that are duplicative to GSA procurement programs regulations, and to reflect the revision of SF 91 and the cancellation of SF 91A, Investigation Report of Motor Vehicle Accident, and Optional Form 26, Data Bearing Upon Scope of Employment of Motor Vehicle Operator. The intended result is to provide updated fuel economy standards, delete repetitive language in the regulation, and prescribe updated forms for use in reporting motor vehicle accidents.

EFFECTIVE DATE: December 14, 1993.

FOR FURTHER INFORMATION CONTACT: Michael W. Moses, Fleet Management Division (703–305–6273).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

On October 20, 1992, FPMR Amendment E–272, Purchase of new motor vehicles, was published in the **Federal Register**. Many of the policies and procedures contained in that amendment are also covered in 41 CFR part 101–38. In light of the cost associated with updating duplicative sections, 41 CFR 101–38.103–1 through 101–38.104–8 are deleted.

The Secretary of Transportation establishes yearly fleet average fuel economy objectives for passenger automobiles and light trucks. Prior to this amendment, 41 CFR 101–38.101–3 provided fuel economy objectives through fiscal year 1992 for the combined average and for passenger automobiles, and through fiscal year 1991 for light trucks. The Secretary of Transportation has established fuel economy objectives for the combined average and passenger automobiles through fiscal year 1995, and for light trucks through fiscal year 1994. Accordingly, the FPMR is updated by this amendment to reflect these additional objectives.

In accordance with 41 CFR 101–38.601 and 101–39.4 all motor vehicle operators are required to complete Standard Form (SF) 91, (previously titled Operator's Report of Motor Vehicle Accident) and SF 91–A, Investigation Report of Motor Vehicle Accident, whenever they are involved in an accident. Prior to this amendment, operators of GSA Interagency Fleet Management System (IFMS) motor vehicles were also required to complete Optional Form (OF) 26, Data Bearing Upon Scope of Employment of Motor Vehicle Operator, whenever they were involved in an accident. Some of the entries on the SF 91, SF 91–A, and OF 26 are duplicative and require a burdensome amount of time to report an accident. Items which are duplicated on two or more forms include vehicle operator names, addresses, and telephone numbers; vehicle descriptions; vehicle ownership; location of accident; and a narrative of the accident. Significant data elements have been taken from each of the three forms and consolidated on the revised SF 91, Motor Vehicle Accident Report. GSA has added third party insurance information (company name, address, telephone number, and policy number) to the revised SF 91. Operators of GSA IFMS motor vehicles are already required to obtain insurance company information using regionally prescribed forms.

On January 23, 1992, GSA published a notice of intent to revise SF 91 in the **Federal Register**. The notice asked for comments from all interested parties concerning the revised SF 91 illustrated therein. GSA received comments from seven Federal agencies. Six of the agencies agreed with the proposed form with minor changes. The seventh agency, the Department of the Treasury, requested that blocks 12–22 of the SF 91–A be retained. Those blocks provided a "check-the-correct-block" format giving insight into weather and road conditions at the accident scene. GSA did not adopt that suggestion as it would have been redundant to other sections of the revised form. The proposed form has been revised to include all suggestions received as a result of the **Federal Register** notice with the exception of the Department of the Treasury comments concerning blocks 12–22.

Regulatory Flexibility Act

This amendment is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects

41 CFR Part 101–38

Energy conservation, Government property management, Motor vehicles, Reporting and recordkeeping requirements.

41 CFR Part 101–39

Claims, Government property management, Motor vehicles, Reporting and recordkeeping requirements, Safety.

For the reasons set forth in the preamble, 41 CFR parts 101–38 and 101–39 are amended as follows:

1. The authority citation for parts 101–38 and 101–39 continues to read as follows:

Authority: Sec 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

PART 101–38—MOTOR EQUIPMENT MANAGEMENT

2. The heading for subpart 101–38.1 is revised to read as follows:

Subpart 101–38.1—Fuel Efficient Motor Vehicles

3. Section 101–38.100 is amended by revising paragraph (a) to read as follows:

§ 101–38.100 Scope and applicability.

(a) This subpart prescribes policies and procedures relating to energy conservation in motor vehicles used for official purposes by the Federal Government.

* * * * *

4. Section 101–38.101 is revised to read as follows:

§ 101–38.101 Acquisition of motor vehicles.

Motor vehicles shall be acquired in accordance with 41 CFR part 101–26, subpart 101–26.5.

§§ 101–38.103–1, 101–38.104, and 101–38.104–1—101–38.104–8 [Removed]

5. Sections 101–38.103–1, 101–38.104, and 101–38.104–1 through 101–38.104–8 are removed.

Subpart 101–38.1—[Amended]

6. Subpart 101–38.1 is amended by redesignating certain sections as set out in the following table:

Old section	New section
101–38.101–1	101–38.102
101–38.101–2	101–38.103
101–38.101–3	101–38.104
101–38.102	101–38.105
101–38.103	101–38.106

7. Newly designated § 101–38.103 is revised to read as follows:

§ 101–38.103 Mandatory provisions affecting the acquisition and use of motor vehicles.

(a) Except for those vehicles exempted under the provisions of § 101–38.104(b)(6), all motor vehicles acquired for official purposes by executive agencies shall be selected to achieve maximum fuel efficiency and limited to the minimum body size, engine size, and optional equipment necessary to meet agencies' requirements.

(b) Use of Government limousines (class V) and large (class IV) sedans shall be eliminated. Exceptions shall be made only for the President and Vice President and for security and highly essential needs. Executive agencies shall certify all exceptions to the Administrator of General Services.

(c) All class IV and V sedans shall be replaced by class II or smaller sedans unless a class III is absolutely essential to the agency's mission and certified accordingly to the Administrator of General Services.

(d) Executive agencies are governed by the provisions of 31 U.S.C. 1344 and 1349 and 18 U.S.C. 641 which define and govern the use of motor vehicles for official purposes.

8. Newly designated § 101–38.104 is revised to read as follows:

§ 101–38.104 Fuel efficient passenger automobiles and light trucks.

(a) This section provides policy governing the acquisition of fuel-efficient passenger automobiles and light trucks by executive agencies and provides for the administration of a consolidated Federal fleet plan for use in monitoring those acquisitions. This authority is derived from Executive Order 11912, dated April 13, 1976, 3 CFR, 1976 Comp., p. 114), and Executive Order 12375, dated August 4, 1982, 3 CFR, 1982 Comp., p. 202), which designated and empower the Administrator of General Services to perform, without approval, ratification, or other action by the President the functions vested in the President by section 510 of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 915, 15 U.S.C. 2010).

(b) The acquisition of passenger automobiles by an executive agency shall be limited to class IA, IB, or II (small, subcompact, or compact) unless the agency certifies to the Administrator of General Services that a larger class vehicle is essential to the agency's mission. The certification shall include the reasons for requiring a vehicle larger than a class II, compact.

(1) In compliance with Executive Orders 11912 and 12375, GSA administers a consolidated Federal fleet program to monitor passenger automobiles and light trucks acquired by executive agencies. The program is based upon the actual vehicle leases and purchases of passenger automobiles and light trucks, reported by vehicle class, by executive agencies to GSA. GSA administers the program by maintaining a master record of the miles per gallon ratings for passenger automobiles and light trucks actually acquired by each agency during the fiscal year. The GSA program will be used to verify that each agency's vehicle leases and purchases conform with Executive Order 12375; i.e., the agency will achieve the fleet average fuel economy for the applicable fiscal year.

(2) The Federal fleet program enables GSA to determine the total fleet average fuel economy achieved by all executive agencies at the end of each fiscal year and to provide management assistance to agencies to ensure compliance with Executive Order 12375. Copies or synopses of actual vehicle leases and vehicle purchases not procured through the GSA Automotive Commodity Center shall be forwarded to the General Services Administration, ATTN: FBF, Washington, DC 20406, not later than December 1st of each year, in accordance with the requirements set forth in § 101–38.105.

(3) Passenger automobiles and light trucks acquired by executive agencies must meet the fleet average fuel economy objectives set forth below for the appropriate fiscal year:

Fiscal year	Miles per gallon			
	Average fuel[1] economy standard	Passenger automobiles	Light trucks	
			Fleet average fuel[2] economy 4x2	Fleet average fuel[2] economy 4x4
1977	18.0	18.0	.....	.....
1978	18.0	20.0	.....	.....
1979	19.0	22.0	17.2	15.8
1980	20.0	24.0	16.0	14.0
1981	22.0	26.0	16.7	15.0
1982	24.0	24.0	18.0	16.0
1983	26.0	26.0	19.5	17.5
1984	27.0	27.0	20.3	18.5
1985	27.5	27.5	19.7	18.9
1986	26.0	26.0	20.5	19.5
1987	26.0	26.0	21.0	19.5
1988	26.0	26.0	21.0	19.5
1989	26.5	26.5	21.5	19.0
1990	27.5	27.5	20.5	19.0
1991	27.5	27.5	[1]20.7	[1]19.1
1992	27.5	27.5	[3]20.2	[3]20.2
1993	27.5	27.5	[3]20.4	[3]20.4
1994	27.5	27.5	[3]20.5	[3]20.5

Fiscal year	Miles per gallon			
	Average fuel[1] economy standard	Passenger automobiles	Light trucks	
			Fleet average fuel[2] economy 4×2	Fleet average fuel[2] economy 4×4
1995 and beyond	27.5	27.5	(4)	(4)

[1] Established by section 502 of the Motor Vehicle Information and Cost Savings Act (89 Stat. 902, 15 U.S.C. 2002) and the Secretary of Transportation.
[2] Established by the Secretary of Transportation and mandated by Executive Order 12003 through fiscal year 1981 and by Executive Order 12375 beginning in fiscal year 1982.
[3] Fleet average fuel economy for light trucks is the combined fleet average fuel economy for all 4×2 and 4×4 light trucks.
[4] Requirements not yet established by the Secretary of Transportation.

(4)(i) The method of calculating the fleet average fuel economy uses harmonic averaging and is specifically required by section 510 of the Motor Vehicle Information and Cost Savings Act (89 Stat. 915; 15 U.S.C. 2010) and applies to the calculations for passenger automobiles and light trucks. A sample of the method used to calculate the fleet average fuel economy is shown in paragraph (b)(4)(ii) of this section. This information is derived from the total number of vehicles to be acquired by an agency and the Environmental Protection Agency (EPA) miles per gallon rating provided by GSA in accordance with § 101–105(a).

(ii) Light trucks: 4×2, total number (600) divided by:

(A) Six-cylinder automatic transmission van-wagons and van-panels (200) divided by 17 mpg; plus

(B) Eight-cylinder automatic transmission van-wagons and van-panels (75) divided by 16 mpg; plus

(C) Six-cylinder manual transmission pick-ups (100) divided by 24 mpg; plus

(D) Six-cylinder automatic transmission pick-ups (200) divided by 20 mpg; plus

(E) Six-cylinder automatic transmission sedan deliveries (25) divided by 21 mpg.

$$= \frac{600}{\frac{200}{17}+\frac{75}{16}+\frac{100}{24}+\frac{200}{20}+\frac{25}{21}}$$

$$= \frac{600}{11.765+4.688+4.167+10.0+1.190}$$

$$= \frac{600}{31.810} = 18.9 \text{ (Rounded to nearest 0.1 mpg}$$

(5) An agency may request exemptions from paragraph (b)(4) of this section for light trucks or categories of light trucks if they are determined to be appropriate in terms of energy conservation, economy, efficiency, or service. Agencies shall submit these requests in writing to the Administrator of General Services, Washington, DC 20405, and shall state the reasons supporting the request for exemption. The Administrator will review the request, determine if the request is appropriate, and advise the requesting agency of the determination. Light trucks exempted under the provisions of this paragraph shall not be included in the calculation of an agency's fleet average fuel economy.

(6) This subpart does not apply to passenger automobiles and light trucks designed to perform combat-related missions for the U.S. Armed Forces or designed for use in law enforcement or emergency rescue work.

9. Newly designated § 101–38.105 is revised to read as follows:

§ 101–38.105 Agency purchase and lease of motor vehicles.

(a) Executive agencies that comply with the provisions of § 101–26.501–1 (b) and (c) of this chapter may acquire vehicles without using the services of the GSA Automotive Commodity Center. Copies of actual vehicle leases and purchases acquired for domestic fleets which are not procured through the GSA Automotive Commodity Center will be furnished to the General Services Administration, ATTN: FBF, Washington, DC 20406. Each submission shall use the unadjusted combined city/highway mileage ratings for passenger automobiles and light trucks developed by the Environmental Protection Agency (EPA) for each fiscal year. The submissions shall be forwarded to GSA as soon as possible after the purchase or effective date of the lease. All submissions for the previous fiscal year shall reach GSA by December 1st of each year. GSA issues information concerning the EPA mileage ratings and miles per gallon rating guidance to assist agencies in the timely planning of their acquisitions. Agencies not intending to purchase or lease vehicles or agencies that satisfy their total motor vehicle requirements through the GSA Interagency Fleet Management System shall so inform GSA.

(b) The submission of actual vehicle leases and agency purchases or synopses for passenger automobiles and light trucks acquired during the fiscal year includes vehicles which were procured or leased for use in any State or Commonwealth of the United States and the District of Columbia. Agencies shall not include passenger automobiles and light trucks which are:

(1) Procured or leased for use outside the foregoing areas;

(2) Designed to perform combat-related missions for the U.S. Armed Forces; or

(3) Designed for use in law enforcement or emergency rescue work.

(c) Requisitions for passenger automobiles and light trucks sent to GSA for procurement action, but for which a contract is not awarded during the same fiscal year the requisitions are submitted, shall be included in the agency's vehicle lease and purchase record for the fiscal year in which the contract is awarded.

(d) When a vehicle lease contains an option to renew and the option is exercised, that renewal action shall not be included as a new acquisition. However, before the exercise of the renewal option, an agency must submit its requirements to GSA in accordance with § 101–39.204 of this chapter to determine if the requirement can be satisfied through the Interagency Fleet Management System.

(e) In order to maintain a master record of all leased passenger vehicles and light trucks under 8,500 pounds (GVWR), agencies shall forward to the General Services Administration, ATTN: FBF, Washington, DC 20406, copies of lease agreements for those vehicles leased for a period of 60 continuous days or more, or they may submit the following information:

(1) Number of vehicles, by category;

(2) Year;

(3) Make;

(4) Model;

(5) Transmission type (if manual, number of forward speeds);

(6) Cubic inch displacement;

(7) Fuel system (fuel injection or carburetor (number of barrels));

(8) Monthly lease cost;

(9) Duration of lease (include option to renew);

(10) Vehicle type (4×2 or 4×4—light trucks only);

(11) Gross vehicle weight rating (GVWR): Light trucks only; and

(12) Lessor's name and address.

(f) Submission of requisitions for procurement or requests for authority to lease vehicles, which in the judgment of GSA will result in noncompliance with the fleet average fuel economy by the end of the fiscal year, may result in requisitions being held in abeyance pending adjustment to the agency's acquisition plan to ensure compliance with fuel economy requirements.

(g) Requisitions submitted to GSA for vehicles shall conform to the requirements of § 101–25.501 of this chapter.

(h) Agencies may request GSA assistance when planning their acquisitions by contacting the General Services Administration, ATTN: FBF, Washington, DC 20406.

(i) Information concerning vehicles purchased for agencies by the GSA Automotive Commodity Center is provided internally; therefore, vehicles procured by GSA are not required to be reported.

10. Newly designated § 101–38.106 is revised to read as follows:

§ 101–38.106 Leasing for motor vehicles.

(a) Under the provisions of §§ 101–38.103 and 101–38.105(d), all requirements for leased motor vehicles that are needed by Federal executive agencies for 60 consecutive days or more, shall be submitted to General Services Administration, ATTN: FBF, Washington, DC 20406, for a determination of whether the requirements can be satisfied through the Interagency Fleet Management System. The request shall be prepared in accordance with the requirements of § 101–39.204 of this chapter.

(b) All charter services are exempted from the provisions of this section.

Subpart 101–38.6—Reporting Motor Vehicle Accidents

11. Section 101–38.601 is revised to read as follows:

§ 101–38.601 Accident reporting forms and their use.

The Standard forms available to all executive agencies for use in reporting motor vehicle accidents are listed below. Accident reports pertaining to agency-owned or -leased vehicles shall be processed in accordance with applicable agency directives. Accident reports pertaining to GSA Interagency Fleet Management System vehicles shall be processed in accordance with 41 CFR part 101–39, subpart 101–39.4.

(a) Standard Form 91, Motor Vehicle Accident Report, should be completed at the time and on the scene of the accident, insofar as possible, regardless of the extent of damage to the vehicle. A Standard Form 91 should be carried at all times in Government-owned and -leased motor vehicles.

(b) Standard Form 94, Statement of Witness, should be carried at all times in Government-owned and -leased vehicles and should be completed by persons who witness an accident. Standard Form 94 has been approved by the Office of Management and Budget under OMB control number 3090–0033.

PART 101–39—INTERAGENCY FLEET MANAGEMENT SYSTEMS

Subpart 101–39.3—Use and Care of GSA Interagency Fleet Management System Vehicles

12. Section 101–39.306 is amended by revising paragraph (g) to read as follows:

§ 101–39.306 Operator's packet

* * * * *

(g) Accident reporting kit which contains:

(1) Standard Form 91, Motor Vehicle Accident Report; and

(2) Standard Form 94, Statement of Witness.

* * * * *

Subpart 101–39.4—Accidents and Claims

13. Section 101–39.401 is amended by revising paragraphs (b) and (c) to read as follows:

§ 101–39.401 Reporting of accidents.

* * * * *

(b) In addition, the vehicle operator shall obtain and record information pertaining to the accident on Standard Form 91, Motor Vehicle Accident Report. Only one copy of the Standard Form 91 is required. When completed, the Standard Form 91 shall be given to the vehicle operator's supervisor. The vehicle operator shall also obtain the names, addresses, and telephone numbers of any witnesses and, wherever possible, have witnesses complete Standard Form 94, Statement of Witness, and give the completed Standard Form 94 and other related information to his or her supervisor. The vehicle operator shall make no statements as to the responsibility for the accident except to his or her supervisor or to a Government investigating officer.

(c) Whenever a vehicle operator is injured and cannot comply with the above requirements, the agency to which the vehicle is issued shall report the accident to the State, county, or municipal authorities as required by law, notify the GSA IFMS fleet manager of the center issuing the vehicle as soon as possible after the accident, and complete and process Standard Form 91. A complete copy of the accident report shall be forwarded to the appropriate GSA office as outlined in the vehicle operator's packet.

14. Section 101–39.403 is amended by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively, and revising them to read as follows:

§ 101–39.403 Investigation.

* * * * *

(b) The agency employing the vehicle operator shall investigate the accident within 48 hours after the actual time of occurrence. Also, GSA may investigate any accident involving an IFMS vehicle when deemed necessary. Should such investigation develop additional information, the additional data or facts will be furnished to the using agency for its information.

(c) Two copies of the complete report of the investigation, including (when available) photographs, measurements, doctor's certificate of bodily injuries, police investigation reports, operator's statement, agency's investigation reports, witnesses' statements, the Motor Vehicle Accident Report (SF 91), and any other pertinent data shall be furnished to the manager of the GSA IFMS fleet management center issuing the vehicle.

Dated: September 28, 1993.

Julia M. Stasch,

Acting Administrator of General Services.

[FR Doc. 93–29992 Filed 12–13–93; 8:45 am]

BILLING CODE 6820–24–M

LEGAL SERVICES CORPORATION

45 CFR Part 1602

Procedures for Disclosure of Information Under the Freedom of Information Act

AGENCY: Legal Services Corporation.

ACTION: Final rule; delay of effective date.

SUMMARY: This final rule delays the effective date of revisions to 45 CFR part 1602, the Legal Services Corporation's ("LSC" or "Corporation") regulation implementing the Freedom of Information Act ("FOIA") because of enactment of Public Law 103–121. The final rule will become effective on October 2, 1994.

EFFECTIVE DATE: This document is effective October 27, 1993.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, General Counsel, 202–336–8810.

SUPPLEMENTARY INFORMATION: A final rule amending 45 CFR part 1602 was published on October 13, 1993, with an effective date of November 12, 1993, 58 FR 52918. Before the rule became effective, the Corporation's fiscal year 1994 appropriations act became law (Pub. L. 103–121, 107 Stat. 1184). The appropriations act contains a proviso that delays the effective date of any regulations adopted by a non-confirmed LSC Board after October 1, 1990 until after October 1, 1994.[1] Because part 1602 was adopted by a non-confirmed LSC Board[2] after October 1, 1990, and did not become effective before the FY 1994 appropriations act became law, Part 1602 cannot become effective until after October 1, 1994. Therefore, absent any superceding action by the Corporation's confirmed Board, the new effective date for the revisions to 45 CFR part 1602 is October 2, 1994.

Dated: December 8, 1993.

Victor M. Fortuno,

General Counsel.

[FR Doc. 93–30401 Filed 12–13–93; 8:45 am]

BILLING CODE 7050–01–P

[1] The proviso does not apply to any regulations that had already become effective before the appropriations act became law.

[2] LSC is governed by a Board of 11 directors who are nominated by the President of the United States and confirmed by the United States Senate. 42 U.S.C. 2996c(a). Until October 21, 1993, when the current LSC Board was confirmed, the Corporation was governed by a Board consisting of recess appointees.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 921185–3021; I.D. 120693A]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Rescission of a closure.

SUMMARY: NMFS is rescinding the closure to directed fishing for pollock by the offshore component in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully utilize the allowance of the total allowable catch (TAC) of pollock for the offshore component in the BS.

EFFECTIVE DATE: 12 noon, Alaska local time, A.l.t., December 15, 1993, until 12 midnight, A.l.t., December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The directed fishery for pollock in the BS by vessels catching pollock for processing by the offshore component was previously closed under § 675.20(a)(8) on September 22, 1993 (58 FR 50298, September 27, 1993).

The Director of the Alaska Region, NMFS, has determined that the allowance of the TAC of pollock allocated to the offshore component in the BS has not been reached. Therefore, NMFS is rescinding that closure and is re-opening directed fishing for pollock in the BS for vessels catching pollock for processing by the offshore component effective at 12 noon, A.l.t., December 15, 1993, until 12 midnight, A.l.t., December 31, 1993.

Classification

This action is taken under § 675.20.

List of Subjects in 50 CFR 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: December 9, 1993.

David S. Crestin,

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

[FR Doc. 93–30473 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 238
Tuesday, December 14, 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.

FEDERAL RESERVE SYSTEM

12 CFR Part 230

[Regulation DD; Docket No. R-0818]

Truth in Savings; Proposed Preemption Determination (Wisconsin)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is publishing for comment a proposed determination of the consistency of Wisconsin's Truth in Savings law with the federal Truth in Savings Act and Regulation DD. The Board is proposing not to preempt the state law because it believes the state requirements are not inconsistent with the federal provisions.

DATES: Comments must be received on or before February 8, 1994.

ADDRESSES: Comments should refer to Docket No. R-0818, and may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Comments also may be delivered to room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, NW. (between Constitution Avenue and C Street) any time. Comments may be inspected in room MP-500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding the availability of information.

FOR FURTHER INFORMATION CONTACT: Kurt Schumacher, Staff Attorney (202/452-2412) or (202/452-3667), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th & C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: (1) *General.* The Board has received a request for a determination that certain provisions of Wisconsin law are inconsistent with the federal Truth in Savings Act and Regulation DD and are therefore preempted. Section 273 of the Truth in Savings Act (TISA; 12 U.S.C. 4312) states that the provisions of the act do not supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts, except to the extent that those laws are inconsistent with the provisions of this Act, and then only to the extent of the inconsistency. The act also grants the Board the authority to determine whether any inconsistencies exist between federal and state law.

Similarly, appendix C to Regulation DD (12 CFR part 230) provides that state requirements are inconsistent with, and therefore preempted by, the federal provisions if the state law requires a depository institution to make disclosures or take actions that contradict the requirements of the federal law. The appendix specifies that a state law is also inconsistent if it requires the use of the same term to represent a different amount or a different meaning than the federal law, requires the use of a term different from that required in the federal law to describe the same item, or permits a method of calculating interest on an account different from that required in the federal law.

The procedure for requesting a determination and the general procedures followed in making a determination are also contained in appendix C to 12 CFR part 230. Preemption determinations are generally limited to those provisions of state law identified in the request for a determination. At the Board's discretion, however, other state provisions that may be affected by the federal law may also be addressed.

(2) *Discussion of specific request and proposed determination.* The Board has been asked to determine whether specific provisions of Wisconsin Statutes section 224.08 regarding disclosures for deposit accounts at banks are inconsistent with the TISA and Regulation DD and are therefore preempted. The TISA and Regulation DD require depository institutions to give consumers disclosures before opening a deposit account, and upon a request made by a consumer. Provisions of the TISA also set out requirements for the payment of interest on accounts, provide rules for account advertisements and change in terms notices, and mandate certain information to be provided on periodic statements for accounts that receive such statements. In addition, the TISA and Regulation DD establish the concept of an "annual percentage yield" to aid consumers in making accurate comparisons between the rates paid on different accounts.

Section 224.08 of the Wisconsin Statutes requires disclosure statements to be given for each account offered by a bank, setting forth the following information: a description of the account, the conditions, if any, on which the account is offered, the terms of interest offered for the account, and all fees charged for the account. The disclosure statement under state law may include a separate interest rate table or fee schedule, or both. Banks must provide this information at the time of the depositor's initial deposit into the account, upon any change in any of the information applicable to a depositor's account (other than a change in the interest rate of a variable interest rate account if the variability of the interest rate was disclosed at the time of the initial deposit), and upon request. Finally, the state law requires that the disclosure statement for an account be accompanied by a brief description of all other accounts offered by the bank and a statement that more detailed information is available on request.

Coverage of Institutions

The requesting party submits that state law is inconsistent with Truth in Savings and Regulation DD because the state law covers only state-chartered banks, and not other depository institutions such as savings associations and national banks. The federal law covers *all* depository institutions, whether state-chartered or not (and includes deposit brokers that offer deposit accounts for the purpose of the advertising rules). The Board believes that state law disclosures are not inconsistent with federal provisions, and therefore are not preempted, simply because coverage under the state

provisions is more limited than under the federal law.

Content and Format of Disclosures

The requesting party asks the Board for a determination that the content of the state law disclosures is inconsistent with the federal law. The state law permits disclosures to be more general than the federal law allows—for example, by mandating only a statement of the "terms of interest offered for the account," and not requiring an "annual percentage yield" to be given, using that term. However, the Board believes that state law does not *prohibit* institutions from being more specific in fulfilling their state disclosure requirements. Therefore, institutions can comply with the state provisions while still complying with the more detailed federal requirements.

Similarly, the requesting party suggests that preemption of the state law is warranted based on the format of the required state disclosures. Wisconsin law requires that each account disclosure include a "brief description" of all other accounts offered by the bank, along with a statement that more detailed information is available upon request. The federal law contains no similar requirement. The Board believes that banks are able to comply with this provision of the Wisconsin law without contradicting the requirements of the federal law, and therefore that preemption is not warranted based on the state requirement.

Change in Terms Notice

The requesting party believes that the change in terms provision of the Wisconsin law is inconsistent with the federal law and should be preempted for three reasons. First, the state law requires redisclosure of *all* state law disclosures (presumably including the "brief statement" of all other accounts offered by the institution). In contrast, Regulation DD requires notice to consumer account-holders only of the specific provision that is being changed. Second, state law requires a change in terms notice to be sent upon "any" change to a depositor's account that was initially required to be disclosed (except a change in the interest rate for a variable rate account). The federal law requires a change in terms notice only where the change reduces the annual percentage yield or adversely affects the consumer (*see* section 230.5(a)). Third, state law redisclosure is required "upon" any change in the account. The Truth in Savings act and Regulation DD generally require a change in terms notice at least 30 days prior to the effective date of the change.

As stated above, the Board believes a state law is not inconsistent simply because it requires more information than federal law requires, or because the state law requires disclosures in cases where the federal law requires none. A bank can comply with the advance change in terms required under federal law by providing the more detailed information in the instances required by the state law. While Regulation DD allows new account disclosures to be sent in substitution for a notice containing only the changed terms of an account, in order to comply with the federal law these disclosures must specifically bring the changed terms to the consumer's attention (for example, by highlighting them in some way). The state and federal laws have different requirements in this regard, but the Board does not believe they are inconsistent.

Finally, the Board believes the state law requirement that a bank redisclose all applicable information "upon" any change in a term that was initially disclosed is not inconsistent with the federal provision requiring at least 30 days advance notice of the effective date of the change. The office of the Wisconsin Commissioner of Banking, the state enforcement agency for state-chartered banks in Wisconsin, has indicated to Board staff that institutions providing the redisclosures required under state law at least 30 days in advance of the effective date of the change, as the federal provisions require, would comply with the state law.[1] Therefore, as Wisconsin banks are able to comply with both the federal and state laws the Board proposes to determine that this provision is not preempted by the federal law.

(3) *Comment requested.* The Board requests comment on its proposal to *deny* a determination that provisions of the Wisconsin law found in Wisconsin Statutes section 224.08 are inconsistent with the federal Truth in Savings law, and it therefore proposes to determine that the state provisions are not preempted by the federal law. Comment letters should refer to Docket No. R-0818. After the close of the comment period and analysis of the comments received, notice of final action on the proposal will be published in the **Federal Register.**

[1] Even if state law required that re-disclosures be sent less than 30 days in advance of the effective date of any change, this provision would not violate federal law because a bank could send a notice at each of the applicable times, therefore complying with both federal and state provisions without contradicting the requirements of the other.

Regulatory Flexibility Act Analysis and Paperwork Reduction Act.

The Board believes that the proposed rule would not have a significant adverse impact on institutions' costs, including those of small institutions.

List of Subjects in 12 CFR Part 230

Advertising, Banks, Banking, Consumer protection, Deposit accounts, Interest, Interest rates, Federal Reserve System, Truth in Savings.

By order of the Board of Governors of the Federal Reserve System, December 3, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-30064 Filed 12-13-93, 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Territorial and International Affairs

15 CFR Part 303

[Docket No. 931090–3290]

RIN 0625–AA06

Proposed Limit on Duty-Free Insular Watches in Calendar Year 1994

AGENCIES: Import Administration, International Trade Administration, Commerce; Office of Territorial and International Affairs, Interior.

ACTION: Proposed rule and request for comments.

SUMMARY: This action invites public comment on proposals to amend regulations which govern duty-exemption allocations and duty-refund entitlements for watch producers in the United States' insular possessions (the Virgin Islands, Guam and American Samoa) and the Northern Mariana Islands. The proposed amendments would establish the total quantity and respective territorial shares of insular watches and watch movements which would be allowed to enter the United States free of duty during calendar year 1994 and adjust the wages considered creditable towards the production incentive certificate (PIC).

DATES: Comments must be received on or before January 13, 1994.

ADDRESSES: Address written comments to Faye Robinson, Program Manager, Statutory Import Programs Staff, room 4211, U.S. Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482–1660, same address as above.

SUPPLEMENTARY INFORMATION: The insular possessions watch industry provision in section 110 of Public Law No. 97–446 (96 Stat. 2331) (1983) (19 U.S.C. 1202, note) requires the Secretary of Commerce and the Secretary of the Interior, acting jointly, to establish a limit on the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa and the Northern Mariana Islands. Regulations on the establishment of these quantities and shares are contained in §§ 303.3 and 303.4 of title 15, Code of Federal Regulations (15 CFR 303.3 and 303.4). Section 303.6(h) gives the Secretaries authority to propose changes in § 303.14.

The Departments propose to establish for calendar year 1994 a total quantity and respective territorial shares as shown in the following table:

Virgin Islands	3,600,000
Guam	500,000
American Samoa	500,000
Northern Mariana Islands	500,000
Total	5,100,000

Compared with the total quantity established for 1993 (58 FR 21347; April 21, 1993), this amount would be a decrease of 480,000 units. The proposed Virgin Islands territorial share would be reduced by 480,000 units. The proposed shares for Guam, American Samoa and the Northern Mariana Islands would not change.

Following are our reasons for proposing these amounts:

1. There are no producers in American Samoa and the Northern Mariana Islands. This proposal would leave these territories' shares at the minimum required by the statute.

2. Although there is now one producer in Guam, the amount we propose for the Virgin Islands and Guam is more than sufficient for the anticipated needs of the existing producers. The unallocated portions of the shares for the Virgin Islands and Guam will be available for possible allocation to new firms.

The proposed rule also would modify Sec. 303.14(a)(1)(i) to increase the dollar amount of wages per person that the Departments can consider in calculating the producers' allocations and PICs. The current limit of $32,000 was established five years ago. We propose to raise the limit to $35,000 in order to help producers attract and retain the managerial talent necessary to operate efficient watch assembly plants.

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

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities. Fewer than ten entities are directly affected by this action. The commercial benefits of the program governed by these regulations, for entities both directly and indirectly affected, are less than $10 million per year.

Paperwork Reduction Act

This rulemaking involves information collection activities subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. which are currently approved the Office of Management and Budget under control numbers 0625–0040 and 0625–0134. The proposed amendments will not increase the information burden on the public.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

For reasons set forth above, we propose to amend Part 303 as follows:

PART 303—[AMENDED]

1. The authority citation for part 303 continues to read as follows:

Authority: Pub. L. 97–446, 96 Stat. 2329, 2331 (19 U.S.C. 1202, note); Pub. L. 94–241, 90 Stat. 263 (48 U.S.C. 1681, note).

§ 303.14 [Amended]

2. Section 303.14(a)(1)(i) is amended by removing "$32,000" and adding "$35,000" in its place.

3. Section 303.14(d)(1) is amended by removing "Guam," before American Samoa.

4. Section 303.14(d)(2) is amended by adding "and Guam" after Virgin Islands and removing "share" and adding "shares" in its place.

5. Section 303.14(e) is amended by removing "4,080,000" and adding "3,600,000" in its place.

Barbara Stafford,

Acting Assistant Secretary for Import Administration.

Leslie M. Turner,

Assistant Secretary for Territorial and International Affairs.

[FR Doc. 93–30485 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–DS–M; 4310–93–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 785; Re: 93F020T]

RIN 1512–AB22

Multistate Appellations of Origin for Contiguous States

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend its regulations to liberalize the requirements for using a multistate appellation of origin on a wine label. The current regulations provide that a wine may bear a multistate appellation of origin only where the wine is in conformance with the laws and regulations governing the composition, method of manufacture, and designation of wines in all the States listed in the appellation. The proposed amendment would provide an exception where State laws and regulations do not authorize the use of a multistate appellation of origin which includes that State for wines sold within its boundaries.

DATES: Written comments must be received on or before January 13, 1994.

ADDRESSES: Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221, Attn: Notice No. 785. Comments not exceeding three pages may be submitted by facsimile transmission to (202) 927–8602.

FOR FURTHER INFORMATION CONTACT: David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Background

The regulations at 27 CFR 4.25a(a)(1)(iii) define an American appellation of origin to include two or no more than three States, which are all contiguous. Section 4.25a(d) provides that an appellation of origin comprising two or no more than three States which are all contiguous may be used, if: (1) All of the grapes were grown in the States indicated, and the percentage of the wine derived from grapes grown in each State is shown on the label, with a tolerance of plus or minus 2 percent; (2) it has been fully finished (except for cellar treatment pursuant to § 4.22(c), and blending which does not result in an alteration of class or type under § 4.22(b)) in one of the labeled appellation States; (3) it conforms to the laws and regulations governing the composition, method of manufacture, and designation of wines in all the States listed in the appellation.

ATF Ruling 91–1 (ATF Quarterly Bulletin 91–2, 3), held that "the requirement in 27 CFR 4.25a(a)(1)(iii) that a multistate appellation of origin consist of two or no more than three States which are all contiguous is satisfied where the appellation consists of two States which actually touch at a point along their common border, or three States which are connected throughout in an unbroken sequence." ATF Ruling 91–1 also cited 27 CFR 4.25a(d) and stated that, "The regulations clearly specify that a multistate appellation of origin can only be used if the wine conforms to the laws and regulations governing the composition, method of manufacture, and designation of wines in all of the States listed in the appellation. ATF is aware that different States may have different requirements governing the composition, method of manufacture, and designation of wines which are produced in that State. The Bureau wishes to clarify that a multistate appellation of origin cannot be used if conflicting State requirements preclude conformance with the laws and regulations of all the States listed in the appellation of origin."

Petition

ATF has been petitioned by Stimson Lane Ltd., a company with wineries located in Washington and California, to amend 27 CFR 4.25a(d)(3) to make it more practical to use a multistate appellation of origin. Pursuant to ATF Rul. 91–1, Stimson Lane wishes to produce a wine made from grapes grown in the multistate appellation of California, Washington, and Oregon. However, Title 17 of the California Code of Regulations, § 17015, provides that, with exceptions not relevant here, the appellation of origin "California" may only be used to designate wine which derives 100 percent of its volume from grapes grown in California.

The California Department of Health Services has informed ATF that pursuant to this regulation, any wine bearing a multistate appellation comprising California, Washington, and Oregon does not conform to California's laws and regulations governing the designation of wines. This interpretation of California regulations effectively forecloses the possibility of using a multistate appellation which includes California, even if the wine will not be marketed in California.

Consequently, the petitioner has requested an amendment of § 4.25a(d) in order to make it more practical to use a multistate appellation of origin. The petitioner argues that the current regulatory requirement that a wine comply with the laws and regulations of each State governing the composition, method of manufacture, and designation of wines makes it practically impossible to produce a wine which qualifies for a multistate appellation of origin. The petitioner points to the relatively small number of wineries which use multistate appellations as evidence of the difficulties encountered in attempting to conform with the inconsistent and sometimes conflicting requirements of two or three States.

Thus, Stimson Lane proposes amending § 4.25a(d) to eliminate entirely the requirement that the wine conform to the laws and regulations of the named States regarding the composition, method of manufacture, and designation of wines. Instead, they would replace this requirement with a provision that a multistate appellation of origin could only be used where the wine would not qualify for a State appellation of origin, i.e., less than 75 percent of the wine is derived from grapes grown in any one of the States indicated. The purpose of this suggested amendment was to "recognize a State's legitimate interest in regulating the composition, method of manufacture, and designation of wines that qualify for its own appellations of origin. By the same token, this amendment would eliminate the obstacles that such State regulations could pose when, notwithstanding the fact that a given wine would not qualify for a State appellation of origin, the wine would otherwise still have to comply with the sometimes inconsistent laws and regulations of each one of the States listed in the appellation."

The petitioner suggests that the purpose and effect of this amendment would be similar to that of the amendment adopted for multistate viticultural areas in T.D. ATF–222 (51 FR 3773 (1986)). Prior to 1986, former 27 CFR § 4.25a(e)(3)(v) required that a wine labeled with a viticultural area appellation conform to the applicable laws and regulations of the States in which the viticultural area was located. The preamble to T.D. ATF–222 explained that this requirement was repealed because it resulted in a hardship where the States in a multistate viticultural area had conflicting requirements, and it proved an unnecessary and difficult enforcement burden to the Federal Government due to the multitude of State and local laws and regulations. It was stated that "ATF does not believe that Federal regulation should impose the state laws or regulations of one state upon the transactions occurring in other states. State laws and regulations of the state in which the wine was fermented or finished will, of course, continue to apply to the producing winery. These state laws and regulations are enforced by the state involved."

The petitioner argues that the rationale behind T.D. ATF–222 would apply to the elimination of the similar requirement for multistate appellations of origin. However, ATF believes that there is a distinction between viticultural areas, the boundaries of which are delineated by the Federal government, and multistate appellations of origin. The issue is whether consumers tend to believe that wine labeled with a multistate appellation of origin must be in compliance with the laws and regulations of all of the States included in the appellation, or whether it need only be in compliance with the laws and regulations of the State in which the producing winery is located.

Under the terms of the petitioner's proposal, the wine would only have to be in compliance with the laws and regulations of the State in which the producing winery is located. Thus, the petitioner's amendment would allow a winery to use a manufacturing process which would be unlawful in one of the named appellation States, as long as the process was authorized in the producing State. ATF does not believe that such a far-reaching amendment of the regulations is necessary in order to allow wineries to make greater use of multistate appellations of origin.

ATF's Alternative Proposal

Instead of proposing the adoption of the petitioner's wording, ATF is proposing to retain the requirement that

the wine must conform to the laws and regulations governing the composition, method of manufacture, and designation of wines in all the States listed in the appellation, but to create an exception where State laws and regulations do not authorize the use of a multistate appellation of origin which includes that State.

ATF believes that the proposed wording will protect the consumer, to the extent that the substantive State requirements would be preserved, while at the same time, accomplishing the intended policy behind allowing the use of multistate appellations of origin in the first place. Thus, for example, under the proposed amendment, a wine labeled with the multistate appellation California, Washington, and Oregon, made from grapes grown in all three States and fermented, finished, and bottled within the State of Washington, would not be subject to the California laws and regulations that do not authorize the use of a multistate appellation of origin which includes California. However, such a wine would still have to comply with other substantive California and Oregon requirements regarding the composition, method of manufacture, and designation of the wine. Of course, the proposed regulation would in no way affect California's authority to enforce its own labeling requirements within the area of its jurisdiction. However, the proposed amendment would allow the wine to be marketed outside of California, notwithstanding California's failure to authorize the use of a multistate appellation of origin which includes the State of California.

Public Participation—Written Comments

ATF requests comments from all interested persons. Although ATF is not proposing the adoption of the petitioner's language in this document, ATF wishes to solicit comments on both the proposed amendment as well as the petitioner's proposed language. ATF would welcome comments from wineries who have used or attempted to use a multistate appellation regarding the practical effectiveness of the proposed and current regulations. ATF would also like to solicit comments from consumers and industry members as to whether consumers tend to believe that a wine labeled with a multistate appellation of origin is in compliance with the laws and regulations of all the States included in the appellation. Finally, ATF would like to solicit comments from States such as California as to whether they believe it is important to retain the current requirement that wines labeled with a multistate appellation of origin conform to the laws and regulations of all the component States regarding the composition, designation, and method of manufacture of the wine, and as to whether current State laws would allow the use of multistate appellations of origin.

Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so. However, assurance of consideration can only be given to comments received on or before the closing date.

ATF will not recognize any submitted material as confidential and comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure.

Comments may be submitted by facsimile transmission to (202) 927–8602, provided the comments: (1) Are legible; (2) are 8½″ × 11″ in size, (3) contain a written signature, and (4) are three pages or less in length. This limitation is necessary to assure reasonable access to the equipment. Comments sent by FAX in excess of three pages will not be accepted. Receipt of FAX transmittals will not be acknowledged. Facsimile transmitted comments will be treated as originals.

Any person who desires an opportunity to comment orally at a public hearing on the proposed regulation should submit his or her request, in writing, to the Director within the 30-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Regulatory Flexibility Act

It is hereby certified that this document will not have a significant economic impact on a substantial number of small entities. Any benefit derived by a small proprietor from the new options provided in this rule will be the result of the proprietor's own promotional efforts and consumer acceptance of the specific product. No new reporting, recordkeeping or other administrative requirements are imposed by this rule. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

It has been determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this proposal is not subject to the analysis required by this executive order.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice because no requirement to collect information is proposed.

Disclosure

Copies of this notice and any written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, room 6480, 650 Massachusetts Avenue, Washington, DC 20226.

Drafting Information

The principal author of this document is David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco, and Firearms.

List of Subjects in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

Authority and Issuance

27 CFR Part 4—Labeling and Advertising of Wine, is amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Paragraph 1. The authority citation for part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

Par. 2. Section 4.25a(d)(3) is revised to read as follows:

§ 4.25a Appellations of origin.

* * * * *

(d) * * *

(3) It conforms to the laws and regulations governing the composition, method of manufacture, and designation of wines in all the States listed in the appellation, except to the extent that such State laws and regulations do not authorize the use of a multistate appellation of origin which includes that State for wines sold within its boundaries.

* * * * *

Signed: October 20, 1993.

Daniel R. Black,

Acting Director.

Approved: December 1, 1993.

Ronald K. Noble,

Assistant Secretary (Enforcement).

[FR Doc. 93–30411 Filed 12–13–93; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 157

[CGD 91–045]

RIN 2115–AE01

Structural and Operational Measures To Reduce Oil Spills From Existing Tank Vessels Without Double Hulls; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains six technical corrections to the notice of proposed rulemaking (NPRM) (CGD 91–045) which was published Friday, October 22, 1993, (58 FR 54870). The NPRM proposes that owners or operators of certain tank vessels over 5,000 gross tons comply with structural and operational measures to reduce the risk of oil spills.

FOR FURTHER INFORMATION CONTACT: Randall N., Crenwelge, Project Manager, Oil Pollution Act (OPA 90) Staff, (202) 267–6220.

SUPPLEMENTARY INFORMATION:

Background

Section 4115 of the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101–380) requires the owners or operators of existing tank vessels over 5,000 gross tons that do not have double hulls to comply with structural and operational measures to reduce the risk of oil spills until the vessels are equipped with double hulls or retired from service according to a timetable provided in section 4115(a) of OPA 90. The NPRM that is the subject of the correction notice proposed measures to meet the statutory requirement (58 FR 54870, October 22, 1993).

Need for Correction

A correction of the designation of tankers built prior to the effective date of the International Convention for the Prevention of Pollution From Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78) ("pre-MARPOL 73/78 tankers") and a correction in two places of the spelling of the word, "proprietary" are needed. The citation for the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) and the reference to the collection of information number also need to be corrected.

Correction of Publication

Accordingly, the publication on October 22, 1993, of the NPRM (CGD 91–045), which is the subject of FR Doc. 93–26074, is corrected as follows:

1. On page 54873, in the second column, at lines 4–5, the reference to "pre-MARPOL 73 tankers" should be changed to "pre-MARPOL 73/78 tankers".

2. On page 54873, in the second column, at line 16, the reference to "pre-MARPOL 78 tankers" should be changed to "pre-MARPOL 73/78 tankers".

3. On page 54878, in the second column, at line 40, the reference to the "propriety design" should be changed to the "proprietary design".

4. On page 54879, in the first column, at lines 18 and 19, the reference to the "propriety design" should be changed to the "proprietary design".

5. On page 54885, in the second column, at lines 44 and 45, the "Paperwork Reduction Act of" should be changed to the "Paperwork Reduction Act of 1980".

6. On page 54885, in the third column, beginning at the 8th line from the bottom, the sentence, "This required report is an approved collection of information (OMB control number 2115–0557) and expires July 19, 1993.", is replaced with the following sentences: "This required report is a collection of information burden. The Coast Guard has completed a collection of information request and is awaiting OMB approval.".

Dated: December 9, 1993.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–30491 Filed 12–13–93; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Part 99

RIN 1880–AA57

Family Educational Rights and Privacy

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary requests additional comments on a proposal to amend the regulations implementing the Family Educational Rights and Privacy Act (FERPA). These amendments are needed to implement a provision of the Higher Education Amendments of 1992, which amended FERPA by excluding from the definition of "education records," and thereby from the restrictions of FERPA, records that are maintained by a law enforcement unit of an educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement.

DATES: Comments must be received on or before February 14, 1994.

ADDRESSES: All comments concerning these proposed regulations should be addressed to LeRoy Rooker, Family Policy Compliance Office, Office of Human Resources and Administration, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–4605.

FOR FURTHER INFORMATION CONTACT: Ellen Campbell, (202) 732–1807. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Party Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On August 11, 1993, a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register**. The comment period closed on September 27, 1993. Because the comments received raised certain concerns, the Secretary is requesting additional comments on the proposed rules.

As explained in the previous NPRM, these proposed regulations were required to implement section 1555 of the Higher Education Amendments of 1992, Pub. L. 102–325, codified at 20 U.S.C. 1232g(a)(4)(B)(ii). Under previous law, as reflected in the current FERPA regulations, in order for the records of a law enforcement unit to be excluded from the definition of "education records," certain conditions had to be met. Primarily, the conditions were that officials of an agency's or institution's law enforcement unit could not have access to that agency or institution's education records; the records of the law enforcement unit had to be maintained separately from the agency's or institution's education records and for the sole purpose of law enforcement; and the records of the law enforcement unit could only be disclosed to law enforcement officials of the same jurisdiction. Although the phrase "law enforcement officials of the same jurisdiction" was not defined in the

regulations, the Secretary generally interpreted it to mean other law enforcement officials, in a similar locale, with a need to know.

In the interest of promoting school safety by making law enforcement unit records publicly available, Congress amended FERPA to remove these conditions and to simply exempt from FERPA records that are maintained by a law enforcement unit of an educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement. Because law enforcement unit records are no longer subject to these conditions, they may be disclosed by an educational agency's or institution's law enforcement unit without the prior consent of the eligible students or parents. That is, educational agencies and institutions can now follow their own policies or applicable State laws regarding the disclosure of law enforcement unit records that are created and maintained by law enforcement units for the purpose of law enforcement. This provision applies to institutions at all levels—elementary, secondary, and postsecondary.

The proposed regulations include a definition of "law enforcement unit" and "records of a law enforcement unit" consistent with the Department's longstanding interpretation of these terms. That is, "law enforcement" concerns the violation of "laws" or rules of conduct applicable to all individuals, as opposed to the violation of an institution's internal rules applicable solely to students. Similarly, a definition of "disciplinary action or proceeding" has also been added under § 99.3 to provide guidance to an institution in distinguishing law enforcement unit records from records of an institution's internal or administrative proceedings that deal with violations of the institution's own rules and standards of student conduct, which the Department has always considered "education records" and not "records of a law enforcement unit" under FERPA. The Department believes that these definitions capture the distinction between "disciplinary" and "law enforcement unit" records intended by Congress. For example, the term "disciplinary proceeding" is currently used in § 99.31(a)(13), which implements part of the Student Right-to-Know and Campus Security Act of 1990, which provides that prior written consent is not required to disclose to an alleged victim of a crime of violence the results of any disciplinary proceeding conducted by an institution of postsecondary education against the alleged perpetrator of that crime. There is also a provision in the Student Right-to-Know and Campus Security Act requiring institutions of postsecondary education to disclose to the accuser the outcome of any campus disciplinary proceeding brought alleging sexual assault. Without these provisions for limited disclosure of these records of disciplinary proceedings, which clearly concern potentially "criminal" activity, these records could not be disclosed without prior written consent.

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 affected would be small local educational agencies and institutions of postsecondary education. However, these regulations will not have any significant economic impact on the entities affected.

Paperwork Reduction Act of 1980

These proposed regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Invitation To Comment

The Secretary received a number of comments on the NPRM regarding the proposed definitions of "law enforcement unit" (§ 99.8(a)), "records of a law enforcement unit" (§ 99.8(b)), and "disciplinary action or proceeding" (§ 99.3), including the following:

• The proposed regulations define "law enforcement unit" and exclude from the term "records of a law enforcement unit" those records relating to a disciplinary action or proceeding conducted by the educational agency or institution. Since records of disciplinary actions or proceedings are considered "education records" under FERPA, student and professional journalists and other commenters argued that the proposed definition of "disciplinary action or proceeding" should not include institutional proceedings relating to "criminal conduct" by students, that is, conduct that could be considered criminal and prosecuted under State or Federal law. Rather, some commenters believe that under the 1992 FERPA amendment, these kinds of disciplinary records should be treated the same as an institution's law enforcement unit records are treated and excluded from the definition of "education records." Some commenters stated further that disciplinary records pertaining to academic or other non-criminal type misconduct should be protected as "education records" under FERPA.

The Secretary requests additional comments from the public on these proposed definitions and the commenters' recommendations for changing those proposed definitions. The Secretary is particularly interested in how the commenters' recommendations would affect the structure and administration of law enforcement and disciplinary procedures at the elementary, secondary, and postsecondary levels. The Secretary requests specific comments on the following:

• As a school official, parent, or student, how do you believe you or your educational agency or institution would be affected if records of disciplinary actions or proceedings related to alleged criminal conduct and other non-academic matters were no longer protected by FERPA and could be disclosed to the public based on State law or institutional policy?

• Please provide information regarding the law enforcement unit at your educational agency or institution, including—

Jurisdiction—What provisions does your law enforcement unit enforce? What legal authority does it have?

Functions—What does it do? Does the law enforcement unit have any responsibilities for referring or adjudicating disciplinary actions against students?

Organizational placement—Where is the law enforcement unit placed in the institution; to whom does it report; what official, if any, hears "appeals" from its actions?

Personnel—What categories of employees work in the unit (e.g., investigators, police officers, judges, etc.)?

Records—What kinds of written documents does the unit produce (investigative reports, arrests, judicial decisions, final disciplinary actions, etc.)?

• Should disciplinary records at the elementary or secondary level be treated the same as disciplinary records at the postsecondary level? Why or why not?

• If the definition of "disciplinary action or proceeding" is amended, as suggested by some commenters, to permit disclosure of records related to alleged criminal conduct and other non-academic matters, should FERPA prevent disclosure of the identity of victims of the alleged criminal conduct? Please explain your position.

• Should the names of students accused of criminal conduct be protected from disclosure during the investigative stage or should FERPA

permit disclosure of only the results or outcome of the proceeding? Please explain.

• Would allowing schools to disclose the names of students accused of criminal conduct adversely affect students who were unfairly targeted or victims of mistaken identity? Please explain.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in the Family Policy Compliance Office, 490 L'Enfant Plaza, SW, 2100 Corridor, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

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 99

Administrative practice and procedure, Education, Family educational rights, Privacy, Parents, Reporting and recordkeeping requirements, Students.

Dated: December 7, 1993.

(Catalog of Federal Domestic Assistance Number does not apply.)

Richard W. Riley,

Secretary of Education.

The Secretary proposes to amend part 99 of title 34 of the Code of Federal Regulations as follows:

PART 99—FAMILY EDUCATIONAL RIGHTS AND PRIVACY

1. The authority citation for part 99 continues to read as follows:

Authority: 20 U.S.C. 1232g, unless otherwise noted.

2. Section 99.3 is amended by revising paragraph (b)(2) in the definition of "Education records" and by adding a new definition of "Disciplinary action or proceeding" in alphabetical order to read as follows:

§ 99.3 What definitions apply to these regulations?

* * * * *

Disciplinary action or proceeding means the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

* * * * *

Education records

* * * * *

(b) The term does not include—

* * * * *

(2) Records of the law enforcement unit of an educational agency or institution, subject to the provisions of § 99.8.

* * * * *

3. A new § 99.8 is added to read as follows:

§ 99.8 What provisions apply to records of a law enforcement unit?

(a) *Law enforcement unit* means any individual, office, department, division, or other component of an educational agency or institution that is authorized or designated by that agency or institution to enforce any local, State, or Federal law, or refer to appropriate authorities a matter for enforcement of any local, State, or Federal law. A component of an educational agency or institution does not lose its status as a "law enforcement unit" if it also performs other, non-law enforcement functions for the agency or institution, including investigation of incidents or conduct that might lead to disciplinary action or proceedings against a student.

(b)(1) *Records of a law enforcement unit* means only those records, files, documents, and other materials that are—

(i) Created by a law enforcement unit;

(ii) Created for a law enforcement purpose; and

(iii) Maintained by the law enforcement unit.

(2) "Records of a law enforcement unit" does not mean—

(i) Records relating to law enforcement that are maintained by a component of the educational agency or institution other than the law enforcement unit; and

(ii) Records relating to a disciplinary action or proceeding conducted by the educational agency or institution.

(c)(1) Nothing in the Act prohibits an educational agency or institution from contacting its law enforcement unit, orally or in writing, for the purpose of asking that unit to investigate a possible violation of, or to enforce, any local, State, or Federal law.

(2) Education records, and personally identifiable information contained in education records, do not lose their status as education records and remain subject to the Act, including the disclosure provisions of § 99.30, while in the possession of the law enforcement unit.

(d) The Act neither requires nor prohibits the disclosure by an educational agency or institution of its law enforcement unit records.

(Authority: 20 U.S.C. 1232g)

[FR Doc. 93–30397 Filed 12–13–93; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 292

RIN 0596–AA88

Hells Canyon National Recreation Area—Private Lands

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement section 10(a) of the Hells Canyon National Recreation Area Act of 1975. The Act directs the Secretary of Agriculture to promulgate rules and regulations as deemed necessary for private lands within the Hells Canyon National Recreation Area. This proposed rule would provide the standards to guide the Secretary and Forest Service officials in the use of the restricted condemnation authority granted by the Act. The intended effect is to maintain private land conditions in a manner consistent with those prescribed in the Act. Public comments are invited.

DATES: Comments must be received in writing by February 14, 1994.

ADDRESSES: Send written comments to Director, Recreation, Cultural Resources and Wilderness Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

The public may inspect comments received on this proposed rule in the Office of the Director, fourth floor, central wing, Auditors Building, 201 Fourteenth Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m. Those wishing to inspect comments are encouraged to call ahead (202) 205–1423 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Tom Lennon, Branch Chief, Special Designations, Recreation, Cultural Resources, and Wilderness Management Staff, (202) 205–1423 or Ed Cole, Area Ranger, (503) 426–4978.

SUPPLEMENTARY INFORMATION:

Background

The Act of December 31, 1975, established the Hells Canyon National Recreation Area (HCNRA) "to assure that the natural beauty, and historical and archeological values of the Hells Canyon area * * * are preserved for this and future generations, and that the

recreational and ecologic values and public enjoyment of the area are thereby enhanced." Public Law 94–199, 89 Stat. 1117 at sec. 1. The HCNRA covers 658,457 acres. In all, almost 95%, or 625,193 acres, of the HCNRA is in federal ownership. The remaining 5%, or 33,263 acres, of the HCNRA is in non-federal ownership, with 33,124 in private ownership. Of the privately owned lands in the HCNRA, 86% are in Oregon (83.5% in Wallowa County and 2.5% in Baker County) and 14% are in Idaho (10.5% in Idaho County, 3% in Nez Perce County, and 0.5% in Adams County). There are 235 private landowners within the HCNRA.

The Hells Canyon Wilderness, which was designated by the HCNRA Act, covers 219,906 acres, of which 406 acres is in non-federal ownership. The wilderness straddles the wildest whitewater stretch of the Snake River where it runs south to north on the Idaho-Oregon border. Also within the HCNRA are the Snake, Rapid, and Imnaha Wild and Scenic Rivers. Thirty percent or 10,016 acres of the private land within HCNRA is located within the corridors of one of these three designated wild and scenic rivers. More than 50% of the land within the Snake, Rapid, and Imnaha Wild and Scenic River corridors is federally owned.

Section 10 of the HCNRA Act (16 U.S.C. 460gg *et seq.*) directs the Secretary to promulgate such rules and regulations as are deemed necessary to accomplish the purposes of the Act, including standards for the use and development of privately owned property within the HCNRA. In addition, the Act directs that standards and guidelines will be established to ensure the full protection and preservation of the historic, archeological, and paleontological resources in the HCNRA. Section 10 further provides that the Secretary may use the land acquisition authority in section 9 of the HCNRA Act to implement the rules and regulations promulgated pursuant to section 10. As for the Snake, Rapid, and Imnaha Wild and Scenic Rivers, the governing authority for land acquisition is found in section 6 of the Wild and Scenic Rivers Act. Both section 9 of the HCNRA Act and section 6 of the Wild and Scenic Rivers Act place certain limitations on the Secretary's land acquisition authority. Specifically, these provisions restrict the Secretary's condemnation authority, i.e. acquiring land without the consent of the landowner. These provisions do not restrict the Secretary's authority to acquire land from a willing seller, i.e. with the consent of the owner.

For private lands within the designated Snake, Rapid, and Imnaha Wild and Scenic River corridors, condemnation of fee title is prohibited under section 6 of the Wild and Scenic Rivers Act, since more than 50% of the corridors is in federal ownership. This restriction does not, however, preclude condemnation of less-than-fee interests like scenic or access easements.

For private land or interests within the HCNRA outside of the Snake, Rapid and Imnaha Wild and Scenic River corridors, the Secretary's acquisition authority is governed by section 9 of the HCNRA Act which authorizes the Secretary to acquire private owned land in fee simple title without the consent of the owner if less than 5 percent of all the privately owned land within the HCNRA at the time of enactment has been acquired in this manner. This 5% limitation does not apply to scenic easements which can be acquired with or without the landowner's consent where it can be demonstrated that the affected lands are being used, or are in imminent danger of being used, in a manner compatible with the Act. Nor does the 5% limitation apply to mineral interests which can also be acquired with or without the owner's consent. Scenic easements cannot be acquired without the consent of the owner to preclude the continuation of any farming or pastoral use exercised by the owner as of December 31, 1975.

Section 13 states that "ranching, grazing, farming, timber harvesting, and the occupation of homes and lands associated therewith, as they exist on the date of enactment of this Act, are recognized as traditional and valid uses of the recreation area."

Throughout its efforts to devise regulations applicable to private lands within the HCNRA, the Forest Service has sought to avoid direct regulation of private lands and their uses. Instead, the agency has sought to define those uses of private lands that are consistent with the purposes for which the HCNRA was established, to encourage retention of traditional and valid private land uses as established by the Act, and, thereby, to avoid having to exercise the condemnation authority granted by the Act. To this end, the agency has worked closely with affected private landowners, local county governments, and environmental groups in drafting the rule will continue to cooperate and consult with private citizens, environmental groups, and county governments on proposed decisions that affect existing or proposed uses or development on private land that might trigger the use of the Secretary's condemnation authority.

The first draft of a proposed rule was developed as part of the Comprehensive Management Plan for the HCNRA adopted May 23, 1981. Recognizing that the rules needed to be formally promulgated, the Forest Service in January of 1991, sent letters to each of the owners of record of private lands in the HCNRA, county governments, Congressional offices, and other interested individuals. These letters announced open houses to be held in Idaho and Oregon at which the draft proposed private land use rule could be discussed and commented upon. The Oregon meeting was attended by 14 people representing a variety of interests; the Idaho meeting was attended by 8 people. Additional meetings were conducted with 39 interested landowners. At these meetings, changes were recommended and have been duly considered in the drafting of this rule. Finally, four letters from groups and individuals were received and considered.

The text of this proposed rule varies somewhat from the text of the draft rule as it emerged from the last series of consultations with local landowners, environmental groups, and county officials. The variances result from both legal and regulatory review by the Office of the Chief and the Office of General Counsel, USDA, and reflect the agency's desire to avoid any appearance of assuming county zoning authority. The Act establishing the HCNRA does not grant the Secretary zoning authority; it does impose on the Secretary the responsibility to ensure that private land uses within the HCNRA are consistent with the statute. When private land uses are inconsistent with the purposes of the Act, the only mechanism granted to the Secretary is land acquisition, either with a landowner's consent or, in certain cases, without a landowner's consent.

The purpose of these proposed regulations is to make clear those circumstances which would trigger possible use of the Secretary's condemnation authority, that is, acquisition of lands, or interests in lands, without an owner's consent. The proposed rule would establish categories of private land and standards for the use and development of private land within a given category. Compliance with the standards of the rule would generally be deemed consistent with the purposes for which the HCNRA was established. Violation of the standards would generally be deemed inconsistent with the purposes for which the HCNRA was established and thus could become the subject of federal acquisition. Thus, the proposed

rule would make clear to affected landowners those uses that can continue or be undertaken without risk of federal acquisition.

In defining those private land uses that are compatible with the purposes of the Act, the agency wanted to rely as much as possible on local zoning ordinances. Accordingly, the agency undertook a review of county zoning ordinances to determine if they establish reasonable standards of private land use consistent with the Act's purposes. The Wallowa County, Oregon, zoning ordinances (adopted July 20, 1988) apply to 83.5% of the private lands in the HCNRA. These ordinances were found to substantially meet the intent of the HCNRA and, therefore, were selected as the primary basis for the standards in this proposed rule. A substantial benefit of basing the rule on the Wallowa County ordinances is that these standards are already in effect and the vast majority of the landowners in the HCNRA are aware of, or reasonably should be aware of, the standards set forth in this local zoning ordinance.

Section-by-Section Explanation of the Proposed Rule

This proposed rule would establish a new subpart E of part 292, Hells Canyon National Recreation Area—Private Lands, in title 36 of the Code of Federal Regulations. A section-by-section explanation of the proposed rule follows.

Section 292.20—Purpose and Scope

Paragraph (a) of proposed § 292.20 recognizes the traditional and valid uses of the HCNRA for ranching, grazing, farming, timber harvesting, and residential occupation of homes and lands associated therewith, as they existed at the time of enactment. Notwithstanding the recognition of the above uses, § 292.20 states that the purpose of the rule is to establish standards that determine whether a land use or development is consistent with the purposes for which the HCNRA was established and hence not subject to federal acquisition or alternatively whether a land use or development is inconsistent with the purposes for which the HCNRA was established and thus potentially subject to federal acquisition. Paragraph (b) states that the proposed rule applies to all private lands within the HCNRA, including that within the boundaries of the Snake, Rapid, and Imnaha Wild and Scenic River corridors and the Hells Canyon Wilderness, and makes clear that the standards do not operate to restrict the use and development of private property; but rather operate to inform the Secretary and the private landowner as to whether certain land uses or developments could become the subject of federal acquisition action. The intended effect of this proposed section is to make clear that the rules do not constitute local zoning ordinances nor place the Secretary in the position of enforcing local ordinances.

Section 292.21—Definitions

Proposed § 292.21 defines terms used in the proposed rule.

Section 292.22—Land Category Assignments

Paragraph (a)(1) sets out four categories to which private lands in the HCNRA would be assigned. The land categories are similar to those found in the Wallowa County zoning ordinances, effective July 20, 1988, and recognize all private land uses in effect on the date the Act became law. Proposed paragraph (a)(2) would require that maps showing private lands and the categories to which they have been assigned be on file and available for public inspection at the Ranger's Office. Paragraph (b) of this proposed section addresses changes in land category assignments. The only conversions that would be considered consistent with the Act are those that convert Mining, Commercial or Residential Lands to the Farm/Forest/Grazing land category. This limitation on conversion is necessary to maintain those traditional agricultural and pastoral landscapes in existence at the time the Act was established on December 31, 1975. Under this proposed paragraph, any proposed conversions must be found to be consistent with the Act and the Comprehensive Management Plan for the area. In addition, the Ranger must give 30 days in the local newspaper, to adjacent landowners, and to the affected county government. The purpose of this notice provision is to ensure public participation in any reclassification decision that the Ranger may consider.

Section 292.23—Standards of Compatible Land Use and Development

Proposed § 292.23 would establish standards of private land use and development that reflect traditional and valid uses of private lands in existence as of December 31, 1975. The standards are intended to guide the Ranger in determining whether uses of a private parcel are compatible with the purposes for which the HCNRA was established. Some standards would apply to all categories of private lands, while others would be specific to a given land category. As previously noted, portions of the Wallowa County, Oregon, zoning ordinances (articles) dated July 20, 1988, are adopted because they meet the purposes and direction of the Act.

Paragraph (a) would establish those standards of compatible land uses that apply to all private land. Paragraph (a)(1) would find that land uses are compatible if they conform to applicable local, state, and federal laws. This provision is intended to cover such matters as air and water pollution, solid waste disposal, billboard and sign display, land subdivision, hunting, fishing, and other similar environmental, land use, and natural resource laws that apply to private landowners. Violation of such enactments could result in significant deterioration of the ecological values of the HCNRA.

To protect and maintain the natural beauty of the area, paragraph (a)(2) would require screening of all new or replacement structures, unless the structures are part of an existing complex that was not previously screened. Screening assures that the scenic values of the HCNRA will not be degraded by inappropriate siting and construction of structures. With screening, new or replacement structures would be difficult to see from travel routes or public use areas. The practice of screening can be accomplished in many ways. The first method is to select locations or to site structures on the land in a manner that naturally obstructs the view from a public route or area. Screening a building within a landscape or within a complex of buildings also can be accomplished through the use of construction materials such as wood, stone that is traditional to the area, or by appropriate selection of paint colors that blend with the landscape. Other ways to screen include conforming structures to the landscape and using plant species that are native to the HCNRA ecosystem. While not screening, per se, the agency would consider authentic historic structures to blend with the area's environment if they represent the architecture, materials, and colors of the pre-World War II era. In the case of historical structures, portraying the important historic past of the HCNR is more important than blending a structure into the surrounding environment.

Proposed paragraph (a)(3) would find public solid waste disposal sites incompatible with the purposes of the Act. Development of such sites would directly conflict with the scenic, recreational, and ecologic values of the areas.

Proposed paragraph (a)(4) would establish a standard that, where ground

conditions and topography permit, new utility lines are placed underground. This standard is necessary to protect and maintain the visual quality and scenic values of the area. Utility lines intrude upon the scenic vista. However, the rule would make explicit that maintenance of existing overhead utility lines is not considered an incompatible use.

Proposed paragraph (a)(5) would find construction of new or replacement structures within the Hells Canyon Wilderness incompatible with the Act. Such structures, and the building of them, would intrude upon the wilderness experience, as well as the pristine environment of wilderness.

Proposed paragraph (a)(6) would establish the standard that protection of significant historic, archaeologic, and paleontologic sites in accordance with applicable law and regulations is compatible with the purposes for which the HCNRA was established. This paragraph would make clear that destruction, disfigurement, defacement, or alteration of a historic, archaeologic or paleontologic site is an incompatible use. The richness of such values in the area and the desire to protect them was an important factor in the passage of the HCNRA Act, which contains repeated emphasis on managing the area in a manner that protects these irreplaceable resources. In a sense, the HCNRA is a museum with very steep walls. Inaccessibility has shielded may of the HCNRA's cultural resources from abuse, vandalism or loss. Abandoned mines, homesteads, house pits, rock shelters, and pictographs reflect past human use. The ways of life in Hells Canyon were extremely varied and what remains is crucial to our further education and understanding.

Proposed paragraph (a)(7) provides that extraction of common mineral materials from all land categories is compatible with the purposes of the Act. This provision recognizes that gravel, stone, and sand are needed solely for local road maintenance and construction, and establishes 5 acres as the maximum size of any gravel pit or associated sites on non-mining land categories. The five-acre maximum is significant because larger gravel pits and associated sites would pose risks to the ecology of the HCNRA and substantially alter the landscape from that which existed when the Act became law.

Proposed paragraph (a)(8) addresses the development of recreation facilities on private lands. The intent is to provide for the development of only those facilities that enhance and are compatible with the purpose and direction of the Act. Recreational facilities that are inconsistent with the objectives of the Act; for example, a theme park featuring roller coaster rides would be incompatible.

Paragraph (b) addresses standards for farm/forest/grazing lands. Paragraph (b)(1) identifies the minimum lot size for residential development as 160 acres. This size is appropriate because large blocks of land are necessary to maintain the traditional agricultural use pattern in existence at the time of the Act's establishment. Partitions of less than 160 acres may be made to provide for the continuation of existing commercial agriculture, but cannot be developed for residential purposes. Only farm/forest/grazing related residences are allowed to be constructed on the minimum lot size. This clause is not intended to preclude the construction of other structures, such as barns, storage sheds, and fences, that are necessary for farm/forest/grazing uses.

In paragraph (b)(2), structures are limited to those necessary to conduct farm/forest/grazing use. This limitation is needed to discourage developments or uses that do not reflect traditional farm/forest/grazing uses. For example, a townhouse development would violate this standard since it is not the type of structure associated with a farm/forest/grazing use as it occurred on December 31, 1975 in the HCNRA. This provision does not prevent an owner of farm/forest/grazing lands from deriving a secondary income from operations that are considered nontraditional. The farm/forest/grazing land owner must simply do so utilizing his or her existing structures and those additional structures necessary for maintaining the farm/forest/grazing use of the property. The key to retaining the agricultural landscape that existed at the time of the establishment of the HCNRA is for all uses and developments to contribute to the maintenance of those traditional and valid farm/forest/grazing uses in existence in December 31, 1975.

Proposed paragraph (b)(4) would require that new or replacement structures for farm/forest/grazing use are not closer than 25 feet from a property line or 55 feet from the center line of a travel route. This standard is taken from the Wallowa County, Oregon, planning ordinances, dated July 20, 1988.

Paragraph (b)(5) would establish that grazing and timber harvesting practices compatible with the HCNRA are those that conform to the applicable state and federal forest practices and water quality legislation. This standard is necessary to ensure that the ecologic values of the HCNRA are preserved and protected. Both states have adequate statutes and regulation in place to meet this objective. Therefore, it is not necessary in these regulations to specify precise forest practices or water quality standards.

Paragraph (c) addresses standards for mining lands. Paragraph (c)(1)(i) would require that the owner of mining lands consult with the Ranger concerning proposed actions prior to submitting a plan of operations with the relevant state of federal agencies. The Ranger shall notify the relevant agencies in writing as to whether the proposed mining operation is consistent with the Act and the provisions of this paragraph. The provisions in paragraph (c)(1)(i) (A) and (B) would state that mining operations are compatible with the HCNRA purposes if they comply with federal and state mining, air quality, water quality, hazardous waste, reclamation and water disposal standards. These standards are routine and normal requirements for mining activities as imposed by other laws. Proposed paragraphs (c)(1) (ii) and (iii) address the type and number of structures on mining lands that would be deemed compatible. Structures are to be limited to the minimum necessary for the use and development of the mining lands. Paragraph (c)(1)(ii) provides that new structures must be located 25 or more feet from a property line or 55 feet from the center line of a travel route in order to be compatible with the HCNRA purposes. These two paragraphs are consistent with Wallowa County zoning ordinances dated July 20, 1988. Paragraph (c)(1)(iv) states that mining lands may not be partitioned.

Finally, paragraph (c)(2) states very clearly that even if the standards of paragraph (c)(1) are met, the Secretary may acquire mineral interests in the HCNRA through condemnation proceedings if the Secretary deems this necessary to meet the purposes and requirements of the Act.

In summary, proposed § 292.23 would establish the minimum standards of private land use and development that would maintain traditional and valid uses of private lands in existence as of December 31, 1975, and be consistent with the purposes of the HCNRA.

Section 292.24—Determination of Compliance and Noncompliance

Under paragraph (a) of this proposed section, landowners could make a written request for a determination as to whether an existing or proposed use is in compliance with the standards in § 292.23. Paragraph (a)(1) specifies the information that the landowner would have to supply in order for the Ranger to make such a determination. Proposed paragraph (a)(2) provides that the

Ranger will notify the landowner of compliance in writing within 45 days. A provision is made to permit up to an additional 30 days for a compliance determination. The compliance determination process provided by proposed paragraph (a) is strictly optional. It is included in response to concerns from landowners that they have some mechanism for obtaining assurance from the Ranger that existing or proposed uses of their land are compatible with the Act and thus would not be acquired by the Secretary without their consent.

Proposed paragraph (b) provides that where the Ranger determines a use is in noncompliance, the Ranger, to the extent practicable, may suggest modifications that would result in a compliance determination. A notice of noncompliance must also advise the landowner that failure to comply with the standards in § 292.23 may trigger the initiation of Secretarial land acquisition action as authorized by the Act. It should be noted that a notice of noncompliance could be issued both in response to a landowner's request for a compliance determination or upon the initiative of the Ranger. Additionally, while there is no statutory requirement that the Ranger suggest ways to bring a noncompliance use into compliance, the Forest Service has included this provision because the agency's goal is not to condemn private land but to ensure that private land use is consistent with the HCNRA objectives as required by the Act. Accordingly, the agency is committed to assisting landowners, government officials, or other interested parties, where possible, in achieving compliance.

Proposed paragraph (c) provides a mechanism for landowners, government officials, or other interested parties to contest a compliance or noncompliance finding by the Ranger. Written petitions to the Forest Supervisor may be made for a review of the Ranger's decision and shall be responded to within 30 days of receipt by the Forest Supervisor. The rule would provide that the Forest Supervisor's decision constitutes the final administrative determination by the Department of Agriculture.

Section 292.25—Information Requirements

Proposed § 292.25 would establish that the information required by § 292.24 to obtain a compliance determination is approved by the Office of Management and Budget. This is required text and cannot be completed until all reviews under the Paperwork Reduction Act are completed. For additional information, see the discussion of Controlling Paperwork Burdens which appears later in this document.

Summary

The proposed rule establishes minimum standards of private land use and development within the HCNRA to ensure compatibility with the purposes for which the HCNRA was established. The proposed regulations have been carefully drafted to avoid any conflict with local zoning authority and any appearance that the Forest Service desires to regulate private land uses. The HCNRA Act imposes on the Secretary a requirement to issue these rules so that private landowners have notice of those actions that could trigger the initiation of the Secretary's authority to acquire lands without the owners' consent where necessary to protect the HCNRA. The standards of compatible use in this proposed rule rely heavily on Wallowa County, Oregon, zoning ordinances which govern 85% of the privately owned land within the HCNRA. The proposed rule preserves the traditional uses that were in effect at the time the Act was passed. In short, while fully respecting private property rights and local zoning authority, the proposed rule also would fully protect the values of the HCNRA. The proposed rule does not compromise sound resource management or environmental quality. The proposed rule does reflect the Forest Service goal of retaining traditional uses of private lands within the HCNRA by working in partnership with private landowners. The agency views the use of condemnation authority as a last resort to protect the HCNRA. Public comment is invited and will be considered in adoption of a final rule.

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12866. It has been determined that this is not a significant rule. The rule will not have an effect of $100 million or more on the economy, substantially increase prices or costs for consumers, industry, or state or local governments, nor adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in foreign markets. In short, little or no effect on the National economy will result from this rule, since it affects only private lands within the HCNRA.

Moreover, this rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act. To the extent that the rule imposes additional requirements on any small entity, these requirements are the minimum necessary to protect the public interest, are not administratively burdensome or costly to meet, and are well within the capability of small entities to perform.

Takings Implication

In compliance with Executive Order 12630 and the Attorney General's Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings, the takings implications of this proposed rule have been reviewed and considered. It has been determined that there is no risk of a taking.

Executive Order 12778, Civil Justice Reform Act

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule were adopted, (1) all state and local laws and regulations that are in conflict with this proposed rule or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) it would not require administrative proceedings before parties could file suit in court challenging its provisions.

Environmental Impact

This proposed rule is discussed in the final Environmental Impact Statement and Comprehensive Management Plan for the Hells Canyon National Recreation Area, pages 155–158. The analysis completed for the Comprehensive Management Plan was revalidated in April 1990 with the signing of the Wallowa-Whitman National Forest Land and Resource Management Plan (pages 1–2). Information pertaining to the environmental analysis may be obtained by writing or calling the persons or offices listed under ADDRESSES and FOR FURTHER INFORMATION CONTACT.

Controlling Paperwork Burdens on the Public

As outlined in proposed § 292.24, a landowner may request a compliance determination from the Forest Service. The information that would need to be submitted to the Ranger to obtain such a determination represents a new information requirement as defined in 5 CFR Part 1320, Controlling Paperwork Burdens on the Public. In accordance with those rules and the Paperwork Reduction Act of 1980 as amended (44

U.S.C. 3507), the Forest Service has requested Office of Management and Budget review and approval of the information required. The agency estimates that each landowner preparing a request for a compliance determination will spend an average of 8 hours to gather, prepare, and submit said request. Forest Service Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

List of Subjects in 36 CFR Part 292

National recreation areas.

Therefore, for the reasons set forth in the preamble, it is proposed to amend part 292 of title 36 of the Code of Federal Regulations by adding a new subpart E to read as follows:

PART 292—NATIONAL RECREATION AREAS

Subpart E—Hells Canyon National Recreation Area—Private Lands

Sec.
292.20 Purpose and scope.
292.21 Definitions.
292.22 Land category assignments.
292.23 Standards of compatible land use and development.
292.24 Establishment of noncompliance and compliance.
292.25 Information requirements.

Authority: 89 Stat. 1117: 16 U.S.C. 460gg—460gg–13.

Subpart E—Hells Canyon National Recreation Area—Private Lands

§ 292.20 Purpose and scope.

(a) *Purpose.* The Act establishing the Hells Canyon National Recreation Area (hereafter referred to as HCNRA) (16 U.S.C. 460gg—460gg–13) encourages the retention of traditional and valid uses of private land within the HCNRA, such as ranching, grazing, farming, timber harvesting, and the occupation of homes and lands associated therewith, as they existed at the time the HCNRA was established on December 31, 1975. To this end, the Act directs the Secretary of Agriculture to promulgate regulations establishing standards for the use and development of private land within the HCNRA and grants the Secretary limited condemnation authority to address situations where the standards are not met. The purpose of this subpart is to establish standards that would guide the Secretary's consideration of the use of the limited condemnation authority granted by the Act.

(b) *Scope.* These regulations establish standards applicable to all private property within the boundaries of the HCNRA, including that within the boundaries of the Rapid, Snake, and Imnaha Wild and Scenic Rivers and the Hells Canyon Wilderness. These standards do not operate to restrict the use and development of private property; rather, they serve to inform the landowner as to whether certain lands or interests therein may be acquired by the Secretary without the landowner's consent. This may occur if the landowner fails to comply with the standards set out herein. These regulations, in and of themselves, do not effect a taking of private property, including valid, existing water rights. Nor do the standards established in these regulations limit or restrict a private landowner's use of property that is compatible with the purposes of the Act. This rule shall be used by the Responsible Official solely to determine whether private land uses or developments are compatible with the purposes and direction of the Act and, if not, to determine whether the Secretary should consider initiating condemnation proceedings to acquire land or scenic easements.

§ 292.21 Definitions.

For the purposes of this subpart, the following terms are defined:

Act refers to the act of December 31, 1975, which established the Hells Canyon National Recreation Area (89 Stat. 1117: 16 U.S.C. 460gg—460gg–13).

Archaeological sites are those sites containing relics, artifacts, and other evidence of past human cultures including historic properties as defined by the National Historic Preservation Act.

Commercial land is land within the HCNRA developed for commercial purposes as of *[insert effective date of the final rule]* and which is assigned to the commercial land category (§ 292.22)

Condemnation is the acquisition of lands or interests therein by the Secretary without the consent of the owner. In the case of the Act, condemnation is a limited authority that may be exercised by the Secretary only in the event that a standard or standards set forth herein are violated for all private land categories except mining lands. Where mining lands are involved, the Secretary may exercise his or her condemnation authority notwithstanding the fact that the mining land owner has complied with the relevant standards of this section.

Comprehensive Management Plan is the document that establishes the array, levels, and manner of resource uses within the HCNRA. It is incorporated as part of the Wallowa-Whitman National Forest Land and Resource Management Plan.

Conservation easement or *Scenic easement* as defined in section 9(d) of the Act "means the right to control the use of land in order to protect aesthetic values for the purposes of this Act, but shall not be acquired without the consent of the owner to preclude the continuation of any farming or pastoral use exercised by the owner as of the date of enactment of this Act."

Dude ranching is a business oriented primarily towards furnishing small groups with an outdoor recreational and educational experience associated with ranching activities and perpetuates the purposes for which the HCNRA was established. Dude ranching is subservient to the primarily recognized ranching operation.

Existing uses are those uses of or developments to private land as of the date of enactment of the Act on December 31, 1975.

Farm/forest/grazing lands are those lands used for farms, forest, and grazing purposes, for maintaining watersheds as fish and wildlife habitat, or for providing outdoor recreational activities. All such lands are assigned to the Farm/Forest/Grazing land category in § 292.22.

Farm/forest/grazing Use is any traditional agricultural, silvicultural, or livestock management use or combination thereof on farm/forest/grazing lands within the HCNRA. This includes, but is not limited to, horticultural use, animal husbandry use, horse, cattle, and sheep ranching, seasonal feedlots, and preparation and storage of the products raised on farm/forest/grazing land for on-site use or for disposal by marketing or otherwise. The term includes truck farming, growing and harvesting of timber, and grazing of livestock.

Hazardous substance includes any material so classified under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 *et seq*).

Land modification includes any land altering activities such as gravel pits, mining, and road construction.

Mining lands are lands primarily used for mining purposes as of *[insert effective date of the final rule]* and which are assigned to the mining land category in § 292.22.

Outdoor recreational activities are activities such as camping, picnicking, rafting, boating, hiking, rock climbing, fishing, hunting, horseback riding, and the viewing of wildlife or scenery.

Parcel as used in this subpart refers to contiguous tax lots under one ownership. For the purposes of this

subpart, rights-of-way do not divide parcels into smaller units.

Partition is the division of land into lots, and which, under county planning ordinances, is identified by a map, drawing, or writing which contains the descriptions, locations, specifications, and dedications for roads, utilities, etc. and which has been properly filed with the County recorder.

Private land is land not in federal, state, or local government ownership.

Proposed uses are those uses of or development to a private land parcel within the HCNRA initiated after *[insert effective date of the final rule]*.

Ranger is the HCNRA Area Ranger, Wallowa-Whitman National Forest, with offices located in Enterprise, Oregon, Riggins, Idaho, and Clarkston, Washington, except for the Rapid Wild and Scenic River where the term refers to the Salmon River District Ranger, Nez Perce National Forest, located in Whitebird, Idaho.

Recreational facilities are facilities associated with or required for outdoor recreational activities and include, but are not limited to, parks, campgrounds, hunting and fishing lodges, and interpretive displays.

Residential lands are lands within the HCNRA developed for residential purposes as of *[insert effective date of the final rule]* and which are assigned to the Residential land category in § 292.22.

Scenic easement. See *Conservation Easement.*

Screening is the reduction or elimination of the visual impact of any structure or land modification as seen from any public travel route within the HCNRA.

Seasonal feedlots are enclosed areas of concentrated livestock use, usually less than 5 acres. They are used seasonally, not year round, for winter feeding and/or calving prior to moving to the summer range.

Solid waste is discarded solid materials resulting from mining, industrial, commercial, agricultural, silvicultural, and community activities. This term does not include domestic sewage or pollutants such as silt or dissolved materials in irrigation return flows.

Structure is any permanent building or facility, or part thereof such as barns, outhouses, residences and storage sheds. This includes electric transmission line systems, substations, commercial radio transmitters, relays or repeater stations, antennas, and other electronic sites and associated structures.

Traditional uses are ranching, grazing, farming, timber harvesting and the occupation of homes and land associated therewith within the HCNRA, or other activities including outdoor recreational activities, which existed on or before December 31, 1975.

Travel route is a route, such as a county or National Forest system road or river or trail, that is open for use by members of the general public.

Zoning is the regulation of private land uses by a local unit of government.

§ 292.22 Land category assignments.

(a) *Land categories.* (1) All privately owned land within the HCNRA is to be assigned to one of the following four land categories:

(i) Farm/forest/grazing land.

(ii) Mining land.

(iii) Residential land.

(iv) Commercial land.

(2) A map or maps displaying the privately owned lands within the HCNRA and the land categories to which they have been assigned must be on file and available for public inspection at the Ranger's office.

(b) *Changes in land category assignment.* Lands assigned to the Commercial, Residential, or Mining category may be reclassified as farm forest/grazing land so long as the intended use or development is consistent with the standards in § 292.23 and the Ranger has given public notice of the proposed change in the local newspaper of record and has notified adjacent landowners and the affected county government at least 30 days prior to any decision on the proposed change.

§ 292.23 Standards of compatible land use and development.

Private land use that conforms to the standards of this section is deemed to be compatible with the purposes for which the HCNRA was established.

(a) *Standards applicable to all private land.* The following standards are applicable to use and development of private lands within the HCNRA in all land categories as of *[insert effective date of the final rule]*.

(1) Use and development must conform to applicable local, state, and federal environmental, natural resource and land use development law.

(2) All new or replacement structures are screened and/or constructed of materials that blend with the natural environment, except where structures typify the architectural style and materials of a significant historic era such as pre-World War II. Screening shall not be required, however, for new or replacement structures that are associated with an existing unscreened structure or structures that were not screened at the time this rule became effective.

(3) No public or commercial solid waste disposal sites or hazardous substance disposal sites are located on private lands within the HCNRA.

(4) All new or replacement utility lines are placed underground where ground conditions and topography permit. This standard shall not prevent or impair routine maintenance of utility lines or related structures in existence prior to *[insert effective date of the final rule]*.

(5) No new or replacement structures may be developed within the boundaries of the Hells Canyon Wilderness, provided that existing structures may be repaired and/or maintained.

(6) Significant historic, archaeologic, or paleontologic sites are protected.

(7) Sites used for the extraction of common mineral materials, such as gravel, are solely for road construction and maintenance purposes on all except designated mining lands, are screened where possible, and are not in excess of 5 acres in size.

(8) Recreation facilities may be developed on private lands that enhance and are compatible with the purposes and direction of the Act.

(b) *Farm/forest/grazing lands standards.* The following additional standards are applicable to farm/forest/grazing lands:

(1) The minimum lot size for residential development is 160 acres. Only residences associated with farm/forest/grazing uses may be developed. Partitions of less than 160 acres may be made to provide for the continuation of existing commercial agriculture, but may not be developed for residential use.

(2) Structures are limited to those necessary to conduct farm/forest/grazing use.

(3) Dude ranching is permitted provided it is compatible with the purpose and direction of the Act and it is part of a recognized ranching operation.

(4) New or replacement structures for farm/forest/grazing use are not closer than 25 feet from a property line or 55 feet from the center line of a travel route.

(c) *Mining lands.* (1) The following standards are applicable to mining lands:

(i) The owner of mining lands must consult with the Ranger concerning proposed mineral development activities prior to submitting a plan of operations to the relevant state or federal agencies.

(ii) Operations comply with Federal and State mining, air quality, water quality, hazardous waste, water disposal and reclamation standards.

(iii) The type and number of structures, including but not limited to residences associated with the mining activity, are limited to the minimum necessary for the use and development of the mining lands.

(iv) No new structures are located closer than 25 feet from a property line or 55 feet from the center line of a travel route.

(v) Mining lands are not partitioned.

(2) Notwithstanding compliance with the standards of paragraph (c)(1) of this section, the Secretary may acquire mineral interests in the HCNRA without the consent of the owner, if the Secretary deems this necessary to meet the purposes for which the HCNRA was established.

§ 292.24 Determination of compliance and noncompliance.

(2) *Compliance.* Landowners may request a determination by the Forest Service as to whether an existing or a proposed use or development complies with the relevant standards set out in this subpart.

(1) Requests for a determination of compliance must be made in writing to the Ranger and include the following information:

(i) The current land category to which the land is assigned (§ 292.23);

(ii) The use or development that exists or that is proposed for the property;

(iii) A statement as to whether a change in the land category assignment will be necessary to accommodate the proposed use or development;

(iv) The timeframe for implementing the proposed use or development;

(v) A statement as to how the proposed use or development satisfies the relevant standards of § 292.23 of this subpart.

(2) The Ranger shall review the request and notify the landowner in writing within 45 days whether the existing or proposed use or development is in compliance with § 292.23 of this subpart. The Ranger may extend the time for making a compliance determination by 30 days if additional information is needed.

(b) *Noncompliance.* In the event that the Forest Service determines that an existing or proposed use or development is not in compliance with the standards of § 292.23 of this subpart, the Ranger shall give the landowner written notice of the manner and nature of noncompliance. To the extend practicable, the notice will include suggestions for achieving compliance. The notice also must include a statement that the violation of a standard or standards and the failure to cure such violation may result in the initiation of condemnation proceedings by the Secretary.

(c) *Written petition.* Any interested party, including, but not limited to, landowners, government officials, or special interest groups may file a written petition with the Forest Supervisor for a review of a decision of compliance or noncompliance. The Forest Supervisor shall render a decision within 30 days of the receipt of the petition. A decision by the Forest Supervisor constitutes the final administrative determination by the Department of Agriculture. Petitions of decisions on land within the Rapid River Wild and Scenic River Corridor should be addressed to the Forest Supervisor, Nez Perce National Forest, Route 2, Box 475, Grangeville, Idaho 83450. All other petitions should be addressed to the Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker City, Oregon 97814.

§ 292.25 Information requirements.

The information required by § 292.24 of this subpart in order for a landowner to obtain a determination of compliance constitutes an information requirement as defined in the Paperwork Reduction Act (44 U.S.C. 3507), and has been approved for use by the Office of Management and Budget and assigned control number 0596– .

Dated: November 24, 1993.

David G. Unger,

Acting Chief.

[FR Doc. 93–30309 Filed 12–13–93; 8:45 am]

BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–051–5819; FRL–4813–6]

Approval and Promulgation of Implementation Plans; Florida: Proposed Approval of Revisions to Florida Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Florida State Implementation Plan (SIP) for ozone. These revisions were submitted to EPA through the Florida Department of Environmental Regulation (FDER) on January 8, 1993, and will revise regulations for Stage I vapor recovery (Stage I) in Florida's SIP and add regulations pertaining to Stage II vapor recovery (Stage II). This plan has been submitted by the FDER to satisfy the requirement of section 182(b)(3) of the 1990 Clean Air Act, which requires all ozone nonattainment areas classified as moderate or worse to require owners and operators of gasoline dispensing facilities to install and operate stage II vapor recovery systems. FDER has also submitted this plan as an integral part of the program to achieve and maintain the National Ambient Air Quality Standards (NAAQS) for ozone, carbon monoxide, nitrogen dioxide and sulfur dioxide. These regulations meet all of EPA's requirements for stage II programs and therefore EPA is proposing to approve the SIP revisions.

DATES: To be considered, comments must be received by EPA Region IV on or before January 13, 1994.

ADDRESSES: Comments may be mailed to Alan Powell at the EPA Region IV address indicated.

Copies of the material submitted by Florida may be examined during normal business hours at the following locations:

Region IV Air Programs Branch, Environmental Protection Agency 345 Courtland Street, NE., Atlanta, Georgia 30365.

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Alan W. Powell of the EPA Region IV Air Programs Branch at (404) 347–2864 and at the address indicated in the **ADDRESSES** section.

SUPPLEMENTARY INFORMATION: On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act as amended in 1990 (CAA) includes new requirements for the improvement of air quality in ozone nonattainment areas. Under section 181(a) of the CAA, nonattainment areas were categorized by the severity of the area's ozone problem, and progressively more stringent control measures were required for each category of higher ozone concentrations. The basis for classifying an area in a specific category was the ambient air quality data obtained in the three year period 1987–1989. The CAA delineates in section 182 the SIP requirements for ozone non-attainment areas based on their classifications. Specifically, section 182(b)(3) requires areas classified as moderate to implement Stage II controls unless and until EPA promulgates On

Board Vapor Recovery (OBVR) regulations pursuant to section 202(a)(6) of the CAA. Based on consultation with the National Highway Transportation Safety Board, EPA determined that OBVR were unsafe and therefore moderate areas must implement a Stage II program. On January 22, 1993, the United States Court of Appeals for the District of Columbia ruled that EPA's previous decision not to require OBVR controls be set aside and that OBVR regulations be promulgated pursuant to section 206(a)(6) of the CAA. Subsequently, EPA reached a settlement with the plaintiffs which required EPA to promulgate final regulations by January 22, 1994. After such promulgation, moderate areas will not be required to implement Stage II regulations, but Florida has indicated that the State intends to continue Stage II as part of its long term maintenance plan. Under section 182 (b)(3), EPA was required to issue guidance as to the effectiveness of Stage II systems. In November 1991, EPA issued technical and enforcement guidance to meet this requirement. These two documents are entitled "Technical Guidance-Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (EPA–450/3–91–022) and "Enforcement Guidance for Stage II Vehicle Refueling Control Programs". In addition, on April 16, 1992, EPA published the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (57 FR 13498). The guidance documents and the General Preamble discuss Stage II statutory requirements and indicate what EPA believes a State submittal needs to include to meet those requirements. The Florida regulations meet those requirements and are discussed below.

Rule 17–252, Gasoline Vapor Recovery

Stage II

The Southeast Florida Air Quality region is designated nonattainment for ozone and classified as moderate. See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.300 through 81.437. Under section 182(b)(3) of the CAA, Florida was required to submit Stage II vapor recovery rules for this area by November 15, 1992. On January 8, 1993, FDER submitted to EPA Stage II vapor recovery rules that were adopted by the State on December 9, 1992, and the rules became state effective January 21, 1993. The Florida regulation meets EPA requirements as discussed below. Additional information is contained in the Technical Support Document (TSD) which is available for review in the EPA Region IV office.

The provisions of section 182(b)(3) of the CAA include a requirement for owners or operators of gasoline dispensing systems to install and operate Stage II vapor recovery equipment at their facilities. The CAA specifies that the state regulation implementing this requirement must apply to any facility that dispenses more that 10,000 gallons of gasoline per month or, in the case of an independent small business marketer (ISBM), any facility that dispenses more than 50,000 gallons of gasoline per month. The definition of an ISBM is included in the TSD and may also be found in section 324 of the CAA. The State has adopted a general applicability requirement of 10,000 gallons per month and has provided an applicability requirement of 50,000 gallons per month for ISBM's. The State definition of ISBM is consistent with the definition in the CAA.

The CAA specifies the time by which certain facilities must comply with the State regulation. For facilities that are not owned or operated by an ISBM, these times, calculated from the time of State adoption of the regulation, are: (1) 6 months for facilities for which construction began after November 15, 1990, (2) 1 year for facilities that dispense greater than 100,000 gallons of gasoline per month, and (3) two years for all other facilities (the State has set a more stringent time frame of November 15, 1994 for these facilities). For ISBM's, section 324(a) of the Act provides that the time periods may be: (1) 33 percent of the facilities owned by an ISBM by the end of the first year after the regulations take effect, (2) 66 percent of such facilities by the end of the second year, and (3) 100 percent of such facilities after the third year. Florida has provided that facilities are subject to the regulation if the facility dispense more than 50,000 gallons for ISBMs and more than 10,000 gallons for other facilities in any month during the two year period prior to the adoption. This regulation is more stringent than the EPA minimum requirement and is therefore consistent with the CAA.

Consistent with EPA's guidance, the State requires that Stage II systems be tested and certified to meet a 95 percent emission reduction efficiency by using a system approved by the California Air Resources Board (CARB). The State requires sources to verify proper installation and function of Stage II equipment through use of a liquid blockage test and a leak test prior to system operation and every five years or upon major modification of a facility (i.e., 75 percent or more equipment change). The State regulations require that records relating to applicability, maintenance, testing and permits be kept for two years at the facility or a central location. If records are not kept at the facility the records must be made available within seven days of a request by the State. The state has delegated the authority to enforce these regulations to the local programs in Broward, Dade and Palm Beach Counties. The enforcement programs for these programs are consistent with EPA guidance and a summary of the programs may be found in the TSD.

Stage I

The Stage I regulations have been amended to require Stage I vapor recovery at all facilities subject to the Stage II requirements in areas which are designated as a nonattainment or maintenance area for ozone under Rule 17–275, F.A.C. (Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties). The gasoline tanker truck section was also revised to require submerged filling at bulk plants and facilities required to have Stage I and II vapor recovery. These revisions are consistent with EPA policy and requirements.

Proposed Action

EPA is proposing to approve the above referenced revisions as meeting the requirements of section 182(b)(3) of the CAA. All of the revisions are consistent with EPA guidance. EPA is soliciting public comments on the proposed action.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. The U.S. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on U.S EPA's request. This request continues in effect under Executve Order 12866 which superseded Executive Order 12991 on September 30, 1993.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in

light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small non-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 7, 1993.

Patrick M. Tebin,

Acting Regional Administrator.

[FR Doc. 93–30461 Filed 12–13–93; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[SIPTRAX NO MD21–1–5951; A–1–FRL–4182–7]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Oxygenated Gasoline Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision implements an oxygenated gasoline program in three control areas as follows: The Northeast Oxygenated Gasoline Control Area, comprised of Cecil County which is part of the Philadelphia Consolidated Metropolitan Statistical Area (CMSA), the Baltimore Oxygenated Gasoline Control Area, comprised of Baltimore City and Anne Arundel, Baltimore, Carroll, Harford, Howard, and Queen Anne's counties which are included in the Baltimore Metropolitan Statistical Area (MSA); and the Washington Oxygenated Gasoline Control Area, comprised of Calvert, Charles, Frederick, Montgomery, and Prince George's counties which comprise the Maryland portion of the Washington, DC MSA. This SIP revision was submitted to satisfy the requirements of the Clean Air Act Amendments of 1990 (the Act) which require all carbon monoxide nonattainment areas with a design value of 9.5 parts per million (ppm) or greater based generally on 1988 and 1989 air quality monitoring data to implement an oxygenated gasoline program. The intended effect of this action is to propose approval of the oxygenated gasoline program. This action is being taken under section 110 of the Act.

DATES: Comments must be received on or before January 13, 1994. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation & Toxics Division, U.S. Environmental Protection Agency, Region III, same address as above, and at the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, MD 21224.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, (215) 597–6863.

SUPPLEMENTARY INFORMATION:

I. Introduction

Motor vehicles are significant contributors of carbon monoxide emissions. An important measure toward reducing these emissions is the use of cleaner-burning oxygenated gasoline. Extra oxygen enhances fuel combustion and helps to offset fuel-rich operating conditions, particularly during vehicle starting, which are more prevalent in the winter.

Section 211(m) of the Act requires that various states submit revisions to their SIPs, and implement oxygenated gasoline programs by no later than November 1, 1992. This requirement applies to all states with carbon monoxide nonattainment areas with design values of 9.5 parts per million or more based generally on 1988 and 1989 air quality monitoring data. Each state's oxygenated gasoline program must require gasoline for the specified control areas to contain not less than 2.7 percent oxygen by weight during that portion of the year in which the areas are prone to high ambient concentrations of carbon monoxide. Under section 211(m)(2), the oxygenated gasoline requirements are to generally cover all gasoline sold or dispensed in the larger of the Consolidated Metropolitan Statistical Area (CMSA) or the Metropolitan Statistical Area (MSA) in which the nonattainment area is located. Under section 211(m)(2), the length of the control period, to be established by the EPA Administrator, shall not be less than four months in length unless a state can demonstrate that, because of meteorological conditions, a reduced control period will assure that there will be no carbon monoxide exceedances outside of such reduced period. EPA announced guidance on the establishment of control periods by area in the **Federal Register** on October 20, 1992.[1]

In addition to the guidance on establishment of control period by area, EPA has issued additional guidance related to the oxygenated gasoline program. On October 20, 1992, EPA announced the availability of oxygenated gasoline credit program guidelines in the **Federal Register**.[2] Under a credit program, marketable oxygen credits may be generated from the sale of gasoline with a higher oxygen content than is required (i.e. an oxygen content greater than 2.7 percent by weight). These oxygen credits may be used to offset the sale of gasoline with a lower oxygen content than is required. Where a credit program has been adopted, EPA's guidelines provide that no gallon of gasoline should contain less than 2.0% oxygen by weight.

EPA issued labeling regulations under section 211(m)(4) of the Act. These labeling regulations were published in

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[1] See "Guidelines for Oxygenated Gasoline Credit Programs and Guidelines on Establishment of Control Periods under Section 211(m) of the Clean Air Act as Amended—Notice of Availability," 57 FR 47849 (October 20, 1992).

[2] See note 1, above. EPA was issued guidelines for credit programs under section 211(m)(5) of the Act.

the **Federal Register** on October 20, 1992.[3]

II. Background for This Action

The following areas in the State of Maryland are designated nonattainment for carbon monoxide and are all classified as moderate nonattainment areas with the following design values based on 1988 and 1989 data: Baltimore MSA, 9.5 ppm, and Washington MSA, 11.4 ppm. Additionally, due to its inclusion in the Philadelphia CMSA, Cecil County was also included in the program. The Philadelphia CMSA has a design value of 11.6 ppm.[4] Under section 211(m) of the Act, Maryland was required to submit a revised SIP under section 110 and part D of title I of the Act which includes an oxygenated gasoline program for Baltimore City and Anne Arundel, Baltimore, Calvert, Carroll, Charles, Frederick, Harford, Howard, Montgomery, Prince George's and Queen Anne's counties by November 15, 1992.[5]

On November 13, 1992, the Maryland Department of the Environment (MDE) submitted to EPA a revision to its SIP for an oxygenated gasoline program. The revision included additions to or changes to COMAR 03.03.05, 03.03.06, 26.11.13, and 26.11.26. These regulatory revisions were adopted by the state on October 6, 1992. EPA summarizes its analysis of the state submittal below. A more detailed analysis of the state submittal is contained in a Technical Support Document (TSD), dated June 16, 1993, which is available from the Region III office, listed in the **ADDRESSES** section.

III. EPA's Analysis of Maryland's Oxygenated Gasoline Program

As discussed above, section 211(m)(2) of the Act requires that gasoline sold or dispensed for use in the specified control areas contain not less than 2.7 percent oxygen by weight. Under section 211(m)(5), the EPA Administrator issued guidelines for credit programs allowing the use of marketable oxygen credits. Maryland has elected to adopt a regulation requiring 2.7% oxygen content for each gallon of gasoline sold in a control area. The following sections of this notice address some specific elements of the state's submittal. Parties desiring more specific information should consult the TSD.

Applicability and Program Scope

Section 211(m)(2) requires oxygenated gasoline to be sold during a control period based on air quality monitoring data and established by the EPA Administrator. Maryland has established a control period which begins each year on November 1, and continues for four months through February 28, or February 29 in a leap year. This control period is consistent with the EPA guidance.

Transfer Documents

Maryland has included requirements related to transfer documentation in its regulation. These transfer document requirements will enhance the enforcement of the oxygenated gasoline regulation, by providing a paper trail for each gasoline sample taken by state enforcement personnel.

Enforcement and Penalty Schedules

State oxygenated gasoline regulations must be enforceable by the state oversight agency. EPA recommends that states will visit at least 20% of regulated parties during a given control period. Inspections should consist of product sampling and record review. In addition, each state should devise a comprehensive penalty schedule. Penalties should reflect the severity of a party's violation, the compliance history of the party, as well as the potential environmental harm associated with the violation.

The Maryland regulation does not address enforcement provisions; however, enforcement provisions for the oxygenated gasoline program are found in Subtitle 6 of the Maryland Environmental Article, Title 2. This section of the Article states that the MDE shall use the facilities and services of appropriate agencies of political subdivisions to enforce the standards set under this title. The Maryland Motor Vehicle Fuel Tax Division is the oversight agency for enforcement of the Oxygenated Gasoline Program. Subtitle 6 also provides for corrective orders and civil penalty provisions. Maryland's enforcement and penalty provisions are acceptable to EPA.

Test Methods and Laboratory Review

EPA's sampling procedures are detailed in appendix D of 40 CFR part 80. EPA has recommended, in its credit program guidelines, that states adopt these sampling procedures. Maryland has adopted EPA sampling procedures. Each state regulation must include a test method.

EPA's guidelines recommend the use of the oxygenate flame ionization detector (OFID) test, although parties may elect to use ASTM–D4815–89 or another method, if approved by EPA. Maryland has elected to use the American Society for Testing and Materials test method ASTM–D4815–89 or OFID method.

EPA has established an interim testing tolerance, which states appropriate ranges for credit and per-gallon programs.[6] As EPA states in that memorandum, the purpose of the testing in a credit program is to determine if a sample meets the 2.0 percent minimum oxygen content requirement and to determine whether the documentation that accompanied that gasoline is correct. For a per-gallon program, the purpose of the testing is to determine whether the gasoline contains less than 2.7 percent oxygen by weight. Section 211(m) of the Clean Air Act provides that the gasoline is to contain 2.7% oxygen by weight, "subject to a testing tolerance established by the Administrator." Maryland has established a testing tolerance which is not in agreement with EPA's interim guidance. Maryland codified a −0.4 through +0.6 weight percent oxygen blending tolerance which is less stringent than the tolerance outlined in the October 5, 1992 memo cited above, because EPA's guidance included a −0.3 tolerance. Since EPA's interim guidance on testing tolerance is currently being reviewed and may be revised, EPA will accept Maryland's less stringent testing tolerance until EPA establishes a final testing tolerance. Once EPA establishes a final tolerance, the Agency will require Maryland to revise its regulation (by way of a "Sip Call letter") if the testing tolerance has boundaries which are more stringent than Maryland's boundaries.

Labeling

EPA was required to issue federal labeling regulations under section 211(m)(4) of the Act. These regulations, published in the **Federal Register** on October 20, 1992,[7] required the following statement be posted for a per-gallon program or credit program with minimum oxygen content requirement:

"The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles."

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[3] See "Notice of Final Oxygenated Fuels Labeling Regulations under Section 211(m) of the Clean Air Act as Amended—Notice of Final Rulemaking," 57 FR 47769. The labeling regulations may be found at 40 CFR part 80, § 80.35.

[4] See "Designation of Areas for Air Quality Planning Purposes," 56 FR 56694 (November 6, 1991).

[5] See credit program guidelines at 3, wherein the November 15, 1992 SIP revision due date was specified.

[6] See Memorandum dated October 5, 1992 from Mary T. Smith, Director, Field Operations and Support Division to State/Local Oxygenated Fuels Contacts.

[7] See note 3.

The Federal regulation also specifies the appearance and placement requirements for the labels.

EPA has strongly recommended that states adopt their own labeling regulations, consistent with the Federal regulation. Maryland has adopted labeling regulations consistent with the federal regulation.

EPA is proposing to approve the Maryland SIP revision for an oxygenated gasoline program, which was submitted on November 13, 1992. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

Proposed Action

EPA has evaluated Maryland's amendments to COMAR 03.03.05, 03.03.06, 26.11.13, 26.11.20 for consistency with the CAA and EPA regulations, and is proposing approval of Maryland's submittal to amend its SIP.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities, 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301, and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

This Proposed approval of the Maryland Oxygenated Gasoline Program has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

The Administrator's decision to approve or disapprove the SIP revision will be based on whether it meets the requirements of Section 110(a)(2)(A)–(K), 110(a)(3), and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 30, 1993.

Stanley L. Laskowski,

Acting Region Administrator, Region III.

[FR Doc. 93–30463 Filed 12–13–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 68

[A–91–73; FRL 4812–5]

Risk Management Programs for Chemical Accidental Release Prevention; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of public hearing.

SUMMARY: On October 20, 1993 the Environmental Protection Agency proposed regulations that would require development and implementation of risk management programs at facilities that manufacture, process, use, store, or otherwise handle regulated substances in quantities that exceed specified thresholds. EPA has proposed a list of regulated substances and thresholds separately. Risk management programs provide facilities with an integrated approach to identifying and managing the hazards posed by these regulated substances. The risk management plans developed under such programs would be registered with EPA, provided to the Chemical Safety and Hazard Investigation Board, state governments, and local planning authorities, and made available to the public. The proposed rule would assist facilities and communities in efforts to lessen the number and severity of serious chemical accidents. This notice schedules an additional public hearing in Houston, Texas on January 6, 1994 from 9 a.m. to 9 p.m.

DATES: Comments must be submitted on or before February 16, 1994. Public hearings will be held in San Francisco, CA on December 15, 1993, and in Houston, TX on January 6, 1994 from 9 a.m. to 9 p.m. A **Federal Register** Notice on November 16, 1993 announced the San Francisco hearing. Persons interested in appearing at the Houston public hearing should register with EPA at (214) 655–2277 and submit their testimony by December 30, 1993.

ADDRESSES: Comments should be mailed or submitted to: Environmental Protection Agency, Air Docket (LE–131), Attn: Docket No. A–91–73, Waterside Mall, 401 M Street, SW., Washington, DC 20460. Comments must be submitted in duplicate. In addition, testimony for the Houston hearing should be mailed to: Attn: RMP Hearing, EPA Region 6 Mail Code 6E–E, Allied Bank Tower, 1445 Ross Avenue, Dallas, TX 75202–2733. The public hearing will be held at: Pasadena Convention Center, 7902 Fairmont Parkway, Pasadena, TX.

Docket: Supporting documentation used in developing this proposed rule is contained in Docket No. A–91–73. This docket is available for public inspection and copying between 8:30 a.m. and 12 noon, and between 1:30 and 3:30 p.m. Monday through Friday, at the Washington address listed above. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Dr. Lyse Helsing, Chemical Emergency Preparedness and Prevention Office, Environmental Protection Agency, 5101, 401 M St. SW., Washington, DC 20460, (202) 260–6128; or the Emergency Planning and Community Right-to-Know Hotline, (800) 535–0202; in northern Virginia and Alaska, (703) 920–9877.

Dated: December 6, 1993.

Signed:

Jim Makris,

Director, Chemical Emergency Preparedness and Prevention Office.

[FR Doc. 93–30351 Filed 12–13–93; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435, 436, 440, and 447

[MB–26–P]

RIN 0938–AE51

Medicaid Program; Extended Medicaid for Certain Families Who Lose AFDC Eligibility Because of Earned Income; Work Supplementation Participants; Residency of Minor Parents and Pregnant Individuals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule would amend the Medicaid regulations that specify eligibility groups and conditions of eligibility. It would—

- Revise the provisions for extended Medicaid to families that lose Aid to Families with Dependent Children (AFDC) benefits because of excess income in a month in which the monthly earnings or hours of employment increase or the earnings disregards are lost;
- Make Medicaid eligibility mandatory for individuals who are deemed to be AFDC recipients because of participation in a State-operated work supplementation program; and
- Prohibit States from imposing, on Medicaid eligibility groups other than certain AFDC recipients, any State-elected AFDC requirement that minor parents under age 18 and minor individuals under age 18 who are pregnant must reside with specified adults or in specified living arrangements.

The proposed changes would implement provisions of the Family Support Act of 1988, Public Law 100–485, as amended by the Omnibus Budget Reconciliation Acts of 1989 and 1990, Public Law 101–239 and Public Law 101–508, respectively.

DATES: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on February 11, 1994.

ADDRESSES: Mail written comments to the following address: Health Care Financing Administration: Department of Health and Human Services, Attention: MB–26–P, P.O. Box 26676, Baltimore, Maryland 21201.

Please address a copy of written comments on information collection requirements to: Office of Information and Regulatory Affairs, Attention: Laura Oliven, Office of Management and Budget, Room 3002, New Executive Office Bldg., Washington, D.C. 20503.

If you prefer, you may deliver your written comments to one of the following locations:

Room 309–G, Hubert H. Humphrey Bldg., 200 Independence Ave., SW., Washington, D.C. 20201, or

Room 132, East High Rise Bldg., 6325 Security Boulevard, Baltimore, Md. 21207.

Due to staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code MB–26–P. Comments will be available for public inspection as they are received, beginning approximately 3 weeks after publication, in Room 309–G of the Departmental offices at 200 Independence Ave., SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202–690–7890).

FOR FURTHER INFORMATION, CONTACT: Richard Coyne, (410) 966–4458.

SUPPLEMENTARY INFORMATION:

I. Background

A. General Background and Legislation

Under the Medicaid program, States are required to provide medical assistance to individuals who are receiving, or deemed to be receiving, Aid to Families with Dependent Children (AFDC). Title IV–A (AFDC) and title XIX (Medicaid) of the Social Security Act (the Act), the authorities for the two programs, are specific as to the description of AFDC and Medicaid eligibility groups of individuals and the conditions under which they are eligible.

On October 13, 1988, the Family Support Act of 1988, Public Law 100–485 was enacted. This Act revised the AFDC program to emphasize work, child support, and family benefits; to encourage and assist needy children and parents under the program to obtain the education, training, and employment needed to avoid long-term welfare dependency; and to make other necessary improvements to assure that the program would be more effective in achieving its objectives. As part of these improvements, the Family Support Act changed a number of sections of, and added a new section 1925 to, the Social Security Act that affect the furnishing of Medicaid to AFDC-related individuals. Certain Medicaid provisions of the Family Support Act were further amended by the Omnibus Budget Reconciliation Act of 1989 (OBRA '89), Public Law 101–239, enacted on December 19, 1989, and the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101-508, enacted on November 5, 1990 (to be effective as if the amendments were included in the enactment of the Family Support Act of 1988). We will discuss these provisions individually below and specify how we propose to incorporate them into the Medicaid regulations.

B. Extended Medicaid to Families Who Lose AFDC Eligibility Because of Increased Earnings or Hours of Employment or Loss of Earnings Disregards

Before passage of the Family Support Act, the statute provided for continuing Medicaid to AFDC families that lost AFDC eligibility as a result of earnings from employment. If a family was eligible for and received benefits in at least 3 of the 6 months immediately preceding the month it became ineligible for AFDC solely as a result of increased hours of or increased income from employment, States were required to continue Medicaid for a period of 4 months. The provision of extended Medicaid also applied to a family receiving AFDC on the basis of the unemployment of the principal earner if the family became ineligible for AFDC because the principal earner worked more than 100 hours a month. States were required to continue Medicaid benefits for 9 months to families that lost AFDC eligibility solely because the family lost either the $30 and one-third earned income disregard or the $30 disregard. States had the option to provide Medicaid for an additional 6 months to families who would have been eligible for AFDC if the earned income disregards were applied. (AFDC recipients are entitled to the disregard of $30 plus one-third of additional earnings in determining AFDC benefit amounts. However, the one-third disregard is applied for only 4 consecutive months. The $30 disregard is available for 8 additional months.)

Section 303(a)(1) of the Family Support Act changed the provisions for extended Medicaid under the circumstances described above, effective April 1, 1990 (October 1, 1990, for Kentucky), through September 30, 1998. Section 6411(i) of OBRA '89 clarifies that the suspension of the 6-month or 9-month extension does not apply to

families that lost AFDC eligibility before April 1, 1990. Section 303(a)(1) established a new section 1925 of the Social Security Act that requires State Medicaid agencies to continue to provide Medicaid to each family that was eligible for and received AFDC under an approved State plan in at least 3 of the 6 months immediately preceding the month the family became ineligible for AFDC because of hours of, or income from, employment of the caretaker relative, or because a member of the family loses the earned income disregards. Under this provision, Medicaid must be continued for 6 months without reapplication for benefits, beginning with the month the family becomes ineligible for AFDC if there is a child living in the home and other specified requirements are met. States must offer extended Medicaid for an additional 6-month period to any family that received assistance for the entire initial 6-month extended period. Eligible families that elect to receive the additional 6-months of extended Medicaid also must meet certain other conditions specified in the statute.

Section 1925(d) of the Act specifies that extended Medicaid must not be granted to any individual who the State AFDC or Medicaid agency determines has committed fraud during the last 6 months in which the family was receiving aid before otherwise being provided extended Medicaid eligibility. These determinations would be subject to the fraud and program abuse provisions for AFDC and/or Medicaid under sections 1128, 1128A, and 1128B of the Act and implementing regulations under 42 CFR Part 455. Under the AFDC program, a determination of fraud must be made following a hearing. Under Medicaid, a conviction for fraud must be made by a court of competent jurisdiction.

Section 1925(c)(1) specifies that a State with a section 1115(a) waiver must meet the requirements of section 1925 in the same manner as the State would be required to meet such requirements if the State had in effect a plan approved under title XIX. However, based on the legislative history for the Family Support Act, section 1925(c)(l) was added to be applicable only in the State of Arizona. Section 1925(c)(2) specifies that the provisions of section 1925 apply only to the 50 States and the District of Columbia; they do not apply to the Territories. However, the amendments made by section 303(b)(1) of the Family Support Act suspend until October 1, 1998, the authority under sections 1902(e) and 402(a)(37) under which extended Medicaid was provided before enactment of the Family Support Act. As a result, there is some question as to the statutory authority for extended benefits for the Territories. We do not believe the Congress intended to remove the authority for extended Medicaid in the Territories and are therefore permitting Guam, Puerto Rico, and the Virgin Islands to continue extended Medicaid under the authority of sections 1902(e) and 402(a)(37) in effect prior to April 1, 1990.

Following is a detailed discussion of the specific provisions included in section 1925 as established by the Family Support Act and as subsequently modified. These provisions establish specific conditions of eligibility, reporting and notification requirements, conditions for continuing and terminating extended Medicaid, requirements and options for the scope of services provided during the extended Medicaid periods, alternative methods for providing services, and the option to require payment of premiums during the second 6-month period.

1. Conditions of Eligibility—Initial 6-Month Period

As stated earlier, section 1925 of the Act provides for two 6-month periods of extended Medicaid when specific conditions of eligibility are met. The first 6-month period begins with the month the family becomes ineligible for AFDC. The second 6-month period immediately succeeds the first 6-month period.

To be eligible under the initial 6-month period, a family must become ineligible for AFDC because of increased hours of, or increased income from, employment of the caretaker relative, or because a member of the family loses the $30 and one-third earned income disregard or the $30 disregard. In addition, the family must continue to have a child living in the family, whether or not the child is a dependent child under AFDC, and, at State option, may be required to apply for health care coverage under his or her employer's health plan.

Under the provisions of section 1925, as initially included under the Family Support Act, the family had to include a child that was dependent according to the AFDC definition of dependency. Section 6411(i) of OBRA '89 made a technical correction to section 1925 to specify that the family was eligible for extended Medicaid if all other conditions of eligibility were met as long as the family included a child, whether or not the child meets the AFDC definition of dependency. The change made by OBRA '89 was to clarify that the requirement that the family include a "dependent child" could be met even though the principal wage earner was employed. To be a "dependent child" for AFDC purposes, a child must both be needy and be deprived of parental care and support because of the absence, disability, unemployment, etc., of the parent. The original language of section 1925 specified that the family had to include a child "who would if needy be" a dependent child because it intended to cover families with children who no longer were eligible for AFDC because they were no longer needy. However, this original language did not take into account that, in addition to no longer being needy, children in intact families no longer met the deprivation factor when the principal wage earner became employed.

To conform our regulations to section 1925, we propose to specify that the State must provide extended benefits to a family that loses eligibility for AFDC benefits because of an increase in either the earned income or the hours of employment of the caretaker relative or because the earnings disregards are lost (as determined by the AFDC agency) (§ 435.112(b)(2)). Loss of AFDC eligibility would be considered to be "because of" an increase in earned income (or loss of the earnings disregards) under either of the following conditions:

- If the increase in earned income (or countable income resulting from the loss of the disregard) were, by itself, sufficient to make the family ineligible; or
- If the increase in other income were not sufficient, by itself, to make the family ineligible, but together with an increase in the family's earned income (or countable income resulting from the loss of the disregard) resulted in the family's loss of eligibility for AFDC.

The following are examples of this interpretation as applied to a family of four in a State with an AFDC standard of $400 per month:

Example 1: The caretaker relative, in a family with no other income, becomes employed on June 1 and reports countable earned income of $500 in June. The family is no longer eligible for AFDC in June due to excess income. The excess income is entirely because of an increase in earned income and the family is eligible for extended Medicaid.

Example 2: A family has recurring monthly unearned income of $300. The caretaker relative becomes employed on June 1 and reports countable earned income of $200 in June. The family is no longer eligible for AFDC in June due to excess income which is both earned and unearned. Without the increase in earned income of the caretaker relative,

the family would have remained eligible for AFDC. Therefore, the family is eligible for extended Medicaid.

Example 3: The caretaker relative becomes employed on June 1 and reports countable earned income of $100 in June. At the same time the caretaker relative reports that beginning with June the family is receiving monthly unearned income of $500. The family is no longer eligible for AFDC in June due to excess income which is both earned and unearned. Since the $500 increase in unearned income was sufficient alone to make the family ineligible for AFDC, while the $100 increase in earned income was not sufficient, in its own right, to make the family ineligible, the family was not ineligible because of the increase in earned income. Therefore, the family is not eligible for extended Medicaid.

Example 4: The caretaker relative, in a family with no other income, becomes employed on June 1 and reports countable earned income of $375 in June. In July, one child leaves the household. As a result, the AFDC standard for the family in July is reduced to $325. The family is no longer eligible for AFDC in July due to excess income, all of which is earned. However, the family is not eligible for extended Medicaid because the earnings of the caretaker relative did not increase in July, the month in which AFDC eligibility was lost.

Example 5: A caretaker relative is employed and has monthly countable earned income of $375. The caretaker relative reports that she no longer has to pay for day care in June because free afterschool care is available. Without child care expenses, her countable earned income increases to $450 in June. The family is no longer eligible for AFDC in June because of excess income. However, the family is not eligible for extended Medicaid because the earnings of the caretaker relative did not increase in June, the month in which AFDC eligibility is lost.

Section 1925 specifies that the States may require, at their option, that the caretaker relative apply for health care coverage under his or her employer's health plan as a condition of eligibility for extended Medicaid. We propose in these regulations that this option, if elected by the State, must be specified in the State plan (§ 435.112(b)(4)).

Finally, in cases involving increases in both earned income and child or spousal support, eligibility under section 406(h) of the Act does not preclude eligibility under section 1925 and vice versa. A family that loses eligibility for AFDC benefits because of excess income in a month in which the monthly earnings or hours of employment of the caretaker relative increase or the earnings disregards are lost and child support collection on behalf of a member of the assistance unit begins or increases is not limited to eligibility under section 406(h) of the Act and must be considered for eligibility under section 1925 of the Act.

2. Conditions of Eligibility—Second 6-Month Period

During the second 6-month period, a State must provide extended Medicaid benefits to any family that chooses to receive these benefits if—

- The family met the eligibility requirements and conditions specified for the first 6-month extended period for that entire period;
- The family pays any premiums imposed, at State option, by the agency;
- The family meets requirements for reporting monthly gross family earned income and care costs, unless good cause for failure to report exists;
- The caretaker relative was employed during each month of specified 3-month reporting periods, unless good cause exists; and
- The family's average gross monthly earnings, less child care costs necessary for the employment of the caretaker relative, for specified 3-month reporting periods do not exceed 185 percent of the Federal poverty level for a family of the same size.

We propose to define good cause for not being employed as illness or involuntary loss of employment, or as defined in AFDC regulations at 45 CFR 250.35. The State may determine what constitutes good cause for failure to report required information.

3. Continuation of Assistance to Individuals Who Enter Family During Both Extended Periods

We are proposing to specify that, in addition to individuals who were included in the AFDC family unit at the time the family lost AFDC eligibility, family members who enter the family unit during either 6-month period of extended eligibility would be eligible for extended Medicaid (§ 435.112(f)). For example, extended eligibility would be provided to individuals who are born or adopted into the family unit or to family members who were absent from the unit but returned any time during the extended periods. The earned income of an individual who has entered or returned to the family unit would be included in the gross family income assessment and that individual would be considered in determining the family size for the purposes of determining whether the family's income exceeds the specified percentage of the Federal poverty level for a family of the same size.

4. Reporting Requirements (§ 435.923)

Section 1925(b)(2)(B) specifies certain reporting requirements that families must meet as a condition of eligibility for extended Medicaid for the second 6-month period. Section 1925(b)(2)(B)(i) mandates that each State require, as a condition of eligibility for the second 6-month extended period, that each family report on the family's gross monthly earnings and on the family's costs for child care that is necessary for the employment of the caretaker relative. The family must report information on gross earnings and child care costs incurred in each of the first 3 months of the initial 6-month period. The information must be reported to the State no later than the 21st day of the fourth month of the initial extended Medicaid period. States will use the information reported by families in the initial 6-month period to determine whether they continue to meet the conditions of eligibility for extended Medicaid for the second 6-month period and for determining any premium amounts that States may, at their option, impose during the second 6-month extended period.

Section 1925(b)(2)(B)(ii) requires families receiving extended Medicaid during a second 6-month period to report to the State by the 21st day of the first month and the fourth month of the second 6-month period on the family's gross monthly earnings and child care costs for each of the 3 preceding months. States will use this information to determine continuing eligibility for extended Medicaid for each of the two 3-month periods in the extended period—that is, if the caretaker relative has appropriate earnings for the period and if the family's gross monthly earnings remain below 185 percent of the Federal poverty level for a family of the same size to make them eligible to continue to receive extended Medicaid.

Section 4716(a) of OBRA '90 amended section 1925(b)(2)(B)(i) to provide for a finding of good cause for failure to report by the 21st day of the fourth month of the initial 6-month extended period. Section 1925(b)(3)(A)(iii)(I) provides for a finding of good cause for failure to report by the 21st day of the first month and the fourth month of the second 6-month extended period. We propose to allow States to define good cause for failure to report.

Section 4716(a) of OBRA '90 also amended section 1925(b)(2)(B) by adding a new clause (iii) that prohibits a State from requiring a family receiving

extended Medicaid to report more frequently than once in the fourth month of the initial 6-month period and once in the first and fourth months of the second 6-month extended period.

For administrative purposes, we propose to include an additional reporting requirement for families (§ 435.923(c)(3)). In addition to reporting gross earned income and child care costs, we would require a family to report its family size as of the date on which the report of income and child care costs is made. We do not believe that the Congress intended that family size and the corresponding Federal poverty levels be averaged over the reporting period when family size changes. We believe that the family size at the time the report is made is the most accurate indication of the circumstances of the family when making decisions about continued eligibility for extended benefits or the amount of the premium which a family is able to pay. We propose to have States compare the family's average gross monthly earnings (less the average monthly costs of necessary child care) for the reporting period to the poverty level for the size of the family reported in the required report.

If a family fails to report earnings and child care costs within the specified timeframes, the agency has the option to suspend extended Medicaid until the month after the month the family reports the required information. The suspension option is available only if the family is not pending termination of extended Medicaid because the caretaker relative has no earnings in any reporting month or because the family's gross monthly earnings exceed the specified poverty level limits. In the case of a family's failure to report required information, the State may deny Medicaid only for the second 6-month extended period (§ 435.924(c)(3)).

5. Notification of Family Eligibility and Obligations (§ 435.922)

Section 1925(a)(2) of the Act requires States to notify the family of its right to extended Medicaid benefits when the family is sent notification of the termination of AFDC cash benefits. The notice must include a description of the circumstances under which extended Medicaid may be terminated and the requirement to submit reports on gross monthly earnings and child care costs necessary for the employment of the caretaker relative. The State must also include with the notice a card or other evidence of the family's entitlement to extended Medicaid.

Section 1925(b)(2) provides that a State must, during the third and sixth month of the initial 6-month period, notify the family of the family's option to receive extended assistance in the second 6-month period if the family meets eligibility conditions. These notices must specify the requirements for reporting monthly gross earnings and child care costs, explain the circumstances under which extended Medicaid may be terminated, specify whether any premiums are required for the second extended period, specify any out-of-pocket expenses that are the family's responsibility, specify reporting and payment procedures, and describe the scope of services provided and any preexisting condition limitations, waiting periods, or other coverage limitations imposed under any alternative coverage options offered by the State as allowed under the statute. The agency must also include with the notice a card or other evidence of the family's entitlement if the family elects to receive extended benefits. In addition, the notice sent in the sixth month of the initial 6-month extended period must specify the amount of any premiums for the first 3 months of the second 6-month extension period. The notice sent in the 3rd month of the second 6-month extended period must inform the family of any premiums for the second 3 months of that 6-month period.

6. Continuation of Extended Assistance Pending Redeterminations

Sections 1925(a)(3)(A) and 1925(b)(3)(A)(i) provide that when a State determines that a family ceases to include a child, Medicaid for all family members must be terminated as of the last day of the month in which the family no longer included a child. However, with respect to any child who ceases to receive extended Medicaid in the initial 6-month period because the family ceases to include a child, before Medicaid is discontinued, section 1925(a)(3)(C) requires the State to determine whether the child is eligible for Medicaid under the approved State plan as a child under age 18, 19, or 20, or as a low-income child under sections 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(VI), 1902(a)(10)(A)(i)(VII), or 1902(a)(10)(A)(ii)(IX). This same requirement for redetermination of a child's eligibility under other groups before Medicaid is discontinued also applies when a family loses extended eligibility because the family ceases to include a child during the second 6-month extended period. A child's benefits continues in each of these periods until these redeterminations are made (§ 435.924(e)).

Section 1925(b)(3)(C)(ii) provides that, in certain circumstances, the State must determine whether an individual is eligible under the State plan as medically needy before extended benefits may be terminated. This medically needy determination must be made whenever an individual would be terminated because of the failure of the family to pay required premiums, to satisfy any mandatory reporting requirements, or to meet earnings and income tests in the second 6-month extended period.

Section 1925 is not specific as to whether children who no longer meet the age requirements to be a child under AFDC continue to be eligible to receive extended Medicaid under section 1925. However, on the basis that Medicaid must be terminated for a family when there is no longer a child in the family, we have taken the position that children who no longer are considered children under the State's AFDC plan should not continue to receive extended Medicaid benefits and have incorporated this position in the proposed regulation (§ 435.112(g)(1)).

In implementing these provisions, we propose to require States to complete the redetermination of eligibility of both children and other family members under other groups under the approved plan within 30 days after the proposed termination date that would have occurred as specified in the law. This would mean that redeterminations of eligibility would be required to be completed within 30 days after the end of the first month in which the family ceases to include a child. In cases of failure to pay premiums, the redetermination would be required within 30 days after the end of the month in which the premium was due. In cases of failure to meet earnings and income tests, the redetermination would be required within 30 days after the end of the first or fourth month of the second 6-month extended period (§ 435.924(e)(3)). We believe this is a reasonable time limit for States to carry out this function, and at the same time would prevent States from delaying taking action on eligibility determinations indefinitely without the threat of Federal fiscal sanctions. We believe that such a time limit is also appropriate for good program management.

Extended assistance to the family under section 1925 cannot be terminated until the State gives notice of the grounds for termination.

7. Termination of Extended Medicaid (§ 435.924 (a) through (e))

Sections 1925 (a) and (b) of the Act specify that the agency must terminate extended Medicaid on the last day of the month, during either the first or second 6-month period, in which a child ceases to live in the home, or the caretaker relative refuses to apply for enrollment in his or her employer's health plan, if the State requires application for enrollment as a condition of eligibility. Because the law specifies that benefits must be terminated to the entire family when there is no longer a child living in the home, we also propose to require the agency to terminate extended Medicaid on the last day of the month in which a child no longer meets AFDC age requirements; that is, a child who reaches age 18 or 19 (§ 435.924(b)(2)).

The law also provides that the agency must terminate extended Medicaid at the end of the first or fourth month of the second 6-month extended period if—

- The caretaker relative has no earnings in any one or more months of a 3-month reporting period, without good cause. We propose to define good cause as illness or involuntary loss of employment, or as defined in AFDC regulations at 45 CFR 250.35.
- The family's average gross monthly earnings, minus average monthly child care costs that are necessary for the employment of the caretaker relative, for a 3-month reporting period exceed 185 percent of the Federal poverty level for a family of the same size.

In addition, the agency must terminate a family that fails to pay any required premiums during the second 6-month extended period without good cause at the end of the month in which a premium is due. A premium for a month is due on the 21st day of the following month.

Also, as stated under item 4 of this preamble, if a family fails to report earnings and child care cost within the specified timeframes, the agency has the option to suspend extended Medicaid, rather than terminating eligibility, until the month after the month the family reports the required information. If the agency elects to terminate the family for failure to satisfy reporting requirements, the termination is effective at the close of the first or fourth month of the second 6-month extended period, unless the family has established good cause for the failure to report.

8. Notice of Terminations (§ 435.924(f))

Sections 1925(a)(3)(B) and 1925 (b)(3)(B) of the Act require States to provide adequate notice of termination of extended Medicaid and of the grounds for the termination. In the case of terminations in the second 6-month period because the caretaker relative does not have any earnings, without good cause, in any reporting month, the notice must explain how families may reestablish eligibility under the plan. Section 4716 of OBRA '90 amended section 1925(b)(3)(B) of the Act to specify that an agency must not make a termination of extended Medicaid effective earlier than 10 days after the date of mailing of the notice of termination. We propose to require that the notice must advise the family of its right to appeal the termination determination in accordance with the regulations under 42 CFR Part 431, Subpart E, governing general Medicaid terminations. Given the very tight statutory timeframes from the receipt of information until the termination of benefits, and considering that an alternative eligibility determination must also be made before extended benefits are terminated, we would not require States to provide opportunity for a pre-termination evidentiary hearing.

9. Scope of Services—Initial Extended Period (§ 440.252)

Section 1925(a)(4) provides that, during the first 6-month period of extended Medicaid, the State must provide the same amount, duration, and scope of services to a family that would be provided if the family were still receiving AFDC. The State may provide for health care coverage through payment of the family's expenses for premiums, deductibles, coinsurance, or similar costs for health insurance provided by an employer to the caretaker relative or for insurance provided by an employer to an absent parent who is paying child support for a dependent child. (We wish to clarify that enrollment of a family in such "wrap around" coverage under this provision of section 1925 does not in any way change the basic principle that private insurance is always primary to Medicaid.) Under the wrap-around option under section 1925, a State is permitted to require a caretaker relative to apply to enroll a family in health insurance offered by his or her employer even if the policy covers persons who are not eligible for Medicaid.

A State may require the caretaker relative to apply for employer health care coverage as a condition of eligibility for extended Medicaid. However, section 1925(a)(4)(B)(i) requires the State to pay, directly or otherwise, any premiums and other enrollment expenses that the employee is otherwise required to pay. The law specifies that the caretaker relative may not be required to make financial contributions for this coverage through payroll deduction, payment of deductibles, coinsurance, or similar costs, or otherwise.

Because this type of Medicaid coverage is provided during a period of transition after which the family will be responsible for their own medical care and employers may refuse to provide health insurance unless it is paid for through payroll deductions, we are proposing to allow States flexibility in implementing section 1925(a)(4)(B)(i). Otherwise, States interested in using the wrap-around option may find it impossible to implement. Frequently, employers require payment for enrollment in health insurance through payroll deductions. In addition, if an individual does not enroll in health insurance when it is initially offered by the employer, he or she cannot enroll in it later or not until an "open season." Therefore, if we prohibit States from requiring the caretaker relative to make payment by payroll deduction and to be reimbursed later by the State, the family may not have access to insurance when the transitional period ends. This could be viewed as contrary to Congressional intent to assist these families in making the transition to self-support.

Therefore, we propose to allow States to have the caretaker relative make the payment through payroll deductions, but to require the State to reimburse the caretaker relative immediately for the payment. The State would be required to provide reimbursement for the payroll deduction concurrently with the date of the payroll deduction (that is, the date on which the caretaker relative receives the pay from which the deduction has been made) (§ 440.252 (b)(1)(i) and (b)(1)(ii)).

Section 1925(a)(4) provides that payment for premiums, coinsurance, and deductibles for the caretaker relative's enrollment of the family in an employer health plan may be treated as medical assistance and such payments would be eligible for Federal financial participation. In addition, section 1925(a)(4)(B)(ii) provides that the State must treat health care coverage under an employer plan under this section as a third party liability under section 1902(a)(25) of the Social Security Act.

If a caretaker relative is enrolled in a prepaid health plan before becoming eligible for extended Medicaid, the agency may allow the caretaker relative to continue the enrollment, unless the agency requires the caretaker relative to apply for enrollment in an employer's

health plan and the employer's plan does not include a family option.

10. Scope of Services—Second Extended Period (§ 440.252 (d) and (e))

During the second 6-month period of extended Medicaid, under section 1925(b)(4), the State may offer the same amount, duration, and scope of services that would be offered if the family were still receiving AFDC, or the State may elect to provide a limited scope of services by eliminating most non-acute care services specified in the Act. The non-acute care services that may be eliminated are: nursing facility services for individuals 21 years of age and older; certain medical or remedial care provided by licensed practitioners; home health care services; private duty nursing services; physical therapy and related services; other diagnostic, screening, preventive and rehabilitative services; inpatient hospital services, nursing facility services for individuals age 65 or over in an institution for mental diseases; intermediate care facility services for the mentally retarded; inpatient psychiatric hospital services for individuals under age 21; hospice care; respiratory care services; and any other medical care and other type of remedial care recognized under State law, specified by the Secretary.

The State may also, for the second 6-month extended period, provide for wrap-around coverage, in the same manner that the State offers families coverage during the initial 6-month period, through payment of the family's expenses for premiums, deductibles, coinsurance, or similar costs for health insurance provided by an employer to the caretaker relative or for insurance provided by an employer to an absent parent who is paying child support for a dependent child. If the State offers this wrap-around coverage in the second 6-month period, the requirements and conditions and our proposed interpretations for enrollment, payment of premiums, etc., described in section 9 of this preamble for wrap-around option in the first 6-month period apply to coverage under the second 6-month period.

The State may provide the full or a limited scope of Medicaid services during the second 6-month extended period through any one or more of the following alternative health care coverage options: enrollment in a family option of an employer's group health plan offered the caretaker relative; enrollment in a family option within the options of the group health plan or plans offered by a State to State employees; enrollment in a basic State health plan offered by the State to individuals otherwise unable to obtain health insurance coverage; or enrollment in an eligible health maintenance organization. The law provides that an eligible health maintenance organization must have less than 50 percent of its enrollees as Medicaid recipients who are not recipients of extended benefits. The use of a health maintenance organization in this case is in addition to any health maintenance organizations that may be used under the State's basic Medicaid services package. We propose to apply the requirements applicable to enrollment in a health maintenance organization that if a caretaker relative chooses to enroll in one of the alternative options, the family is locked into receiving health services under the optional plan and is not entitled to freedom of choice of providers under 42 CFR 431.51 (§ 440.252(e)(4)).

If the State offers alternative health coverage which involves payment of deductibles, coinsurance, and other cost-sharing, section 1925(b)(4)(D) provides that payment must be based on the full amount allowed under the alternative coverage option without regard to limitations under the basic Medicaid program. Any amounts paid by a State for premiums, deductibles, coinsurance, or related expenses (not including premiums otherwise payable by an employer and any premiums that the State elect to impose on families for coverage under the second 6-month extended period as a condition of eligibility) are considered medical assistance and subject to Federal matching.

If a State offers alternative health coverage options for families, section 1925(b)(4)(E) provides that the State must ensure that the following services are provided without charge to the families: services related to pregnancy (including prenatal, delivery, and postpartum services); and ambulatory preventive pediatric care (including ambulatory early and periodic screening, diagnosis, and treatment services) for each child who is eligible as a qualified child under section 1905(n)(2) of the Act. The State must pay for any deductibles, coinsurance, and other cost-sharing for services related to pregnancy and ambulatory preventive pediatric care or provide coverage under the State plan without any cost-sharing if these services are not provided in the alternative option in the same amount, duration, and scope as under the approved State plan. The State may also use a combination of these two methods of providing the two types of care.

11. Imposition of Premiums for Second 6-Month Period (§ 447.51 and § 447.62)

Section 1925(b)(5) of the Act allows States to impose a premium for extended Medicaid during the second 6-month extended period. No premiums may be imposed if the family's average gross monthly earnings, less average monthly child care costs necessary for the employment of the caretaker relative, for the period on which the premium is based do not exceed 100 percent of the Federal poverty level applicable to a family of the same size. The level of the premium may vary for health coverage options offered by the State. The amount of the premium for a month for a family in either of the 3-month periods of the second 6-month period may not exceed 3 percent of the family's average gross monthly earnings less average monthly child care costs necessary for the employment of the caretaker relative, reported for the 3-month base reporting period.

In determining the amount of premiums, the agency must base the premium for the first 3 months of the second 6-month extended period on the family's average monthly gross earnings, minus average monthly child care costs necessary for the employment of the caretaker relative, received during the first 3 consecutive months of the initial 6-month extended period. The premium for the second 3 months of the second 6-month extended period must be based on the family's average monthly gross earnings, minus average monthly child care costs necessary for the employment of the caretaker relative, for the second 3 consecutive months of the initial 6-month extended period. To determine the average monthly gross earnings of the family, we are proposing that the agency divide reported earned income for the prescribed 3-month period for all individuals living in the home who are members of the family unit by three. These individuals would include family members of the filing unit the month the family became ineligible for AFDC benefits, and parents and children who return to the home (or are born) during the extended eligibility period. The earned income of any individual who has returned to (or is born into) the family during the extended period would be included when determining gross family income and that individual would be included when establishing family size for purposes of determining whether the family's income exceeds 185 percent of the Federal poverty level for a family of the same size.

A premium for a month is due on the 21st day of the following month. Section 1925(b)(3)(A)(ii) provides that if the

family fails to pay any premium by the due date without good cause, the agency must terminate eligibility for extended Medicaid at the end of the month in which the premium is due. The State may determine what constitutes good cause for nonpayment of premiums.

II. Proposed Regulations

A. Provisions on Extended Medicaid

In summary, we propose to revise our regulations at § 435.112 to include the group of individuals eligible for extended Medicaid because of increased earnings or hours of employment or loss of earned income disregards. We also propose to:

- Add a new § 435.922 to specify the eligibility notice requirements;
- Add a new § 435.923 to specify reporting requirements for families;
- Add a new § 435.924 to specify grounds for terminations and termination notice requirements;
- Add a new § 440.252 to specify the scope of services requirements for individuals receiving extended Medicaid;
- Add a new § 447.62 to specify premiums provisions; and
- Make conforming changes to §§ 435.3, 440.200, 447.50, 447.51, and 447.59.

B. Individuals Participating in Work Supplementation Programs

Section 201 of the Family Support Act established a Job Opportunities and Basic Skills Training Program under section 482 of the Social Security Act to help needy families with children obtain the education, training, and employment that may help them avoid long-term welfare dependency. The new section 482(e) provides for establishment of a work supplementation program which will replace the work supplementation program previously provided for under section 414(g) of the Act. Section 482(e)(6) provides that any individual who participates in a State-operated work supplementation program and any child or relative of the individual (or other individual living in the same household as the individual) who would be eligible for AFDC if the State did not have a work supplementation program must be deemed to be receiving AFDC for purposes of title XIX, Medicaid. (Work supplementation earnings and hours of employment are not considered in the determination of whether the individual would be eligible for AFDC.)

We propose to make conforming changes to our regulations at § 435.115(c) and § 436.114(c) to provide for mandatory eligibility for this deemed group, which previously had been optional, and to change the statutory citations in the regulations.

C. Households Headed by Minor Parents or Minor Individuals Who Are Pregnant

Section 403 of the Family Support Act provides that States may require, as a condition of AFDC eligibility, that minor parents and minor individuals who are pregnant reside in—

- The place of residence of a parent, legal guardian, or adult relative;
- A foster home;
- A maternity home; or
- Other adult-supervised supportive living arrangement.

This option does not apply if (1) the individual has no parent or legal guardian who is living and whose whereabouts are known; (2) the parent or legal guardian does not allow the individual to live in the home; (3) the State agency determines that the physical or emotional health or safety of the individual or her child would be jeopardized; (4) the individual lived apart from her parent or legal guardian for a period of at least one year prior to either the birth of the child or applying for benefits; or (5) the State agency otherwise determines that good cause exists and defines good cause in the approved State AFDC plan.

While Medicaid is not automatically available to minors and their children who do not meet this AFDC requirement, if imposed under a State's approved AFDC plan, the AFDC requirement cannot be used as a condition of Medicaid eligibility under any other eligibility group for which Medicaid eligibility of a minor parent, pregnant minor individual, or their child is being determined. In addition, the agency may not terminate Medicaid for families that become ineligible for AFDC solely because of this policy if elected by the State, until the State has determined that the person is not otherwise Medicaid eligible under its plan.

Our basis for this policy is as follows: In accordance with regulations at 42 CFR 435.916 and 435.930, a State must redetermine the eligibility of an individual if the basis for his or her Medicaid eligibility ends. The redetermination may be made on the basis of information already contained in the case file. When eligibility is redetermined on such instances, the State must determine whether the individual is eligible on any other basis under the State plan. Our policy that the State must redetermine eligibility in such instances is also supported by the decision in *Stenson* v. *Blum*, 476 F. Supp. 1331, 1339–1341 (S.D. N.Y. 1979), affirmed without opinion, 628 F.2d 1345 (2d Cir.), cert. denied, 449 U.S. 885 (1980). The court held that before a State may terminate a Medicaid recipient whose underlying cash assistance benefits were terminated, the State must first make an *ex parte* redetermination of whether the individual continues to be eligible for Medicaid on another basis.

We propose to establish new §§ 435.405 and 436.405 to incorporate this prohibition.

III. Response to Public Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date specified in the "Date" section of this preamble and respond to them in the preamble of the final rule for this proposed rule.

IV. Paperwork Burden

Sections 435.112(d) and (e), 435.922, 435.923, 435.924, and 440.252(e)(5) of these proposed regulations contain requirements that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980. These proposed regulations would impose a reporting burden, required by the statute, on two groups of respondents, States and Medicaid recipients. They would require each State to amend its State Medicaid plan. This burden is estimated to be a onetime burden of 1 hour per State. In addition, the proposed regulations would require Medicaid recipients to periodically submit reports pertaining to income, child care expenses, and family size if they wish to continue eligibility for extended benefits for more than 6 months. The burden for this requirement is estimated to be 1 hour per report. We will publish a notice in the **Federal Register** when we receive approval of these information requirements. Other organizations and individuals desiring to submit comments regarding the burden estimate or any aspect of this collection of information, including suggestions for reducing this burden, should direct them to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

V. Regulatory Impact Analysis

We anticipate that the legislative provisions implemented by these proposed regulations that extend Medicaid benefits for a specified period

to certain families who lose AFDC eligibility because of increased earnings or hours of employment or loss of earned income disregards, make individuals who are participating in a work supplementation program a deemed mandatory eligibility group, and exclude minor mothers and minor individuals who are pregnant and who do not meet AFDC eligibility residency requirements would result in the following costs:

MEDICAID COSTS

[Rounded to nearest $5 million]

Fiscal year	Federal	State
1993	$305	$230
1994	335	255
1995	370	280
1996	405	305

To fully effectuate these legislative provisions, we propose some incidental changes, not specifically mandated by law, as follows:

• In the definition of "family" during the extended eligibility periods, we include individuals who may enter the unit during these periods. We expect these individuals to be children born or adopted during an extended period and family members who were absent from the unit but returned any time during an extended period. The addition of individuals would result in some incremental costs, depending on the number of additional individuals, their health status, and the amount and type of medical services they receive. However, we are unable to estimate what additional costs there might be using current data.

• For flexibility, we allow States to define "good cause" for an individual's failure to report statutorily required information. We do not expect any significant increased cost as a result of this provision.

• We allow States to reimburse individuals for employer health insurance payroll deductions. We do not expect any cost increases as a result of the provision; the provision is intended only to make the rule functional.

Based on past program experience, we believe it is reasonable to expect the total impact of these discretionary changes to result in an increase of approximately 1 percent of total costs. Since our analysis is not conclusive, we encourage comments and submission of any applicable data concerning these discretionary provisions, particularly if there is a perception that they may result in significant increased cost.

In those instances in which the proposed regulations go beyond a strict reading of the statute in implementing the extended Medicaid provisions, we believe the regulations serve to clarify the intent of the Congress by specifying procedures to be followed in implementing the law.

Under this proposal, families and children who lose AFDC eligibility because of increased earnings or hours of employment or loss of earned income disregards will have access to extended Medicaid benefits for a 12-month period. States will determine initial and continuing eligibility for and during the 12-month period. Some States may view this as a labor intensive provision, given the reporting requirements and the tracking of families to ensure that they continue to meet the eligibility requirements.

Regulatory Flexibility Act

We generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a proposed regulation would not have a significant economic impact on a substantial number of small entitles. For purposes of the RFA, we do not consider States or individuals to be small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital which is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

These proposed regulations affect only individuals and States. We have not prepared a regulatory flexibility analysis or rural impact statement because we have determined, and the Secretary certifies, that these proposed regulations would not have a significant economic impact on a substantial number of small rural hospitals.

List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Grant programs-health, Medicaid, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Wages.

42 CFR Part 436

Aid to Families with Dependent Children, Grant programs-health, Guam, Medicaid, Puerto Rico, Supplemental Security Income (SSI), Virgin Islands.

42 CFR Part 440

Grant programs-health, Medicaid.

42 CFR Part 447

Accounting, Administrative practice and procedure, Grant programs-health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

42 CFR Chapter IV, Subchapter C, parts 435, 436, 440 and 447 are proposed to be amended as follows:

A. Part 435 is amended as follows:

PART 435—ELIGIBILITY IN THE STATES, THE DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

1. The authority citation for part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 435.3, the introductory text of paragraph (a) is republished and the paragraph is amended by adding an entry for section 402(a)(32) of the Act, deleting the entry for section 414(g) of the Act, adding an entry for section 482(e)(6) of the Act, revising the entry for section 1902(e) of the Act, and adding an entry for section 1925 of the Act in numerical order to read as follows:

§ 435.3 Basis.

(a) This part implements the following sections of the Act and public laws that mandate eligibility requirements and standards:

* * * * *

402(a)(32) Eligibility of individuals who are deemed to be receiving AFDC but for whom a payment is not made.

* * * * *

482(e)(6) Eligibility of certain individuals participating in work supplementation programs.

* * * * *

1902(e) Four-month continued eligibility for families ineligible because of increased hours or income from employment (for periods other than between April 1, 1990 through September 30, 1998).

* * * * *

1925 Extension of eligibility for families ineligible because of hours or income of caretaker relative or because of loss of earned income disregards.

* * * * *

3. Section 435.112 is revised to read as follows:

§ 435.112 Families terminated from AFDC because of increased earnings or hours of employment.

(a) *Applicability.* This section applies to families who lose AFDC eligibility between April 1, 1990 and September 30, 1998 in the States and the District of Columbia, except in Kentucky. In Kentucky, the provisions apply to families who lose AFDC eligibility between October 1, 1990, and September 30, 1998.

(b) *Initial extended eligibility.* The agency must continue to provide Medicaid for an extended period, as specified in paragraph (c) of this section, to any family that meets the requirements of this paragraph and loses AFDC due to an increase in the caretaker relative's earned income, the loss of the earnings disregards, or an increase in the caretaker relative's hours of employment. For purposes of this section, a family's loss of AFDC will be considered to be due to an increase in earned income (or the loss of the disregard) if the increase in earned income (or countable income resulting from the loss of the disregard) was by itself sufficient to make the family ineligible, or if the family's other income was insufficient to cause ineligibility, the increase in the caretaker relative's earned income (or the increase in countable income resulting from the loss of the disregard) together with the other income resulted in the family's ineligibility for AFDC. To qualify for extended Medicaid under this provision, the family must also meet the following conditions:

(1) The family was eligible for and received AFDC in any 3 of the 6 months immediately preceding the month the family became ineligible for AFDC benefits.

(2) The family has a child living in the home that meets the age requirements for children under the State's approved AFDC plan. A child is not required to meet the AFDC dependency definition specified in the State plan to be eligible for extended Medicaid under this section.

(3) The caretaker relative has applied for enrollment in his or her employer's health plan, if the State requires application for enrollment as a condition of eligibility for extended Medicaid. The State plan must specify this option.

(c) *Length of initial extended eligibility period.* The agency must continue to provide Medicaid for 6 months without requiring the family to reapply for benefits if the conditions of paragraph (b) of this section are met. The 6-month period begins with the first month the family is ineligible for AFDC under the approved plan.

(d) *Additional extended eligibility.* The agency must extend Medicaid, for a second 6-month period, to any family that was eligible for and receives extended Medicaid for the entire initial 6-month extension under paragraphs (b) and (c) of this section, if the family chooses to receive these benefits. The second 6-month period begins immediately after the initial 6-month extended period. For the additional 6 months of extended eligibility, the agency may—

(1) Impose a premium as specified in § 447.62;

(2) Provide a limited scope of services as specified in the approved State plan in accordance with § 440.252 of this subchapter; and

(3) Provide required services through alternative forms of health coverage in accordance with § 440.252(b) of this subchapter.

(e) *Conditions for additional extended eligibility.* A family that meets the requirements for and elects to receive additional extended Medicaid under paragraph (d) of this section also must—

(1) Include a caretaker relative who is employed in each month of the 3-month period immediately preceding the first and fourth month of the second 6-month extended period, unless the caretaker relative has good cause for not working. Good cause is defined as illness or involuntary loss of employment, or as defined in 45 CFR 250.35.

(2) Have average family gross monthly earned income, minus average monthly child care costs necessary for the employment of the caretaker relative, for any 3-month reporting period that do not exceed 185 percent of the Federal poverty level for a family of the same size;

(3) Meet requirements for reporting monthly gross family earned income and child care costs as specified in § 435.923(d)(1) and (d)(2). The State may establish that good cause exists for not reporting on a timely basis; and

(4) Pay any premiums imposed by the agency in accordance with § 447.65 of this subchapter.

(f) *Individuals who return to family unit or are born or adopted during the extended periods.* The agency must provide extended Medicaid under this section to the following individuals who are considered family members during either extended eligibility period:

(1) Individuals who are born or adopted during the periods; and

(2) Parents or other family members who were absent from the family when the family became ineligible for AFDC but who return during either period.

(g) *Individuals not eligible.* The following individuals are not eligible for extended Medicaid under this section:

(1) Children who no longer meet the age requirements for eligibility for AFDC under the approved plan.

(2) Any individual who the State determines was ineligible for AFDC or Medicaid because of fraud committed during the last 6 months in which the family was receiving AFDC before otherwise being provided extended Medicaid eligibility.

4. Section 435.115 is amended by revising paragraph (c) to read as follows:

§ 435.115 Individuals deemed to be receiving AFDC.

* * * * *

(c) The State must deem any individual who is participating in a work supplementation program and any child or relative (or other individual living in the same household) of the individual to be receiving AFDC under section 482(e)(6) of the Act if—

(1) The individual participates in a State-operated work supplementation program under section 482(e) of the Act; and

(2) The individual and any child or relative (or other household member) of the individual meet AFDC eligibility requirements under the approved plan that are applicable to individuals who are not participating in a work supplementation program.

* * * * *

5. A new § 435.405 is added to read as follows:

§ 435.405 Households headed by minor parents or minor individuals who are pregnant.

(a) The agency may not automatically provide Medicaid to minor parents or minor individuals who are pregnant who are denied AFDC because they do not meet the AFDC requirement (if elected by the State) that, as a condition of eligibility, they must reside with specified adults or in specified living arrangements as specified in section 402(a)(43) of the Act.

(b) The Medicaid agency may not, as a condition of eligibility, impose on any other Medicaid eligibility group the AFDC residency requirement for minor parents or minor individuals who are pregnant that is described in paragraph (a) of this section.

(c) The agency may not terminate Medicaid for individuals who become ineligible for AFDC solely because of the AFDC residency policy described in paragraph (a) of this section, if elected by the State, until the agency has

determined that the individuals are not otherwise Medicaid eligible under any other group under the approved Medicaid State plan.

(d) For purposes of this section, "minor parent" or "minor individual" means any individual who—

(1) Is under the age of 18 and has never been married; and

(2) Has a dependent child in his or her care or is pregnant.

6. New §§ 435.922, 435.923, and 435.924 are added to read as follows:

§ 435.922 Eligibility notices for families eligible for extended Medicaid.

(a) *General requirement.* The agency must have procedures, established in accordance with this section, that are designed to ensure that families who are eligible for extended Medicaid under § 435.112 (because of loss of AFDC due to excess income in a month in which the monthly earnings or hours of employment increase or the earnings disregards are lost) receive—

(1) Adequate notice of extended eligibility; and

(2) Adequate notice of any proposed termination of eligibility in accordance with § 435.924.

(b) *Notice of initial extended Medicaid.* (1) *Timing of notice.* The agency must give a family eligible under § 435.112 written notice of its right to an initial 6-month period of extended Medicaid in the notice of termination of AFDC.

(2) *Contents of notice.* The notice must—

(i) Describe the requirements for making timely and accurate reports on earned income, child care costs, and family size as specified in § 435.923 as a condition of eligibility for an additional second 6 months of extended eligibility;

(ii) Explain the circumstances under which extended Medicaid may be terminated if the family ceases to include a child.

(iii) Include a card or other evidence of the family's entitlement to extended Medicaid.

(c) *Notice of additional period of extended Medicaid.* (1) *Timing of notice.* During the 3rd and 6th month of the initial 6-month extended Medicaid period, the agency must notify the family of its option to elect to receive a second 6 months of extended Medicaid if the family was eligible during the entire initial 6-month extended period.

(2) *Contents of notice.* The notices must—

(i) Describe the requirements for making timely and accurate reports on earned income, child care costs, and family size as specified in § 435.923 as a condition of eligibility;

(ii) For the notice sent in the 6th month, include card or other evidence of the family's entitlement to Medicaid for the additional 6-month extended period.

(iii) Explain the circumstances under which extended Medicaid may be terminated if the family ceases to include a child, fails to pay any premiums imposed by the agency, fails to report earned income, child care costs, and family size; fails to have earned income during any one or more months in any 3-month reporting period; or has income that exceeds established poverty level limits as specified in § 435.924;

(iv) Describe any required out-of-pocket expenses that the family must meet;

(v) Describe the scope of services to be provided, including any preexisting condition limitations, waiting periods, or other coverage of services limitations imposed by the State under alternative coverage options offered; and

(vi) Specify reporting and premium payment procedures.

(3) *Premium notices.* (i) In the notice sent to a family in the 6th month of the initial extended eligibility period, the agency must specify any premium amount imposed during the first 3 months of the second 6-month extended Medicaid period.

(iii) During the 3rd month of the second 6-month extended Medicaid period, the agency must inform the family of any premium amount imposed during the last 3 months of the second 6-month extended period.

§ 435.923 Reporting requirements for families eligible for additional extended Medicaid.

(a) *Definition of "family members."* For purposes of reporting gross earned income under this section, "family members" include all individuals living in the home who are members of the filing unit. They include family members who were included in the AFDC family unit at the time the family lost eligibility and individuals who were not included in the unit at that time but who return to the family, or are born or adopted into the family, during the period of extended eligibility.

(b) *Definition of "gross earned income."* Gross earned income includes all earned income as defined under the approved State AFDC plan in accordance with 45 CFR 233.20(a)(6). It does not include earned income that cannot be taken into consideration because of a statutory provision of another Federal program as specified in 45 CFR 233.20(a)(4)(ii).

(c) *What must be reported.* In order for a family to be eligible for additional extended Medicaid under § 435.112(d), the family must, during the initial and second 6-month periods of extended eligibility, report the following information for each 3 months in the 6-month periods—

(1) The gross monthly earned income of all family members;

(2) The monthly family's expenses for child care that is necessary for the employment of the caretaker relative; and

(3) The size of the family unit as of the date on which the report of earned income and child care costs is made.

(d) *When reports must be made.* (1) A family must report the information specified in paragraph (c) of this section as follows—

(i) For earned income, child care costs, and family size for the first 3 months of the initial 6-month extended period, the family must report no later than the 21st day of the 4th month of the initial period;

(ii) For earned income, child care costs, and family size for the last 3 months of the initial 6-month extended period, the family must report no later than the 21st day of the lst month of the second 6-month extended period; and

(iii) For earned income, child care costs, and family size for the first 3 months of the second 6-month extended period, the family must report no later than the 21st day of the 4th month of the second period.

(2) The agency may not require a family receiving extended Medicaid to report more frequently than the times specified in paragraph (d)(1) of this section.

§ 435.924 Termination of families receiving extended Medicaid.

(a) *Basic rules.* (1) The agency must terminate extended Medicaid provided under § 435.112 and notify families of the termination in accordance with this section.

(2) Before any termination is made, the agency must make redeterminations of the eligibility of children and families under other groups covered under the approved State plan in accordance with paragraph (e) of this section.

(3) The agency must not make a termination effective earlier than 10 days after the date of mailing of an advance notice in accordance with paragraph (f) of this section.

(b) *Grounds for terminations—both periods.* The agency must terminate extended Medicaid in either the initial or second 6-month extended periods on the last day of the month in which any one of the following conditions exist:

(1) A family no longer has a child living in the home;

(2) A child becomes ineligible for AFDC because he or she no longer meets age requirements;

(3) The caretaker relative refuses to apply for enrollment in his or her employer's health plan, if the State requires the caretaker relative to apply for enrollment as a condition of eligibility under the approved State plan;

(c) *Grounds for termination—second period.* (1) The agency must terminate extended Medicaid during the second 6-month extended period at the end of the lst or 4th month of that extended period if—

(i) The caretaker relative has no earned income in any one or more months of a 3-month reporting period, without good cause. Good cause includes lack of earnings due to illness or involuntary loss of employment, or other causes as specified for AFDC in 45 CFR 250.35.

(ii) The family's average gross monthly earned income, minus average monthly child care costs necessary for the employment of the caretaker relative, for any 3-month reporting period exceeds 185 percent of the Federal poverty level for a family of the same size.

(2) The agency must terminate extended Medicaid provided under § 435.112 during the second 6-month period at the end of the month in which any premium is due if the family fails to pay that premium, without good cause, as specified in § 447.62(d).

(3) Except as provided in paragraph (d) of this section, the agency must terminate extended Medicaid at the close of the first or fourth month of the second 6-month period if a family fails to report earned income, child care costs, and family size in accordance with § 435.923.

(d) *Option to suspend rather than terminate.* (1) If a family fails to report earned income, child care costs, and family size in accordance with § 435.923, the agency may elect to suspend rather than terminate extended Medicaid to the family.

(2) If the agency elects to suspend rather than terminate a family, the suspension of extended eligibility may be only until the month after the month the family reports the required information.

(3) The agency may suspend extended eligibility only if the family has not been terminated because the caretaker has no earnings in any reporting month or the family's gross monthly earned income exceeds the percentage of the poverty level limit.

(e) *Required redeterminations before terminations.* (1) *Initial period.* The agency may not terminate extended Medicaid to a child in the family that becomes ineligible in the initial 6-month period because the family ceases to include a child until the agency has determined that the child is not eligible for Medicaid as a child under age 18, 19, or 20 under § 435.222 or a low-income child under sections 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(VI), 1902(a)(10)(A)(i)(VII), or 1902(a)(10)(A)(ii)(IX) of the Act.

(2) *Second period.* (i) The agency may not terminate extended Medicaid to a child in the family that becomes ineligible in the second 6-month period because the family ceases to include a child until the agency has determined that the child is not eligible for Medicaid as a child under age 18, 19, or 20 under § 435.222 or a low-income child under sections 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(VI), 1902(a)(10)(A)(i)(VII), or 1902(a)(10)(A)(ii)(IX) of the Act.

(ii) The agency may not terminate extended Medicaid to an individual who becomes ineligible in the second 6-month period because the family fails to pay any imposed premiums, because the family fails to satisfy any mandatory reporting requirements, or because the family fails to meet earnings and income tests as specified in paragraph (c) of this section, until the agency has determined that the individual is not eligible for Medicaid as medically needy under subpart D of this part and section 1902(a)(10)(C) of the Act.

(3) *Time limit for completion of redeterminations.* The agency must complete any required redeterminations under paragraphs (e)(1) and (e)(2) of this section within 30 days after the proposed termination date of extended eligibility.

(f) *Notice of terminations.* (1) The agency must provide adequate notice to a family of any proposed action to terminate eligibility for extended Medicaid.

(2) The notice must be mailed at least 10 days before the effective date of the termination.

(3) The notice must specify the grounds for the proposed termination and advise the family of its right to appeal the proposed termination in accordance with part 431, subpart E, of this subchapter.

(4) In the case of a proposed termination of a family because the caretaker relative has no monthly earned income in one or more months of any 3-month reporting period, the notice must explain how the family may reestablish eligibility under the State plan.

B. Part 436 is amended as follows:

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

1. The authority citation for part 436 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 436.2, the introductory text of paragraph (a) is republished and the remainder of the paragraph is amended by adding an entry for section 402(a)(32) of the Act, removing the entry for section 414(g) of the Act, and adding an entry for section 482(e)(6) of the Act to read as follows:

§ 436.2 Basis.

(a) This part implements the following sections of the Act and public laws that mandate requirements and standards for eligibility:

* * * * *

402(a)(32) Eligibility of individuals who are deemed to be receiving AFDC but for whom a payment is not made.

* * * * *

482(e)(6) Eligibility of certain individuals participating in work supplementation programs.

* * * * *

3. Section 436.114 is amended by revising paragraph (c) to read as follows:

§ 436.114 Individuals deemed to be receiving AFDC.

* * * * *

(c) The State must deem any individual who is participating in a work supplementation program and any child or relative (or other individual living in the same household) of the individual to be receiving AFDC under section 482(e)(6) of the Act if—

(1) The individual participates in a State-operated work supplementation program under section 482(e) of the Act; and

(2) The individual and any child or relative (or other household member) of the individual meet AFDC eligibility requirements under the approved plan that are applicable to individuals who are not participating in a work supplementation program.

* * * * *

4. A new § 436.405 is added to read as follows:

§ 436.405 Households headed by minor parents or minor individuals who are pregnant.

(a) The agency may not automatically provide Medicaid to minor parents or

minor individuals who are pregnant who are denied AFDC because they do not meet the AFDC requirement (if elected by the State) that, as a condition of eligibility, they must reside with specified adults or in specified living arrangements as specified in section 402(a)(43) of the Act.

(b) The Medicaid agency may not, as a condition of eligibility, impose on any other Medicaid eligibility group the AFDC residency requirement for minor parents or minor individuals who are pregnant that is described in paragraph (a) of this section.

(c) The agency may not terminate Medicaid for individuals who become ineligible for AFDC solely because of the AFDC residency policy described in paragraph (a) of this section, if elected by the State, until the agency has determined that the individuals are not otherwise Medicaid eligible under any other group under the approved Medicaid State plan.

(d) For purposes of this section, *minor parent* or *minor individual* means any individual who—

(1) Is under the age of 18 and has never been married; and

(2) Has a dependent child in his or her care or is pregnant.

C. Part 440 is amended as follows:

PART 440—SERVICES: GENERAL PROVISIONS

1. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 440.200 the introductory text of paragraph (a) is republished, paragraph (a)(7) is redesignated as paragraph (a)(8) and a new paragraph (a)(7) is added to read as follows:

§ 440.200 Basis, purpose, and scope.

(a) This subpart implements the following statutory requirements—

* * * * *

(7) Section 1925(b)(4), regarding coverage of services during periods of extended Medicaid eligibility of families terminated from AFDC because of increased earnings or hours of employment or loss of earnings disregards.

* * * * *

3. Section 440.240 is amended by revising the undesignated introductory text to read as follows:

§ 440.240 Comparability of services for groups.

Except as limited in §§ 440.250 and 440.252—

* * * * *

4. A new § 440.252 is added to read as follows:

§ 440.252 Comparability of services for families terminated from AFDC because of increased earnings or hours of employment or loss of income disregards.

(a) *Services during initial 6-month Medicaid extended period.* The plan must provide that services available to any family eligible for the initial 6-month extended Medicaid under § 435.112 of this chapter are equal in amount, duration, and scope to services provided to categorically needy AFDC recipients.

(b) *Option for provision of services in initial extended period.* The agency may, at its option, offer the services under paragraph (a) of this section through the following:

(1) Through health plan coverage offered by employers (even if the plan covers persons who are not eligible for Medicaid) by requiring the caretaker relative to apply to enroll in an employer's health plan as a condition of eligibility for extended Medicaid.

(i) The agency may pay the employer health plan directly for premiums, deductibles, coinsurance, and similar costs as a third party liability or may require the caretaker relative to make payment through payroll deductions and reimburse the caretaker relative directly.

(ii) If the agency requires payments through payroll deductions, the agency must reimburse the caretaker relative concurrently with the date of the payroll deduction (that is, the date on which the caretaker relative receives wages from which the deduction has been made).

(2) Through health coverage offered by employers of absent parents of dependent children. If the agency elects this option, the requirements of paragraphs (b)(1)(i) and (b)(1)(ii) of this paragraph also apply.

(c) *Enrollment prior to extended eligibility.* If a caretaker relative is enrolled in a prepaid health plan before becoming eligible for extended Medicaid, the agency may allow the caretaker relative to continue the enrollment, unless the agency requires the caretaker relative to apply for enrollment in an employer's health plan and the employer's plan does not include a family option.

(d) *Services in second extended period.* The plan may provide that services available to any family eligible for a second 6-month Medicaid extended period under § 435.112 of this chapter are—

(1) The same in amount, duration, and scope as provided for categorically needy AFDC recipients;

(2) The same in amount, duration, and scope as provided for categorically needy AFDC recipients, minus any one or more of the following nonacute services:

(i) Nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older (section 1919 of the Act);

(ii) Medical or remedial care provided by licensed practitioners (§ 440.60);

(iii) Home health care services (§ 440.70);

(iv) Private duty nursing services (§ 440.80);

(v) Physical therapy and related services (§ 440.110);

(vi) Other diagnostic, screening, preventive, and rehabilitation services (§ 440.130);

(vii) Inpatient hospital services and nursing facility services for individuals 65 years of age or over in an institution for mental diseases (§ 440.140);

(viii) Intermediate care facility services for the mentally retarded (§ 440.150);

(ix) Inpatient psychiatric services for individuals under age 21 (§ 440.160);

(x) Hospice care (as defined in section 1905(o) of the Act);

(xi) Respiratory care services (as defined in section 1902(e)(9)(C) of the Act); and

(xii) Any other medical care and any other type of remedial care recognized under State law and specified by the Secretary (§ 440.170).

(e) *Alternative health coverage during second extended period.*

(1) The agency may offer the services provided under paragraph (d) of this section in the manner specified in paragraph (b) of this section or under one or more of the following forms of health care coverage of the caretaker relative and dependent children—

(i) Enrollment in a family option of an employer's health plan;

(ii) Enrollment in a family option of a State employee health plan;

(iii) Enrollment in a State health plan for the uninsured; or

(iv) Enrollment in an eligible health maintenance organization (HMO) that has an enrollment of less than 50 percent of Medicaid recipients who are not recipients of extended Medicaid.

(2) If the agency offers alternative health coverage under paragraph (e)(1) of this section, it must make available, without charge, certain services that are not covered (or are not fully covered) under the alternative health plan in the same amount, duration, and scope as the approved State plan. These services are those related to pregnancy (including prenatal, delivery, and

postpartum services) for pregnant women, and ambulatory preventive pediatric care (including ambulatory early and periodic screening, diagnosis, and treatment services) for children who meet the age and date of birth requirements to be a qualified child under the State plan.

(3) If the agency elects alternative health coverage under paragraph (e)(1) of this section, it—

(i) Must pay any premiums and other costs for enrollment (less any premium amounts paid by the employer and premiums imposed on recipients under § 447.62) imposed on the family;

(ii) May pay deductible and coinsurance amounts imposed on the family;

(iii) May require cost-sharing as specified in §§ 447.51(c) and 447.62 of this subchapter.

(4) Families enrolled in any of the alternative coverage health plans must obtain care through these plans. They are not entitled to the freedom of choice of providers under § 431.51 of this subchapter.

(5) The agency must specify and describe the alternative health coverage offered in its State plan, including requirements for assuring that recipients have access to services of adequate quality.

(f) *Federal financial participation.* Federal financial participation is available for payments for premiums, deductibles coinsurance, and similar expenses and for families' enrollment in other health plans specified in paragraphs (a) through (e) of this section.

D. Part 447 is amended as follows:

PART 447—PAYMENT FOR SERVICES

1. The authority citation for part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 447.50 is revised to read as follows:

§ 447.50 Cost-sharing: Basis and purpose.

(a) *Basis.* Sections 1902(a)(14), 1916, and 1925(b)(5) of the Act permit States to require certain recipients to share some of the costs of Medicaid by imposing upon them such payments as enrollment fees, premiums, deductibles, coinsurance, co-payments, or similar cost-sharing charges.

(b) *Purpose.* For States that impose cost-sharing payments, §§ 447.51 through 447.65 prescribe State plan requirements and options for cost-sharing, specify the standards and conditions under which States may impose cost-sharing, set forth minimum amounts and the methods for determining maximum amounts, and prescribe conditions for FFP that relate to cost-sharing requirements.

3. Section 447.51 is revised to read as follows:

§ 447.51 Requirements and options.

(a) The plan must provide that the Medicaid agency does not impose any enrollment fee, premium, or similar charge upon categorically needy individuals, as defined in §§ 435.4 and 436.3 of this subchapter, for any service available under the plan except as specified in paragraphs (b) and (c) of this section.

(b) [Reserved]

(c) The plan may impose a monthly premium on categorically needy families who are terminated from AFDC due to excess income in a month in which the monthly earnings or hours of employment increase or the earnings disregards are lost and who are eligible for a second 6-month extended Medicaid period under § 435.112 of this subchapter. The agency must meet requirements of § 447.62 if it elects this option.

(d) The plan may impose an enrollment fee, premium, or similar charge on medically needy individuals, as defined in §§ 435.4 and 436.3 of this subchapter, for any services available under the plan.

(e) For each charge imposed under paragraph (d) of this section, the plan must specify—

(1) The amount of the charge;

(2) The period of liability for the charge; and

(3) The consequences for an individual who does not pay.

(f) The plan must provide that any charge imposed under paragraph (d) of this section is related to total gross family income as set forth under § 447.52.

4. In § 447.52, the reference to "§ 447.51(d)" in the undesignated introductory paragraph is changed to read "§ 447.51(f)."

5. Section 447.59 is redesignated as § 447.65 and the reference in paragraph (a) to "447.58" is changed to read "447.62".

6. A new § 447.62 is added to read as follows:

§ 447.62 Imposition of premium on families eligible for extended Medicaid because of increased earnings or hours of employment or loss of income disregards.

(a) *Basic option.* The plan may provide for imposing a monthly premium on the categorically needy group of families who are terminated from AFDC due to excess income in a month in which the monthly earnings or hours of employment increase or the earnings disregards are lost and who are eligible for the second 6-month period of extended Medicaid under § 435.112 of this subchapter. If the agency elects to impose a premium, it must meet the requirements of this section.

(b) *Basis for premium.* (1) The agency may impose a premium if the family's average monthly gross earnings, after deducting the average monthly child care costs that are necessary for the caretaker relative to work, for the first 3 months or the second 3 months of the initial 6-month extension period exceed 100 percent of the Federal poverty level (as adjusted annually) for a family of the same size for a month.

(2) *Family gross earnings* include earned income of all family members living in the home who are members of the AFDC filing unit in the month the family became ineligible for AFDC and individuals who are family members who return to the home during the extended eligibility period.

(c) *Premium amount.* The amount of the premium for each 3-month period, beginning with the first or fourth month of the second 6-month extension period, may not exceed 3 percent of the family's average monthly gross earnings, less average monthly child care costs necessary for the caretaker relative to work.

(1) The premium for the first 3 months of the second 6-month extension period must be based on the family's average monthly gross earnings, minus average monthly child care cost necessary for the caretaker relative to work, for the first 3 months of the initial 6-month extension period.

(2) The premium for the second 3 months of the second 6-month extension period must be based on the family's average monthly gross earnings, minus average monthly child care costs necessary for the caretaker relative to work, for the second 3 months of the initial 6-month extension period.

(3) The agency may vary the amount of the premiums for the family on the basis of differences in health plans that are chosen.

(4) The agency may adjust amounts charged for premiums on the basis of changes that occur in family size, income, or child care costs during each 3-month premium period of the second 6-month extended period.

(d) *Due date for premiums.* A premium payment for a month is due on the 21st day of the following month.

(e) *Termination for nonpayment of premium.* The agency must terminate eligibility for Medicaid at the end of the month in which the premium is due if

the family fails to pay the premium, without good cause. The agency must take termination action in accordance with § 435.924 of this subchapter.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Programs)

Dated: July 20, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: September 20, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 93–30090 Filed 12–13–93; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of 90-Day Findings on Petitions To List Three Southern Arizona Cienega Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition findings and initiation of status reviews.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces 90-day findings for three petitions to amend the List of Endangered and Threatened Wildlife and Plants. The Service finds that the petitioners have presented substantial information indicating that listing the plants Canelo Hills ladies'-tresses and Huachuca water umbel and the Sonoran tiger salamander may be warranted. The Service is initiating a status review.

DATES: The findings announced in this notice were made on December 2, 1993. The Service will accept new scientific and commercial information on these three species at any time. However, to incorporate that information into the one-year findings on these petitions, the Service must receive additional scientific and commercial information by January 13, 1994.

ADDRESSES: Information, comments, or questions concerning the petitioned actions may be submitted to the State Supervisor, Arizona Ecological Services State Office, U.S. Fish and Wildlife Service, 3616 West Thomas Road, suite 6, Phoenix, Arizona 85019. The petitions, findings, supporting data, and comments will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Sam Spiller, State Supervisor, at the above address (602/379–4720).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and notice of the finding is to be published promptly in the **Federal Register**. If the finding is positive, the Service is also required to promptly commence a status review of the involved species.

On June 3, 1993, the Service received three petitions dated May 31, 1993, from the Greater Gila Biodiversity Project, Biodiversity Legal Foundation, and Southwest Center for Biological Diversity. The petitioners requested the Service to list the plants *Spiranthes delitescens* (Canelo Hill ladies'-tresses) and *Lilaeopsis schaffneriana* ssp. *recurva* (Huachuca water umbel) and the Sonoran tiger salamander (*Ambystoma tigrinum stebbinsi*) as endangered species. On June 9, 1993, the Service informed the petitioners that their correspondence had been accepted as petitions.

The 90-day findings are based on various documents, including published and unpublished studies, agency documents, communications with experts, and field survey records. All documents on which these findings are based are on file in the Service's Arizona Ecological Services Field Office in Phoenix.

Canelo Hills ladies'-tresses: The Canelo Hills ladies'-tresses is a slender, erect, terrestrial orchid, which, when in bloom, is about 50 centimeters (cm) (20 inches (in)) tall. Five to 10 grass-like leaves, 18 cm (7 in) long and 1.5 cm (0.5 in) wide grow at the base of the stem. The spiralling flower stalk may contain up to 40 white flowers.

This species is known from localities at about 1,500 meters (m) (5,000 feet (ft)) elevation in Santa Cruz and Cochise counties, southern Arizona. All sites are on private land. This orchid apparently requires the finely grained, highly organic, usually saturated soils of cienegas, which are marshy or meadow-like wetlands that are often surrounded by relatively arid expanses.

Threats to the species cited in the status report (Newman 1991) and petition include invasion of competitive plants, modification of watershed hydrology, lack of fire, illegal collecting, and dredging or other direct modification of habitat.

Canelo Hills ladies'-tresses (as "Madrean ladies'-tresses") was recently added to Category 1 of the Service's list of species that are candidates for listing as endangered or threatened under the Act (58 FR 51144; September 30, 1993). Category 1 species are those for which the Service has sufficient information to support proposals to list as threatened or endangered. The Service has recognized Canelo Hills ladies'-tresses as a Category 1 species since April, 1992.

Huachuca water umbel: The Huachuca water umbel is a herbaceous, semi-aquatic, perennial plant with slender erect leaves that grow from the creeping rootstalks. The leaves are cylindrical and hollow. The yellow-green or pale green leaves are generally 1–3 millimeters (less than ⅛ in) in diameter and often 3–5 cm (1–2 in) in height, but can reach up to 20 cm (8 in) in height under favorable conditions. Three to 10 minute flowers are born on an umbel that is always shorter than the leaves.

Huachuca water umbel is known from 14 sites (10 in the U.S.) from 1,100 to 2,000 m (3,500 to 6,500 ft) elevation in southern Arizona and adjacent Sonora, Mexico. It extends westward in Arizona from the Rio San Bernardino to Sonoita Creek, and south from Tucson (historically) across the Mexican border to Cananea. This species is endemic to streams and cienegas. The species requires perennial water, gentle stream gradients, small to medium-sized drainage areas, and, apparently, mild winters. It can exist under full shade or at completely unshaded sites.

The petitioners and the status report (Warren *et al.* 1993) cited the following human activities that may threaten the species—dredging or other direct modification of the habitat; recreation; and modification of watershed hydrology, including groundwater pumping, surface water diversion, impoundments, and degraded watershed conditions.

The most recent list of candidate plants (58 FR 51144; September 30, 1993) places the Huachuca water umbel (as "Cienega water-umbel") in Category 1. Previously, this species was classified under Category 2. Category 2 species are those for which the Service has some evidence of vulnerability, but for which there is insufficient scientific and commercial information to support proposing to list them at this time. The Service changed the species'

classification from Category 2 to Category 1 in April, 1992. The plant is protected under the State of Arizona's Endangered Species Act, and the U.S. Forest Service, Coronado National Forest, considers it a sensitive species.

Sonoran tiger salamander: Tiger salamanders (*Ambystoma tigrinum*) are known from most of the United States and show considerable variation throughout their range. Several subspecies of tiger salamanders were recognized by Dunn (1940) based on color patterns of metamorphosed animals—*A. t. diaboli* Dunn, *A. t. mavortium* Baird, *A. t. melanostictum* Baird, *A. t. nebulosum* Hallowell, *A. t. californiense* Gray, and *A. t. velasci* Duges. Lowe (1954) described an additional subspecies, the Sonoran tiger salamander (*A. t. stebbinsi*), from Parker Canyon, Santa Cruz County, Arizona. Lowe (1954, 1955) used color patterns to recognize three subspecies of tiger salamanders in Arizona—*A. t. stebbinsi* from San Rafael Valley in Santa Cruz County, Arizona, *A. t. utahense* primarily from north of the Colorado River, and *A. t. nebulosum* from the Coconino Plateau. Using color patterns, Gehlbach (1965, 1967) synonymized *A. t. utahense* and *A. t. stebbinsi* with *A. t. nebulosum*. However, *A. t. stebbinsi* continued to be recognized and Collins (1988) confirmed it as a valid subspecies with analysis of mitochondrial DNA. Collins (1988) recognized *A. t. mavortium, A. t. nebulosum,* and *A. t. stebbinsi* to be the three subspecies of tiger salamanders native to Arizona. The above information, presented by the petitioners and/or otherwise available to the Service, indicates that the Sonoran tiger salamander is a valid subspecies and therefore qualifies for consideration for listing under the Act.

The Sonoran tiger salamander is known from a limited distribution in perennial aquatic ecosystems in the San Rafael Valley, Santa Cruz County, Arizona (Collins and Jones 1987). The San Rafael Valley is a Plains Grassland-Madrean Evergreen Woodland extending from southeast Arizona into northeast Sonora (Brown 1982). The Sonoran tiger salamander is currently known only from manmade or altered habitat consisting of perennial stock tanks (Collins and Jones 1987). Because the historic habitat was destroyed before the salamander's discovery, natural habitat is not known with certainty. It appears to have been mid-level elevation Plains Grassland cienegas (Collins and Jones 1987).

Sonoran tiger salamanders are believed to have occurred historically in natural habitats throughout the San Rafael Valley and adjacent foothills in the United States and potentially extended into northern Mexico (Collins and Jones 1987). It is likely that human-induced habitat degradation, and possibly long term climatic changes, have reduced its geographic range (Jones *et al.* 1988). In addition to the type locality, 16 other current or recently occupied sites have been described in the San Rafael Valley and the adjacent foothills of the Patagonia and Huachuca Mountains north of the U.S./Mexican border (Collins and Jones 1987, Collins *et al.* 1988). No Sonoran tiger salamanders have been confirmed from Mexico (J.P. Collins, Arizona State University, pers. comm., 1993). The lack of Sonoran tiger salamanders in seemingly suitable habitat in the portion of the San Rafael Valley in Mexico (Collins and Jones 1987) suggests that the southern limit of its current range is near the international border. The subspecies has not been found in undisturbed, presumably adequate habitat in Arizona. In addition, the subspecies has disappeared from 2 of the 17 known sites—from the type locality, due to the creation of Parker Canyon Lake, and from Bog Hole. This has reduced the total number of known occupied sites to 15 (Collins, pers. comm., 1993).

A summary of the status of the Sonoran tiger salamander was submitted to the Serviced by Collins and Jones (1987). The petition presents new information that has become available since Collins and Jones' (1987) status summary. Additionally, recent information indicates lower population levels in 1993 than had been documented in the past (Collins, pers. comm., 1993).

The petitioners believe that listing the Sonoran tiger salamander as endangered is necessary because suitable habitat has declined throughout the salamander's range, largely due to overgrazing and wetland destruction from pumping, diverting, and impounding waters. Consequently, they believe the salamander may be threatened by susceptibility to disease, predation from exotic fish (primarily centrarchids and ictalurids) and non-native bullfrogs (*Rana catesbeiana*), collection for bait and scientific purposes, reduced vigor and fitness from low heterozygosity, genetic swamping from "bait bucket" introductions of other tiger salamander subspecies, pollution of aquatic habitats, and the inadequacy of existing regulatory mechanisms. The petitioners presented published information indicating that the Sonoran tiger salamander has been extirpated from 2 of the 17 known locales.

The petitioners also believe that extensive loss of Sonoran tiger salamander habitat has taken place, and that current habitat exists only in small manmade impoundments. They maintain that it is likely that the Sonoran tiger salamander occupied a greater portion of the San Rafael Valley, and perhaps other areas as well, when cienegas were more common. The petition maintains that currently occupied habitat is vulnerable to overgrazing, pumping, diverting, and impounding, and that the manmade nature of the habitat may increase the severity of other risks to the salamanders.

The Service has classified the Sonoran tiger salamander as a Category 1 candidate since November 21, 1991 (56 FR 58804). The entire known range of the Sonoran tiger salamander is in Arizona and in 1982 it was listed as a State endangered species by the Arizona Game and Fish Commission. The Sonoran tiger salamander has been listed as a sensitive species in Coronado National Forest since 1988.

After reviewing these petitions and all other pertinent information, the Service finds that the three petitions present substantial information to indicate that listing may be warranted. The findings were signed on December 2, 1993. Pursuant to section 4(b)(3) of the Act, reviews of the status of the Huachuca water umbel, Canelo Hills ladies'-tresses, and Sonoran tiger salamander are now initiated, and the findings of these reviews must be published in the **Federal Register** within one year of receipt of the petitions. The Service solicits any additional data, comments, and suggestions from the public, other concerned Federal, state, and local agencies, the scientific community, industry, or any interested party concerning these species. To be included in the one-year findings for these petitions, the Service must receive information by January 13, 1994.

References Cited

Brown, D.E. (ed.) 1982. Biotic communities of the American Southwest—United States and Mexico. Desert Plants 4:1–342.

Collins, J.P. 1988. Evolutionary relationships of *Ambystoma tigrinum stebbinsi* to other southwestern a. tigrinum based on mitochondrial DNA. Final Report Nongame Branch, Arizona Game and Fish Department. 34 pp.

Collins, J.P., and T.R. Jones. 1987. Report on the status of the Sonora tiger salamander, *Ambystoma tigrinum stebbinsi* Lowe. Final Report prepared for United States Fish and Wildlife Service contract number 20181–0746–83. 68 pp.

Collins, J.R., T.R. Jones, and H.J. Berna. 1988. Conserving genetically distinctive

populations: The case of the Huachuca tiger salamander (*Ambystoma tigrinum stebbinsi* Lowe). In R.C. Szaro, K.E. Severson and D.R. Patton, tech. coords. Management of amphibians, reptiles, and small mammals in North America. USDA Forest Service Gen. Tech. Rep. RM–166. 28 pp.

Dunn, E.R. 1940. The races of *Ambystoma tigrinum*. Copeia 1904: 154–162.

Gehlbach, F.R. 1965. The herpetology of the Zuni Mountains region, north-west New Mexico. Proc. U.S. Nat. Mus. 116:243–332.

Gehlbach. F.R. 1967. *Ambystoma tigrinum* (Green). Catalogue of American amphibians and reptiles: 52.1–52.4.

Jones, T.R., J.P. Collins, T.D. Kocher and J.B. Mitton. 1988. Systematic status and distribution of *Ambystoma tigrinum stebbinsi* Lowe (Amphibia:Caudata). Copiea 1988(3):621–635.

Lowe, C.H. 1954. A new salamander (genus *Ambystoma*) from Arizona. Proc. Biol. Soc. of Washington 67:243–246.

Lowe, C.H. 1955. The salamanders of Arizona. Trans. of the Kansas Academy of Sciences 58:237–251.

Newman, D. 1991. Status report: *Spiranthes delitescens*. Unpublished report by The Arizona Nature Conservancy for the U.S. Fish and Wildlife Service, Arizona Ecological Services Office, Phoenix, Arizona. 10 pp.

Warren, P.L., D.F. Gori, L.S. Anderson, and B.S. Gebow. 1991. Status report for *Lilaeopsis schaffneriana* ssp. *recurva*. U.S. Fish and Wildlife Service, Arizona Ecological Services Office, Phoenix, Arizona. 30 pp.

Authors

The primary authors of this notice are Susan Rutman and Jay Slack of the Arizona Ecological Services State Office, Phoenix (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: December 2, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–30402 Filed 12–13–93; 8:45 am]

BILLING CODE 4310–55–M–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 638

Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic

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

ACTION: Notice of public hearings and request for comments.

SUMMARY: The Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) will solicit public comments in January 1994 on management regulations being considered for the harvest of live rock (a hard substrate such as dead coral or rock containing living marine organisms used primarily in the aquarium trade industry). The Councils intend to manage live rock under proposed Amendment 2 to the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico and South Atlantic (FMP).

DATES: Written comments on the draft amendment will be accepted until January 15, 1994. See **SUPPLEMENTARY INFORMATION** for dates and times of the public hearings.

ADDRESSES: Send written comments to Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, suite 306, Charleston, SC 29407–4699. See **SUPPLEMENTARY INFORMATION** for locations of the public hearings.

FOR FURTHER INFORMATION CONTACT: Carrie Knight, Public Information Officer, South Atlantic Fishery Management Council (803) 571–4366.

SUPPLEMENTARY INFORMATION: The Councils are considering several options for management of live rock in Gulf of Mexico and South Atlantic federal waters. These options include: A prohibition on, or phase-out of, harvest of live rock with possible provisions for aquaculture; establishment of an annual quota or limited access management; and implementation of a permitting system for wild harvest or aquaculture.

The South Atlantic Council began soliciting public input on proposed options for the management of live rock in June 1993 when more than 30 people attended the public scoping meeting in Duck Key, Florida. An organized group of live rock harvesters from the Florida Keys area are advocating that the South Atlantic Council set up a limited entry system for the industry which would include trip limits and allow only the harvest of rubble rock in south Atlantic federal waters. Conservation organizations support a prohibition on harvest because it results in a removal of hard bottom habitat arguably essential to reef fish and crustaceans.

Florida officials have prohibited harvest of live rock in State waters. The South Atlantic Council's Habitat and Environmental Protection Committee prefers prohibiting the harvest and possession of live rock upon implementation of Amendment 2, possibly as early as 1994. The Gulf of Mexico Council, which shares joint FMP responsibility, prefers to allow three years of continued harvest after implementation of Amendment 2 to allow time for harvesters to convert to aquaculture; after that, harvesting and possessing would be limited to persons with aquaculture permits.

The South Atlantic Council will review public hearing comments and is scheduled to approve the draft amendment at its February 7–11 meeting in St. Augustine, Florida. The Gulf Council is scheduled to approve the draft amendment at its January 19 meeting in Clearwater Beach, Florida.

Requests for copies of draft Amendment 2, which includes a supplemental environmental impact statement/regulatory impact review/initial regulatory flexibility analysis, should be sent to the South Atlantic Council at the above address.

The hearings will be held from 7 p.m. to 10 p.m. except for the Gulf Council's hearing scheduled for January 19 that begins at 8:30 a.m.

The South Atlantic Council's scheduled public hearings are as follows:

1. Wednesday, January 5, 1994—Holiday Inn Midtown, 7100 Abercorn Street, Savannah, Georgia;

2. Thursday, January 6, 1994—Hawk's Cay Resort and Marina, Mile Market 61 (10 miles north of Marathon), Duck Key, Florida; and

3. Thursday, January 13, 1994—Holiday Inn Wrightsville Beach, 1706 N. Lumina Avenue, Wrightsville Beach, North Carolina.

The Gulf Council's scheduled public hearings are as follows:

1. Tuesday, January 11, 1994—Pensacola Civic Center, 201 E. Gregory Street, Pensacola, Florida; and

2. Wednesday, January 19, 1994—Clearwater Beach Hilton Resort, 715 S. Gulfview Boulevard. Clearwater Beach, Florida.

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Carrie Knight at the above South Atlantic Council address by December 29, 1993.

Dated: December 9, 1993.

David S. Crestin,

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

[FR Doc. 93–30474 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 238
Tuesday, December 14, 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 COMMERCE

Foreign-Trade Zones Board

[Docket 41–93]

Proposed Foreign-Trade Zone—Ventura County, California, Port Hueneme Customs Port of Entry; Amendment of Application

The pending application submitted by the Board of Harbor Commissioners, Oxnard Harbor District (also known as the Port of Hueneme), which requests authority to establish a general-purpose foreign-trade zone at sites in Port Hueneme and Oxnard, California, within the Port Hueneme Customs port of entry (Docket 41–93, 58 FR 44490, 8/23/93), has been amended to include an additional site. The application initially requested authority for zone status at three sites. The amendment requests zone status for a fourth site, located at 5851 Arcturus Road, Oxnard, adjacent to the two proposed sites in the Port of Hueneme area. The application remains otherwise unchanged.

The comment period is reopened until January 13, 1994.

The application and amended material are available for public inspection at the following locations:

Administrative Offices, Port of Hueneme/Oxnard Harbor District, 105 Port Hueneme Road, Port Hueneme, California 93041

Office of the Executive Secretary, Foreign-Trade Zones Board, room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: December 8, 1993.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93–30483 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 60–93]

Foreign-Trade Zone 194—Rio Rancho, New Mexico; Request for Processing Authority; Lukens Medical Corp.; Medical Sutures

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Rio Rancho, New Mexico, grantee of FTZ 194, requesting authority on behalf of Lukens Medical Corporation (Lukens) to process surgical sutures under zone procedures within FTZ 194. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on December 2, 1993.

FTZ 194 was approved on June 7, 1993 (Board Order 637, 58 FR 39006, 7/21/93), and currently consists of 5 parcels (567 acres) within the Rio Rancho Industrial Park.

The Lukens plant (11 acres) is located within the zone at 500 Laser Road, Rio Rancho. The facility is used for the manufacturing/processing of surgical sutures, bone wax and surgical instruments. At this time, however, Lukens is seeking authority to use zone procedures only for the processing of surgical sutures. This involves attaching suture material (catgut) to stainless steel needles by inserting it into a laser-drilled hole at the end of a needle. Catgut and needles are sourced from abroad.

Zone procedures would exempt Lukens from Customs duty payments on foreign components used in processing for export. On its domestic sales, the company would be able to choose the duty rate that applies to finished sutures (3.5%). The duty rate on catgut is 3.5 percent while the duty rate of needles is 6.5 percent. The company is also seeking an exemption from Customs duties on defective and waste materials (est. 5%–20%). The application indicates that zone savings would help improve the international competitiveness of the facility.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is February 14, 1994. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 28, 1994).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 1100 St. Francis Dr., Santa Fe, New Mexico 87503.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: December 6, 1993.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93–30484 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–301–602]

Certain Fresh Cut Flowers From Colombia; Preliminary Results of Antidumping Duty Administrative Review, Partial Termination of Administrative Review, and Intent To Revoke Order (in Part)

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

ACTION: Preliminary results of antidumping duty administrative review, partial termination of administrative review, and notice of intent to revoke in part the antidumping duty order.

SUMMARY: In response to requests from interested parties, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain fresh cut flowers from Colombia. The review covers 186 producers and/or exporters of this merchandise to the United States and the period March 1, 1990 through February 28, 1991. The review indicates the existence of dumping margins for certain firms during the review period.

Reviews were initiated for five other producers/exporters, but these reviews are being terminated either because the Department received a timely withdrawal of review request or the

firms were subsequently revoked from the order by the Department.

We are also announcing our intent to revoke the antidumping duty order for the following exporters/growers: Flores Colombianas Group (Agrosuba, Flores Colombianas, Jardines De Los Andes, Productos El Cartucho) and Flores Condor De Colombia Ltda.

As a result of this review, the Department has preliminarily determined that the weighted-average dumping margins range from zero percent to 72.35 percent. We invite interested parties to comment on these preliminary results and intent to revoke.

EFFECTIVE DATE: December 13, 1993.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On March 8, 1991, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (56 FR 9936) of the antidumping duty order on certain fresh cut flowers from Colombia. On June 18, 1991, in accordance with 19 CFR 353.22(c), we initiated an administrative review of this order for 189 Colombian firms (please see the "Preliminary Results of Review" section of this notice for the names of the reviewed firms) for the period March 1, 1990 through February 28, 1991 (56 FR 27944). We have preliminarily determined to revoke the antidumping duty order for the following exporters/growers: Flores Colombianas Group (Agrosuba, Flores Colombianas, Jardines De Los Andes, Productos El Cartucho), and Flores Condor De Colombia Ltda. These firms have submitted requests in accordance with 19 CFR 353.25(b) to revoke the order with respect to their sales of flowers to the United States. Their requests were accompanied by certifications that they have not sold flowers to the United States at less than foreign market value (FMV) for at least a three-year period, including the subject review period, and will not do so in the future. Since we preliminarily determine that these firms have not sold the subject merchandise at less than foreign market value in this review, and have not sold the subject merchandise at less than FMV for at least the required three-year period, we intend to revoke the order with respect to these companies.

The Department has now conducted the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of certain fresh cut flowers from Colombia (standard carnations, miniature (spray) carnations, standard chrysanthemums and pompon chrysanthemums). These products are currently classifiable under item numbers 0603.10.30.00, 0603.10.70.10, 0603.10.70.20, and 0603.10.70.30 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Although we initiated reviews on 189 named firms, we actually reviewed only 186 firms. Two of the names listed in the initiation notice were the same company (Inversiones Targa Ltda. and Inversiones Targa S.A.). Also, we initiated a review for Agricola La Corsaria Ltda., but have terminated it because the firm's request for review was withdrawn and there was no other review request received for this firm. We are also terminating the reviews initiated for Cultivos Del Caribe, Floramerica S.A., Flores Las Palmas Ltda., and Jardines De Colombia Ltda., because these firms were revoked from the antidumping order in earlier reviews.

Sampling

Eighty-three firms covered by the initiation notice were requested by only the petitioner. Due to the large number of firms and transactions which were already under review, we used the following sampling methodology: First, the 83 firms were divided into three strata: Respondents with exports of fewer than 50,000 kilograms; respondents with exports of greater than 50,000 kilograms but fewer than 500,000 kilograms; and respondents with greater than 500,000 kilograms. We then assigned "points" in a sample pool to each of the 83 firms, with each point representing one-quarter of one percentage point of total exports. Thus, each company was represented in the sample pool in proportion to the number of points it received. For example, a company that represented 5 percent of exports to the United States would receive 20 points and go "into the hat" 20 times. A company that comprised one percent of total exports would receive four points and go "into the hat" four times. In this way, a company with a greater volume of exports had a much greater chance of being selected than the company with a smaller volume of exports. We then chose 10 percent of the points from each of the three strata to comprise the actual sample. The companies selected to be analyzed have received their own rates. The other 54 companies in the non-sampled pool were assigned the weighted average sample margin (any firm chosen for the sample more than once had its dumping rate counted as many times as the firm was selected).

Initially, 31 firms were selected for the Department's sample. However, after selecting our sample group, we determined that two companies in the sample, Manjui Ltda., and Alstrodflores Ltda., had no shipments of the subject merchandise during the period of review. We have eliminated these two firms from the sample pool. In addition, the Department determined during verification that Inversiones Targa Ltda., a company chosen for the sample pool, was a related entity of the Bochica Group, which self-requested a review. Therefore, we have collapsed the response of Inversiones Targa Ltda., as part of the Bochica Group, and eliminated this company from the sample pool. Twenty-eight firms were ultimately used in the Department's sample pool. Due to the elimination of Manjui Ltda., Alstrodflores Ltda., and Inversiones Targa Ltda., the sample no longer was self-weighting. Therefore, to estimate the average dumping margin of the population of 83 firms from which we sampled, we weight-averaged the means of the three strata. The weight assigned to each stratum mean was that stratum's share of total exports.

Flores Estrella Ltda., and Flores Mountgar Ltda., both chosen as part of the sample pool, submitted certifications to the Department that they are no longer in business and, therefore, did not respond to the Department's questionnaire. We have applied as Best Information Available (BIA) a rate of 72.35 percent, the highest calculated rate in this review, any previous review or the less than fair value investigation. The BIA margin for these two companies have been included in the contributing weight in the sample pool margin (see "Preliminary Results of Review" section).

For companies that shipped during the POR but later went out of business, we must apply a BIA rate. We are considering the issue of what type of BIA is most appropriate under these circumstances. Among the factors we may consider in determining whether an adverse BIA rate is appropriate are the extent to which the entity continues to operate, the number of persons employed by the entity, the disposition

of the entity's assets, the relationship of the entity to other entities continuing in business, the current legal status of the bankruptcy or liquidation proceedings, and the potential for reorganization (including the likelihood that the entity will resume production). We invite comments on this proposal.

During the course of this review, we learned that several respondents were sufficiently related for the Department to collapse these firms, or groups of firms, into one entity for purposes of calculating a dumping rate. The firms we considered one entity are: Agricola Las Cuadras and Flores De Hacaritama; Exportaciones Bochica/Floral Ltda., Inversiones Targa, S.A., Flores Del Cauca, Agro Bosque, S.A., and Productos El Zorro (Agro Bosque, S.A. and Productos El Zorro were not in our initiation notice but have become a part of this administrative review due to the collapsing of the Bochica Group); Florex and Santa Helena; Queen's Flowers Ltda., Jardines De Chia Ltda., and Jardines De Fredonia Ltda.; and Rosas Sabanilla Ltda., Inversiones La Sarena and Agricola La Capilla (Agricola La Capilla was not in our initiation notice but has become a part of this administrative review due to the collapsing of the Rosas Sabanilla Group).

Best Information Available

The Department conducted verification of responses submitted by Cultivos Miramonte, Exportaciones Bochica/Floral Ltda., Flores Colombianas, Flores Condor, Flores de Suba, Flores del Campo, Las Amalias/Pompones Ltda., Flores de Hunza, Flores la Sabana, Inversiones Targa, Ltda., and the Santana Group. At verification we determined that there were several interrelationships between Las Amalias/Pompones Ltda. and another flower exporter, as well as interrelationships with other importers which were not disclosed to the Department in the response (*see* Verification Report; October 19, 1993). Consequently, Las Amalias/Pompones Ltda., did not report the correct U.S. price (USP) for the overwhelming majority of its sales. As a result, we have used BIA to calculate the dumping margin for this firm. Also, as previously indicated in the *Sampling* section of this notice, we are applying a BIA rate of 72.35 percent to sales made by Flores Estrella Ltda., and Flores Mountgar Ltda. These firms are no longer in business and failed to respond to the Department's questionnaire.

United States Price

Pursuant to section 777A of the Tariff Act, we determined that it was appropriate to average U.S. prices on a monthly basis in order: (1) To use actual price information that is often available only on a monthly basis, (2) to account for large sales volumes, and (3) to account for perishable product pricing practices (*see Final Results of Antidumping Duty Administrative Review; Certain Fresh Cut Flowers from Columbia* (56 FR 50554; October 7, 1991)).

In calculating USP, we used purchase price (PP) when sales were made to unrelated purchasers in the United States prior to the date of importation, or exporter's sales price (ESP) when sales were made to unrelated purchasers in the United States after the date of importation, both pursuant to section 772 of the Tariff Act.

We calculated purchase price based on the packed price to the first unrelated purchaser in the United States. The terms of PP sales were either f.o.b. Bogota or c.i.f. Miami. We made deductions, where appropriate, for foreign inland freight, air freight, brokerage and handling, U.S. customs duties, and return credits.

ESP, for sales made on consignment or through a related affiliate, was calculated based on the packed price to the first unrelated customer in the United States. We made adjustments, where appropriate, for foreign inland freight, brokerage and handling, air freight, box charges, credit expenses, returned merchandise credits, royalties, U.S. duty, and either commissions paid to unrelated U.S. consignees or indirect U.S. selling expenses of related consignees.

Foreign Market Value

Section 733(a)(1)(A) of the Tariff Act requires the Department to compare sales in the United States with viable home market sales of such or similar merchandise sold in the home market or a third country market in the ordinary course of trade. Although some companies reported a viable home market for sales of particular flower types, consistent with the *Final Results of Antidumping Duty Review; Certain Fresh Cut Flowers from Colombia* (55 FR 20491; May 17, 1990), we have concluded that home market and third country sales are not an appropriate basis for FMV.

Accordingly, in calculating FMV, we used constructed value as defined in section 773(e) of the Tariff Act for all companies. The constructed value represents the average per-flower cost for each type of flower, based on the costs incurred to produce that type of flower over the review period.

The Department used the materials, fabrication, and general expenses reported by respondents. The per-unit average constructed value was based on the quantity of export quality flowers actually sold by the grower/exporter in all markets. The non-export quality flowers (culls) which are produced in conjunction with export quality flowers are considered by-products. Therefore, revenue from the sales of culls was used as an offset against the cost of producing the export quality flowers.

For cases in which actual general expenses exceeded the statutory minimum of 10 percent of the cost of materials and fabrication, we used the actual general expenses to calculate constructed value. For cases in which actual general expenses were less than the statutory minimum of 10 percent of the cost of materials and fabrication, we used the statutory minimum of 10 percent. When imputed credit was included in constructed value, the actual interest expense was reduced to prevent double counting.

When respondents indicated that the actual profit for merchandise of the same general class or kind could not be calculated or was less than eight percent of the sum of the cost of production and general expenses, the Department used the eight percent statutory minimum for profit. We added U.S. packing to constructed value. Adjustments to constructed value were made for credit and indirect selling expenses.

Preliminary Results of Review

As a result of our comparison of USP with FMV, we preliminarily determine the margins to be:

The following firms requested and received individual reviews:

Producer/exporter	Margin (percent)
Agricola Cardenal S.A	0.14
Agricola De La Fontana Ltda	1.56
Agricola El Jardin	0.00
Agricola Las Cuadras Ltda	0.30
Flores De Hacaritama	
Agricola Los Arboles S.A	2.08
Agrodex Group	0.00
Agricola El Retiro Ltda	
Agricola Los Gaques Ltda	
Agrodex Ltda	
Degaflores Ltda	
FlorLinda Ltda	
Flores Camino Real Ltda	
Flores Colon Ltda	
Flores De La Maria Ltda	
Flores De Las Mercedes Ltda	
Flores De Los Amigos Ltda	
Flores De Los Arrayanes Ltda	
Flores De Pueblo Viejo Ltda	

Producer/exporter	Margin (percent)
Flores Del Gallinero Ltda	
Flores Del Potrero Ltda	
Flores Dos Hectareas Ltda	
Flores El Lobo Ltda	
Flores El Puente Ltda	
Flores El Trentino Ltda	
Flores Juanambu Ltda	
Flores La Conejera Ltda	
Inverflores Ltda	
Inverpalmas	
Inversiones Santa Rosa Arw Ltda	
Agropecuria Cuernavaca Ltda	2.70
Amalias Group	7.56
Las Amalias Ltda	
Pompones Ltda	
Bochica Group	1.35
Agro Bosque, S.A	
Exportaciones Bochica S.A	
Floral Ltda	
Flores Del Cauca	
Inversiones Targa Ltda	
Productos El Zorro	
Becerra Castellanos y Cia. Ltda	1.49
Claveles Colombianas Group	1.45
Claveles Colombianos Ltda	
Fantasia Flowers Ltda	
Splendid Flowers Ltda	
Sun Flowers Ltda	
Cultivos Tahami Ltda	2.52
Dianticola Colombiana Ltda	1.73
Florandia Herrera Camacho y Cia	0.00
Flores Aurora Ltda	0.16
Flores Colombianas Group	0.00
Agrosuba	
Flores Colombianas Ltda	
Jardines De Los Andes S.A	
Productos El Cartucho	
Flores Condor De Colombia Ltda	0.00
Flores De La Vega Ltda	3.42
Flores De Serrezuela Ltda	0.45
Flores Del Rio S.A	0.16
Flores Depina Ltda	0.00
Flores El Zorro Ltda	1.19
Flores La Union Gomez Arango	0.00
Flores La Valvanera Ltda	0.26
Flores Las Caicas	1.09
Flores Sagaro	0.04
Flores Tiba S.A	0.48
Flores Tibati Ltda	0.00
Flores Urimaco	2.26
Florex Group	0.22
Agricola Guacari	
Flores Altamira S.A	
Flores De Exportacion S.A	
Santa Helena S.A	
Floricola La Guitana S.A	0.00
Funza Group	0.09
Flores Alborada	
Flores De Funza S.A	
Flores Del Bosque Ltda	
Grupo Andes	1.47
Agricola Arenales Ltda	
Cultivos Buenavista Ltda	
Flores De Los Andes Ltda	
Flores Horizante Ltda	
Inversiones Penas Blancas Ltda	
Guacatay Group	0.13
Agricola Guacatay S.A	
Jardines Bacata Ltda	
Happy Candy Group	0.46
Flores Tropicales Ltda	
Happy Candy Ltda	
Mercedes Ltda	
Rosas Colombianas Ltda	
Hosa Group	2.18
Horticultura De La Sabana S.A	
Innovacion Andina S.A	
Minispray S.A.	
Industrial Agricola Ltda	0.00
Ingro Ltda	7.31
Inversiones Cubivan	1.28
Linda Colombiana Ltda	0.19
Papagayo Group	1.19
Agricola Papagayo Ltda	
Inversiones Calypso S.A	
Queen's Flowers De Colombia	0.03
Queen's Flowers De Colombia Ltda	
Jardines De Chia Ltda	
Jardines De Fredonia Ltda	
Rosas Sabanilla Group	0.49
Rosas Sabanilla Ltda	
Inversiones La Serena	
Agricola La Capilla	
Santa Rosa Group	1.96
Flores Santa Rosa Ltda	
Floricola La Ramada Ltda	
Tuchany S.A	0.00
Uniflor Ltda	2.52
Velez De Monchaux e Hijos Y Cia. S. en C	2.08

The following firms were among those requested by the petitioner and were selected for our sample:

Producer/exporter	Margin (percent)
First Stratum:	
Flores Arco Iris Ltda	3.59
Second Stratum:	
Agricola De Los Alisos Ltda	5.36
Agromonte Ltda	4.40
Claveles De Los Alpes Ltda	0.70
Daflor Ltda	0.00
Floralex Ltda	0.00
Flores Aquila Ltda	0.00
Flores Arco Iris Ltda	3.59
Flores De Cajibio Ltda	0.00
Flores De Hunza Ltda	6.04
Flores De La Sabana S.A	3.87
Flores De Suba Ltda	1.86
Flores Del Campo Ltda	1.09
Flores El Arenal Ltda	0.76
Flores Estrella, Ltda	72.35
Flores Marandua Ltda	0.00
Flores Mountgar, Ltda	72.35
Flores Tomine	1.13
Inversiones Targa S.A. (Bochica Group)	1.35
Jardines Del Muna	7.56
Los Geranios Ltda	2.28
Soagro Group	1.45
Agricola El Mortino Ltda	
Flores Aguaclara Ltda	
Flores Del Monte Ltda	
Flores La Estancia Ltda	
Jaramillo Y Daza Ltda	
Third Stratum:	
Cultivos Miramointe S.A	0.48
Santana Group	0.02
Hacienda Curibital Ltda	
Inversiones Istra Ltda	
Santana Flowers Ltda	

The following firms were among those requested only by the petitioner but were not selected in the sample. They will receive the sample group rate of 5.71 percent.

Producer/Exporter

Abaco Tulipanex de Colombia
Agricola Benilda Ltda.
Agricola Bojaca Ltda.
Agricola El Cactus S.A.
Agicola El Redil Ltda.
Agricola Malqui Ltda.
Agro Koralia Ltda.
Agroindustrial Del Riofrio Ltda.
Cienfuegos Ltda.
Conflores Ltda
Crop S.A.
Cultivos Medellin Ltda.
Del Tropico Ltda.
Flora Bellisima Ltda.
Flores Alfaya Ltda.
Flores Cigarral Ltda.
Flores De La Montana.
Flores De La Pradera Ltda.
Flores De Nemecon Ltda.
Flores De Suesca Ltda.
Flores Del Lago Ltda.
Flores El Rosal Ltda.
Flores Estrella Ltda.
Flores Gicro Ltda.
Flores Guaicata Ltda.
Flores Hana Ichi De Colombia Ltda.
Flores Juncalito Ltda.
Flores La Cabanuela.
Flores La Conchita De German-Ribon y Cia
Flores La Frangancia S.A.
Flores Monserrate Ltda.
Flores Mountgar Ltda.
Flores Petaluma Ltda.
Flores Santa Fe Ltda.
Flores Tairona Ltda.
Flores Tocarinda Ltda.
Flores Tokai Hisa
Groex S.A.
Inpar Ltda.
Interflora Ltda.
Inversiones Miraflores Ltda.
Invrsiones Oro Verde S.A.
Inversiones Santa Rita Ltda.
Iturrama S.A.
Jardines Carolina
M.G. Consultores Ltda.
Monteverde Ltda.
Plantaciones Delta Ltda.
Plantas Ornamentales De Colombia
Rosas De Exportacion Ltda. (Rosex)
Rosas Y Flores Ltda.
Shasta Flowers Y Cia Ltda.
Sunset Farms

Toto Flowers Ltda.

Parties to the proceeding may request disclosure within 5 days and interested parties may request a hearing not later than 10 days after publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than 7 days after the time limit for filing case briefs. Any hearing, if requested, will be held 7 days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 353.38(e). Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in any event not later than the date the case briefs, under 19 CFR 353.38(c), are due. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

Upon completion of the final results in this review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of these reviews; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 3.10 percent, the adjusted "all others" rate from the fair value investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

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

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and § 353.22 of the Department's regulations (19 CFR 353.22(c)(5)).

Dated: December 2, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–30281 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–403–801]

Fresh and Chilled Atlantic Salmon From Norway; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review and partial termination of administrative review.

SUMMARY: In response to requests by three respondents and one petitioner, The Coalition for Fair Atlantic Salmon Trade (FAST), the Department of Commerce has conducted an administrative review of the antidumping duty order on fresh and chilled Atlantic salmon from Norway. The review covers 85 exporters, and the period April 1, 1992, through May 31, 1993. We preliminarily determine that margins exist for the period.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 14, 1993.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4195 or 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 12, 1991, the Department of Commerce (the Department) published the antidumping duty order on fresh and chilled Atlantic salmon from Norway (56 FR 14920). The Department published a notice of "Opportunity to Request Administrative Review" on April 9, 1993 (58 FR 18374). On April 30, 1993, the petitioner, FAST, requested that we conduct an administrative review on 85 exporters, listed below, for the period April 1, 1992, through May 31, 1993. On April 30, 1993, three respondents asked to be reviewed, Chr. Bjelland Seafood A/S (Norwegian Salmon A/S), Salmonor A/S, and Sea Star International A/S. We published a notice of "Initiation of Antidumping and Countervailing Duty Administrative Review" on May 27, 1993 (58 FR 30767). In accordance with § 353.22(a)(5), the petitioner withdrew its request for review of Torris Products Ltd. A/S (Torris) on July 29, 1993, and for Skaarfish A/S on August 25, 1993. Since the requests for review of the sales of Skaarfish and Torris were timely withdrawn, we are terminating the review of these companies and their entries will be liquidated at the rate at which they were entered.

The Department has now conducted the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

The merchandise covered by this review is fresh and chilled Atlantic salmon (salmon). It encompasses the species of Atlantic salmon (Salmo salar) marketed as specified herein; the subject merchandise excludes all other species of salmon: Danube salmon; Chinook (also called "king" or "quinnat"); Coho ("silver"); Sockeye ("redfish" or "blueback"); Humpback ("pink"); and Chum ("dog"). Atlantic salmon is whole or nearly whole fish, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on. The subject merchandise is typically packed in fresh water ice (chilled). Excluded from the subject merchandise are fillets, steaks, and other cuts of Atlantic salmon. Also excluded are frozen, canned, smoked or otherwise processed Atlantic salmon. Fresh and chilled Atlantic salmon is currently provided for under Harmonized Tariff Schedule (HTS) subheading 0302.12.00.02.09. The HTS item numbers are provided for

convenience and Customs purposes. The written description remains dispositive.

No Shipments

There were 31 firms that reported they made no shipments of the subject merchandise during the period of review, which was verified with the U.S. Customs Service. The 28 never-reviewed firms receive the "all other rate" of 23.80 percent, the rate which has been in effect for these firms. The three previously reviewed firms will continue to receive their rate from the original investigation.

Best Information Available

The 52 exporters who failed to respond to our questionnaire are receiving a margin based on the best information available (BIA), in accordance with section 776(c) of the Tariff Act. The BIA rate is the highest rate for any firm in a prior determination, which is 31.81 percent.

Preliminary Results of Review

We have preliminarily determined that the following margins exist for the period April 1, 1992, through May 31, 1993:

	Percent
Adeco A/S	31.81
Arne Lund & Sonner A/S	31.81
Aalesundfisk A/S	**23.80
Aqua Star A/S	31.81
Austevoll Fiskeindusti A/S	**23.80
Atlantic Salmon A/S	31.81
Brodrene Reme	**23.80
Brodrene Sirevag A/S	**23.80
Chr. Bjelland Seafoods A/S	31.81
Domstein Salmon A/S	*31.81
Edal Laks A/S	31.81
Edda Seafood A/S	31.81
Fjord Aqua Group A/S	**23.80
Flatanger Laks A.S. K.S	31.81
Fonn Rogaland A/S	31.81
Fossen Senter—Valestrand A/S	**23.80
Fremco Fresh Marine A/S	31.81
Fremstad Group A/S	31.81
Fresh Marine Co. Ltd	31.81
Frionor Norsk Frossenfisk A/S	**23.80
Halco Norway A/S	31.81
Hallvard Leroy A/S	*31.81
Handels-Huset Nord A/S	**23.80
Heroyfisk A/S	31.81
Iglo Aqua Group A/S	31.81
Janas A/S	31.81
Janas Rokeri A/S	31.81
J.H. Fremstad A/S	31.81
Johan J. Helland A/S	**23.80
Kaldfjord Handel & Fiskeforr	31.81
Karl Abrahamsens Rokeeri A/S	31.81
Karsten J. Ellingsen A/S	**23.80
King of Norway A/S	31.81
Konrad Sekkingstad A/S	31.81
Knut Nero Exp	31.81
Kr. Kleiven & Co. A/S	31.81
Kvalos Trading A/S	31.81
Leica Fiskeprodukter	31.81
Manger Seafood A/S	31.81
Marinor Edelfisk A/S	31.81
Marinus A/S	**23.80
Misundfisk A/S	**23.80
M. Loining & Sonner A/S	31.81
More Seafood A/S	31.81
Noa Gourmet Seafood A/S	31.81
Nordic Group Inc	31.81
Norfood Group A/S	31.81
Norfra A/S	**23.80
Norsk Akvakultur A/S	**23.80
Nor-Star Seafood A/S	31.81
Northern Seafood A/S	**23.80
Norwegian Seadeli A/S	31.81
Norwegian Salmon A/S	31.81
Norwegian Seafood A/S	**23.80
Nova Sea A/S	31.81
Oddvin Bjorge A/S	**23.80
Prima Seafood	31.81
R. Domstein & Co	31.81
Reinhertsen & Co	31.81
Saga A/S	*26.55
Salmar A/S	**23.80
Salmonex A/S	**23.80
Salmonor A/S	31.81
Seanor A/S	**23.80
Scandinavian Seafood Ltd	31.81
Scandinavian Superior Seafood	31.81
Scanfarm A/S	31.81
Sea Eagle Group A/S	**23.80
Sea Star International A/S	31.81
Smefa A/S	**23.80
Sotra Smoked Fish A/S	31.81
Stabburet A/S	**23.80
Stabburet Marine Produkter A/S	31.81
Stavanger Rokeri & Fisk A/S	**23.80
Sunnmorsfisk A/S	31.81
Terra Seafood A/S	31.81
Troll Salmon A/S	**23.80
Tromsfisk A/S	31.81
Uniprawns A/S	**23.80
Vikenco A/S	**23.80
Vikin A/S	31.81
West Fish Norwegian Salmon A/S	**23.80
Westfood A/S	31.81

*No shipments during the period; margin from original investigation.

**No shipments during the period; margin for "all others" from the original investigation.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions concerning all respondents directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed firms will be each firm's rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters not previously reviewed will be 23.80 percent, the all other rate from the less-than-fair-value investigation.

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

Interested parties may request disclosure within five days of the date of publication of this notice, and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication, or the first workday thereafter. Case briefs or other written comments, from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish the final results of review, including its results of its analysis of issues raised in any such written comments.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period.

Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: December 6, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–30404 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–DS–M

[A-570-829, A-580-823]

Initiation of Antidumping Duty Investigations: Saccharin From the People's Republic of China and Republic of Korea

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

EFFECTIVE DATE: December 14, 1993.

FOR FURTHER INFORMATION CONTACT: The following officials of the Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230 may be contacted for further information: Gary Bettger (202) 482-2239 for the People's Republic of China (PRC); or Julie Anne Osgood (202) 482-0167 for the Republic of Korea (Korea).

INITIATION OF INVESTIGATION:

The Petition

On November 17, 1993, we received a petition filed by the PMC Specialties Group ("petitioner"), the sole U.S. producer of saccharin. However, the International Trade Commission ("ITC") did not receive the petition filed in proper form until November 18, 1993. Therefore, consistent with 19 CFR 353.12(c), we consider the petition to have been officially filed with the Department on November 18, 1993.

In accordance with 19 CFR 353.12, petitioner alleges that imports of saccharin from the People's Republic of China ("PRC") and the Republic of Korea ("Korea") are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

Petitioner states that it has standing to file the petition because the PMC Specialties Group is an interested party, as defined under section 771(9)(C) of the Act, and it is the sole domestic producer of saccharin. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file a written notification with the Assistant Secretary for Import Administration.

Scope of Investigation

Saccharin is a non-nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table-top sweeteners, animal feeds, and metalworking fluids. Three forms of saccharin are typically available as referenced in the American Chemical Society's Chemical Abstract Service (CAS). These forms are sodium saccharin (CAS #128-44-9), calcium saccharin (CAS #6485-34-3), and acid (or insoluble) saccharin (CAS #81-07-2). Saccharin is classified under subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States (HTS). The scope of these investigations includes all types of saccharin imported under this HTS subheading including research and specialized grades.

Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

United States Price and Foreign Market Value

The People's Republic of China

Petitioner based United States Price ("USP") on 1993 price quotes made on a packed, f.o.b. China Main Port basis from a U.S. sales agent representing a Chinese chemical plant. Petitioner made no adjustment to the prices.

Petitioner contends that the foreign market value ("FMV") of PRC-produced imports subject to this investigation must be determined in accordance with section 773(c) of the Act, which concerns non-market economy ("NME") countries. The Department has determined the PRC to be an NME, within the meaning of section 771(18)(A) of the Act, in previous cases (see e.g., *Final Determination of Sales at Less Than Fair Value: Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof from the PRC*, 58 FR 37908 (July 14, 1993)) ("*CDIW Fittings*"). In accordance with 771(18)(C) of the Act, that determination continues to apply for purposes of this initiation.

In the course of this investigation, parties will have the opportunity to address this NME determination and provide relevant information and argument on this issue. In addition, parties will have the opportunity in this investigation to submit comments on whether FMV should be based on prices or costs in the PRC consistent with section 773(c)(1)(B) of the Act (see *Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order: Chrome-Plated Lug Nuts from the People's Republic of China*, 57 FR 15052 (April 24, 1992)).

Because of the extent of central government control in an NME, the Department further considers that a single antidumping margin, should there be one, is appropriate for all exporters from the NME. Only if individual NME exporters are free of central government ownership and can demonstrate an absence of central governmental control with respect to the pricing of exports, both in law and in fact, will they be considered eligible for separate, owner-specific deposit rates. (See *Final Determination of Sales at Less Than Fair Value: Helical Spring Lock Washers from the People's Republic of China*, 58 FR 48833 (September 20, 1993) for a discussion of the information the Department considers appropriate to warrant calculation of separate rates.)

In accordance with section 773(c) of the Act, FMV in NME cases is based on NME producers' factors of production valued in a market economy country. Petitioner calculated FMV by valuating the factors of production for the two methods used to produce the subject merchandise, Maumee and Remsen-Fahlberg, based on information from an Indian producer which uses the Maumee process and information obtained from a patent description for the Remsen-Fahlberg process.

In valuing the factors of production, petitioner used India and Pakistan as surrogate countries. For purposes of this initiation, we have, pursuant to section 773(c)(4) of the Act, accepted India and Pakistan as appropriate surrogate countries because their economies are at a level of development comparable to the PRC's. (See Memorandum to David L. Binder, Director—Division II, Office of Antidumping Investigations from David P. Mueller, Director, Office of Policy, dated August 1993, regarding non-market economy status and surrogate country selection on file in Room B-099 of the Department of Commerce.) However, petitioner was unable to obtain values for all factors in India and Pakistan. For some of these factors, petitioner supplied alternative sources (e.g., international world prices). Based upon our analysis, we have found these sources to be acceptable except in the following instance.

To value the raw material sodium bichromate, petitioner provided a price from a Chinese exporter. Because the Department considers the PRC to be an NME, this price is unacceptable and we are using an average of Indian import and export prices to value this input.

In accordance with section 773(c)(1)(B) of the Act, petitioner's FMV consisted of the sum of values assigned to materials, labor, energy, and overhead. To this, petitioner added general expenses and profit.

Petitioner adjusted certain factor values to reflect inflation and currency exchange rates between the dates of the U.S. price quote and the dates of the reported data. In cases where petitioner did not correctly adjust factor values or made certain numerical calculation errors, we have made the proper adjustments. (For a more detailed discussion, see the Memorandum to Barbara R. Stafford from Team dated December 8, 1993, on file in the Central Records Unit of the Main Commerce Building.)

Pursuant to sections 773(c)(1) and (e)(1) of the Act, petitioner added to the labor and material costs the statutory minima of 10 percent for general expenses and eight percent for profit.

The dumping margin for saccharin from PRC based on a comparison of USP and FMV alleged by petitioner ranges from 95 percent to 391 percent.

Republic of Korea

Petitioner explained that it was unable to obtain actual sales price information on which to base USP. Petitioner, therefore, based USP on import statistics from the Department of Commerce IM–145 reports. These customs values are exclusive of transportation, insurance, import duties and other costs associated with shipments to the United States. Petitioner made no adjustments to the USP.

Petitioner based FMV on constructed value. Petitioner derived raw material costs from a variety of sources. Although we have accepted the majority of petitioner's cost estimates, we have recalculated the cost of certain raw materials used in the production process to reflect either an average of two price quotes or a Korean import price. We have revised the constructed value to account for these changes. (For a more detailed discussion, see the Memorandum to Barbara R. Stafford from Team dated December 8, 1993, on file in the Central Records Unit of the Main Commerce Building.)

The dumping margin for saccharin from Korea based on a comparison of USP to FMV alleged by petitioner is 133 percent.

Initiation of Investigations

We have examined the petition on saccharin and have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of saccharin from the PRC and Korea are being, or are likely to be, sold in the United States at less than fair value.

Critical Circumstances

Petitioner alleges that critical circumstances exist by reason of massive imports. However, to document this allegation, petitioner provides only general import volumes and values from the PRC over the past few years without attempting to link its claim of massive imports to any particular event relating to these investigations. Furthermore, petitioner does not address the issue of knowledge or history of dumping. Therefore, since petitioner has not met the requirements of 19 CFR 353.16, we are not initiating an investigation of critical circumstances.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of these actions, and we have done so.

Preliminary Determination by the ITC

The ITC will determine by January 3, 1994, whether there is a reasonable indication that imports of saccharin from the PRC and Korea are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination on either of these will result in the investigation being terminated; otherwise, each of these investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: December 8, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–30486 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–DS–P

[A–357–804]

Silicon Metal From Argentina; Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On August 23, 1993, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on silicon metal from Argentina. The review covers two manufacturers/exporters of the subject merchandise, Electrometalurgica, S.A.I.C. (Andina) and Silarsa, S.A. (Silarsa), and the period March 29, 1991 through July 31, 1992.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received and on the correction of certain clerical errors, we have revised the preliminary results. The final dumping margins range from 2.06 percent to 54.67 percent

EFFECTIVE DATE: December 14, 1993.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5254.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 44499) the preliminary results of its administrative review of the antidumping duty order on silicon metal from Argentina (56 FR 48779, September 26, 1991). The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

The product covered by this review is silicon metal. During the less-than-fair-value (LTFV) investigation, silicon metal was described as containing at least 96.00, but less than 99.99, percent silicon by weight. In response to a request by petitioners for clarification of the scope of the antidumping duty order on silicon metal from the People's Republic of China (PRC), the Department determined that material with a higher aluminum content containing between 89 and 96 percent silicon by weight is the same class or kind of merchandise as silicon metal described in the LTFV investigation (Final Scope Rulings—Antidumping Duty Orders on Silicon Metal from the People's Republic of China, Brazil, and Argentina (February 3, 1993)). Therefore, such material is within the scope of the orders on silicon metal from the PRC, Brazil, and Argentina. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (HTS) and is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon metal and provided for in subheading 2804.61.00 of the HTS) is not subject to this order. The HTS

subheadings are provided for convenience and U.S. Customs Service purposes only; our written description of the scope of the proceeding is dispositive.

This review covers two manufacturers/exporters of the subject merchandise to the United States, Andina and Silarsa. Silarsa did not respond to the Department's cost questionnaire. As a result, the margin for Silarsa is based on the best information available (BIA).

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from American Alloys, Inc., Elkem Metals Company, Globe Mettalurgical, Inc., SMI Group, Inc., Rock Island Silicon Division, and SKW Metals & Alloys, Inc. (petitioners), and respondents Andina and Silarsa, on September 22, 1993. We received written rebuttal comments from petitioners and respondents on September 29, 1993. On October 7, 1993, we held a public hearing at the request of the petitioners. On October 14, 1993, counsel for Silarsa submitted a formal objection to petitioners' introduction of certain new arguments at the hearing. On November 3, 1993, counsel for petitioners responded to Silarsa's objections, stating that the comments cited by Silarsa were neither new arguments nor raised in contravention of the Department's regulations. Public hearings are intended to provide interested parties with another forum to present their views to the Department. At such hearings, it generally is expected that interested parties will clarify and/or amplify upon the issues and arguments raised in their case and rebuttal briefs, as well as respond to questions from Department personnel. Consequently, it is not anticipated that interested parties will participate by merely giving what amounts to a verbatim recitation of their briefs. In this instance, Silarsa's cooperation, or lack thereof, and the appropriate BIA rate were issues raised and argued in petitioners' case and rebuttal briefs. Comments made by petitioners' counsel at the hearing generally went to those issues and arguments. However, counsel for petitioners did present an argument in response to a point included in Silarsa's rebuttal brief which was not in either petitioners' case or rebuttal briefs, i.e., that Silarsa's profitability was the result of government rebates. Therefore, consistent with 19 CFR 353.38, we have not considered this argument by petitioners' counsel for purposes of these final results. Otherwise, we do not find that the arguments made by counsel for petitioners at the hearing to be inconsistent with the criteria set out in our regulation.

Comment 1: Silarsa submits that the Department was correct in assigning the "all other" rate of 8.65 percent from the LTFV investigation as BIA for Silarsa in the preliminary results of review. Silarsa points out that its response to the antidumping questionnaire represented a sincere attempt to cooperate with the Department and to provide the information necessary to establish that Silarsa was not dumping silicon metal in the United States. However, Silarsa states that it lacked the resources to contest the additional sales-below-cost allegation made by petitioners and thus reluctantly ceased its participation in this administrative review.

Silarsa urges the Department to adhere to its established precedent in using a two-tier BIA methodology and apply to Silarsa a rate of 8.65 percent, or the rate calculated for Andina in the final results of this administrative review, whichever is higher. Silarsa asserts that application of this rate is further supported by the Department's "preference for the use of verified data as best information available when the use of best information is necessary." *Timken Co.* v. *United States,* 795 F. Supp. 438, 441–442 (Court of International Trade (CIT) 1992). Silarsa points out that the Department verified Andina's data for the LTFV investigation and for this first administrative review.

Petitioners maintain that the Department was correct and in conformity with the statute in its application of a BIA rate for Silarsa, but that it failed to select an appropriate rate. Petitioners state that while the Department's two-tier BIA methodology was sustained in *Allied-Signal Aerospace Co.* v. *United States,* No 93–1049 (Fed. Cir. June 22, 1993) (*Allied Signal*) the court held that the first tier of BIA is not "punitive" but, rather, "merely establishes a presumption that the highest prior margins are the best information available." Petitioners also cite to *Timken Co.* v. *United States,* 673 F. Supp. 495, 500 (CIT 1987), and maintain that the court held that this presumption may be rebutted with evidence which includes "all information that is accessible or may be obtained, whatever its sources."

Petitioners contend that the Department's use of the highest rate found in the original investigation, rather than the BIA-based information submitted by them, actually rewards Silarsa. In the petitioners' view, the Department is, in effect, allowing Silarsa to request an administrative review with Silarsa knowing that the worst possible outcome would be a continuation of the existing duty rate, because it could always become uncooperative and thus evade imposition of a higher rate. According to petitioners, the Department must look beyond the rates identified in its first-tier BIA policy when it is clear that the selection of any of those rates would not be adverse to the non-cooperating party. Petitioners submit that information contained in their sales-below-cost allegation should be used by the Department to determine a BIA rate for Silarsa. Petitioners cite Sodium Thiosulfate from China; Preliminary Results of Antidumping Administrative Review (57 FR 58792, December 11, 1992) (Sodium Thiosulfate) to support their contention that the previously applicable "all others" rate is "no longer sufficiently adverse to induce (Silarsa) to submit timely, accurate, and complete responses."

Silarsa counters that the reasons advanced by petitioners for the Department to abandon its established two-tier BIA methodology to determine Silarsa's dumping margin for this administrative review are not sound. First, the Court of Appeals for the Federal Circuit (CAFC) in *Allied-Signal* did not open the door for petitioners to submit data to rebut the Department's two-tier BIA methodology. Rather, the CAFC upheld the Department's BIA methodology as reasonable and maintained that it could be rebutted by respondents who could provide information to demonstrate that a lower rate is appropriate. Second, Silarsa submits that petitioners have not explained how the imposition of an unknown dumping margin can be considered a reward. Third, Silarsa challenges petitioners' claim that this case is consistent with Sodium Thiosulphate, stating that that case is distinguishable in that the petitioner in Sodium Thiosulphate was able to document decreased U.S. prices and increased production costs, and did so virtually at the inception of the administrative review, not eleven months into the review as petitioners did in this case.

Silarsa states that the basic purpose of the BIA statute is to determine "current margins as accurately as possible" (*Rhone Poulenc, Inc.* v. *United States,* 899 F.2d 1185, 1191 (Fed. Cir. 1990)). Silarsa asserts that petitioners' various submissions alleging sales-below-cost by Silarsa in the home market are marked by inconsistent calculations and numerous factual errors which not only

vitiate the petitioners' suggested methodology for determining a BIA rate for Silarsa, but, if adhered to by the Department, would undermine the basic purpose of the statute.

Therefore, Silarsa concludes that the Department was correct in applying its two-tier methodology to Silarsa in the preliminary results, and the Department should follow the same methodology in the final results.

Petitioners counter that section 731 of the Tariff Act requires that whenever the Department determines that foreign merchandise is being sold in the United States at less than its fair value, "there *shall be* imposed upon such merchandise an antidumping duty * * * *in an amount equal* to the amount by which the foreign market value exceeds the United States price for the merchandise." (emphasis added). In addition, petitioners state that section 773(b) of the Tariff Act of 1930, as amended, (the Tariff Act) further provides that "[w]henever the administering authority has reasonable grounds to believe * * * that sales in the home market * * * have been made at prices which represent less than the cost of producing the merchandise in question * * * the administering authority shall employ the constructed value of the merchandise to determine its foreign market value." Thus, pursuant to the statute and the Department's regulations, petitioners conclude that the Department is compelled to establish foreign market value based on BIA, which, in this case, should be the information submitted by petitioners, derived from data submitted by Silarsa.

Department's Position: In our preliminary results of review, we determined in accordance with section 776(c) of the Tariff Act that the use of BIA was appropriate for Silarsa. The Department's regulations provide that we may take into account whether a party refuses to provide requested information when selecting BIA (19 CFR 353.37(b)). Petitioners alleged that Silarsa had made sales below cost during the period of review (POR). We analyzed petitioners' submission and concluded that the data warranted initiation of a sales-below-cost investigation (see Memorandum to Division Director, March 4, 1993). Because Silarsa failed to respond to our cost questionnaire, we assigned to Silarsa, as BIA, the highest rate of any company from the LTFV investigation. In assigning this BIA rate we were following our two-tier methodology under which we impose the most adverse rates upon those refusing to cooperate or otherwise significantly impede the proceedings, and less adverse rates upon those who are substantially cooperative but failed to provide requested information in a timely manner or in the form required (see section 776(c) of the Tariff Act), Final Results of Administrative Review, Antifriction Bearings (Other Than Tapered Roller Bearings from France, et al. (58 FR 39729, 39739, July 26, 1993), and Final Results of Antidumping Duty Administrative Review: Clear Sheet Glass From Taiwan (56 FR 44075, September 6, 1991).

After careful consideration of the comments from petitioners and Silarsa, we have concluded that there is no doubt that Silarsa's refusal to cooperate warrants the use of BIA. The application of the two-tier BIA methodology, however, is inappropriate for Silarsa in this administrative review. The "best information available" generally refers to the information the Department must use in lieu of a respondent's data to establish dumping margins when a respondent does not provide the Department with timely, complete or accurate information (section 776(b) of the Tariff Act; § 353.37(a) of the Department's regulations). The primary purpose of the BIA rule is to induce respondents to provide the Department with timely, complete, and accurate factual information, so that the agency can achieve the fundamental purpose of the Tariff Act, namely, "determining current [dumping] margins as accurately as possible" (see *Rhone Poulenc*). A secondary purpose is to ensure that the antidumping duties assessed are not less than the actual amounts might have been, had we received full and accurate information.

To induce a noncomplying respondent to cooperate fully in the future, the Department must select an appropriate BIA rate. The selection of the appropriation BIA rate is done on a case-by-case basis (see Final Results of Antidumping Duty Administrative Review, Steel Jacks from Canada, 52 FR 32957 (September 1, 1987)).

The Federal Circuit's decision in *Rhone Poulenc* indicates that, in accordance with the Tariff Act, the Department may draw a reasonable adverse presumption against a noncomplying respondent to achieve the purpose of the BIA (*Id.* at 1190–91). In drawing this adverse presumption or inference, the Department typically must select as BIA a dumping margin that is unfavorable to the noncomplying respondent (see *Id.*). In light of the cooperation-inducing function of the BIA rule, we believe that Silarsa should not find itself in a better position as a result of its noncompliance than it would have had it provided the Department with complete, accurate, and timely data. In this instance, we have only Andina's rate from the LTFV investigation. To follow Silarsa's suggestion and apply to Silarsa the higher of the "all other" rate of 8.65 percent from the LTFV investigation, or the rate calculated for Andina in the final results of this administrative review, would, in effect, allow the respondent to control the proceeding. Because Andina's rate is also the "all other" rate, Silarsa would be assured a rate no higher than Andina's, the only respondent who cooperated fully with the Department in this administrative review. The use of the two-tier methodology, in this instance, restricts the field of potential BIA rates to the rate established for one firm.

The two-tier methodology "merely establishes a presumption that the highest prior margins are the best information available" (see *Id.*). We are not obligated to blindly follow this precedent in every case. In this instance, we cannot presume that the highest prior margins are the best information available and that following the two-tier methodology would be sufficient to induce the respondent to cooperate. As previously noted, having determined that petitioners' timely allegations were sufficient to warrant a cost investigation, the Department initiated such an investigation, However, Silarsa chose to withdraw from the review rather than respond to our sales-below-cost questionnaire. (See Letter from the Division Director to Harris & Ellsworth, March 12, 1993). Therefore, as BIA for these final results of review, we have used the constructed value (CV) information submitted by petitioners, which was based on Silarsa's financial statements, as BIA for Silarsa's foreign market value. We used this information and Silarsa's sales response to derive Silarsa's dumping margin.

Comment 2: Petitioners contend that Andina's failure to allocate any depreciation expense for idle furnaces, as demonstrated in Exhibit 22 of the supplemental response, was incorrect. They state that it is well-established Departmental policy that depreciation on idle assets should be included in the cost of production (COP). They cite the Final Determination of Sales at Less Than Fair Value; Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany (54 FR 18992, May 3, 1989) (AFBs from Germany) in support of their contention. Petitioners also state that the Department's approach in this review to verifying depreciation expense by tying the

expenses to the general ledger is flawed because the Department only accepts an individual firm's accounting of costs in accordance with the Generally Accepted Accounting Principles (GAAP) of its own country when the Department is assured that the foreign GAAP accurately recognizes the actual costs incurred by the company. Citing AFBs From Germany, petitioners point out that, although Japan's GAAP, like Argentina, does provide that depreciation of idle equipment may be stopped, the Department did not accept this accounting method, reasoning that idle fixed assets are a cost to the company and should be absorbed in COP. In light of the fact that Andina failed to provide its depreciation expense for idle assets, petitioners urge the Department to use as BIA the highest depreciation expense figure for any month in which depreciation was reported.

Andina states that it reported its total depreciation cost for the furnaces producing silicon metal. First, Andina maintains that although three furnaces can produce silicon metal, only two furnaces were used during the POR; second, allocating the cost of depreciation of a furnace to the products it can produce rather than to what it does produce alters the concept of depreciation; third, petitioners' contention that Exhibit 22 of Andina's supplemental response shows that Andina did not calculate depreciation costs for the furnaces for the months in which they were not used is completely incorrect. Andina asserts that the total annual depreciation charges were derived directly from the revaluation of the assets and the division of the new values by the number of remaining years in the asset's useful life. Andina further asserts that the Department completely verified the depreciation component of its COP and CV.

Department's Position: We agree with Andina. At verification we determined that Andina's method of allocating its depreciation expenses did take into account the depreciation of idle assets. Andina took the annual depreciation cost for 1991, identified those costs attributable to the production of silicon metal, and distributed the yearly depreciation costs among the cost centers related to the production of silicon metal. Even though Exhibit 22 of Andina's supplementary response seems to indicate that in some months depreciation expense was not reported, we verified that Andina did, in fact, report the total annual depreciation expense. In its attempt to allocate this expense to silicon metal production, Andina inadvertently left the impression that it had failed to report this expense during some months of the POR.

Comment 3: Petitioners cite to the Final Determination of Sales at Less Than Fair Value: New Minivans From Japan (57 FR 21937, 21946, May 26, 1992) (Japanese Minivans) in support of their contention that, given Andina's claim of proprietary treatment for the identity of its principal shareholders, the Department should determine whether any of Andina's principal shareholders is a corporation and, if so, whether a portion of that parent's general and administrative (G&A) expenses should be allocated to Andina.

Andina states that its owners are shareholders who do nothing but hold stock. There are no transactions involving money or services between Andina and any entity which has ownership in the company. Unlike Japanese Minivans, Andina states that no corporate transactions occur between Andina and its shareholders. Therefore, there is no basis for consolidating Andina's G&A with that of the shareholders.

Department's Position: During verification we examined the corporate structure of Andina and established that Andina is privately owned by seven Argentine citizens (see Verification Report, p. 2) and there are no corporate transactions which occur between Andina and any of its stockholders. Therefore, for these final results, we have used Andina's appropriate G&A expenses.

Comment 4: Petitioners state that, consistent with its determination in the original investigation, the Department should include the "other expenses" listed in Andina's financial statements in Andina's G&A expenses for purposes of the Department's COP and constructed value calculations. Petitioners cite the verification report which states that the "other expenses" "include those items which could not logically be allocated to any particular category (e.g., reserves for bad debt)." Petitioners maintain that these "other expenses" are cost of doing business for Andina and should be included in COP.

Andina counters that it has never failed to report its G&A expenses. The "other expenses" category includes reserves for self-insurance, contingencies for plant closings, etc. Andina explains that during the period of the original investigation only a portion of the reserves were real costs. In contrast, all of the 1991 reserves were actually used and represent real costs incurred during this review period. Andina asserts that the Department verified that none of these expenses were related to the production of silicon metal.

Department's Position: We did not verify that none of these expenses were related to the production of silicon metal, rather, we verified that these expenses were a general cost of doing business for Andina. Hence, we agree with petitioners and we have included the "other expenses" listed in Andina's financial statement in the G&A expenses for our COP/CV calculations.

Comment 5: Petitioners contend that Andina's financing expenses reflected in its COP worksheet do not reconcile with its 1991 financial statements. In addition, they further note that the Department was unable to verify Andina's claim as to the percentage of cost of goods sold that was represented by financing expenses (see Verification Report, p. 20). This inability to tie Andina's reported financing expenses to the company's financial statements constitutes, in the petitioners' view, grounds for rejection of the response and the use of BIA as to this issue. Petitioners believe the Department should use Andina's own 1991 financial statements as BIA for determining the relevant percentage for Andina's financing expenses.

Andina states that the income statement account entitled "Financial Holding Result" includes the effect of inflation on monetary items, the result of holding inventory during the period, and financial expenses. Andina contends that its financial expenses are expressed as part of the overall "financial holding result" and cannot be identified separately. Therefore, Andina determined the financing costs the company incurred during 1991 based on historic values and adjusted those expenses by the general wholesale price index. Andina concludes that the worksheets presented at verification clearly demonstrate that the value of the financial holding result is completely unrelated to production costs for silicon metal. Andina further asserts that petitioners have confused financial expenses with the amount reported in the financial statements under the category "Financial and Monetary Adjustments to Recognize Price Change (Inflation)." This account, according to Andina, expresses the degree of variation in the accounts and in no way is it related to actual, historical costs.

Department's Position: We agree with petitioners. At verification we were unable to trace any of Andina's financial expenses to primary company documents. Worksheets without any supporting documentation do not constitute an adequate basis for accepting the data reported by a

respondent. As the Department stated in AFBs from Germany, "[v]erification depends precisely on tying amounts reported in questionnaire responses to the company's internal accounting records and financial statements. Failure to demonstrate such a relationship results in a failed verification" (56 FR 31692, 31707, July 11, 1991). Because we were unable to verify Andina's financing expenses, we have used the amount reported under "Financial and Monetary Adjustments to Recognize Price Change (Inflation)" in Andina's 1991 financial statement as a percentage of cost of goods sold as BIA for Andina's financial expenses.

Comment 6: Petitioners maintain that the Department should increase Andina's reported COP by the amount claimed as a deduction for the purification expenses associated with the production of chemical grade silicon metal. They contend that Andina failed to document this adjustment in any way. They further argue that the failure to mention the purification cost in the Department's verification report justifies the denial of such an adjustment. Therefore, the Department cannot allow such an adjustment for these unverified alleged costs.

Andina disagrees with petitioners, stating that in its supplementary submission of March 17, 1993, it documented the costs of purification of silicon metal in order to obtain chemical grade silicon metal. Andina further asserts that its subsequent submission of June 8, 1993 provided additional information on the derivation of this expense. Andina concludes that it is simply incorrect to say that no documentation was submitted to establish the inclusion of the costs of purifying silicon metal in the reported COP.

Department's Position: We agree with Andina. In its submissions to the Department, Andina explained that its reported costs included the costs associated with the production of chemical grade as well as metallurgical grade silicon metal. The Department is not required to verify every figure reported in a questionnaire response. The process of verification involves spot-checking and cross-checking the information that the Department selects for emphasis in analyzing each specific response (see Replacement Parts for Self-Propelled Bituminous Paving Equipment From Canada; Final Results of Antidumping Duty Administrative Review (56 FR 47451, September 19, 1991)). In this instance we verified selected costs (e.g., labor) associated with the purification of silicon metal. We are satisfied that Andina accurately documented this expense in its response and during verification.

Comment 7: Petitioners argue that the Department should reject Andina's claim to a reduction in its COP for revenues generated from the sale of surplus materials. Petitioners cite to Tentative Determination To Modify or Revoke Dumping Finding; Elemental Sulphur from Canada (44 FR 8057, February 8, 1979), in support of their contention that it is established Departmental practice to allocate costs on a co-product basis (where revenue received from the subsidiary product is 10 percent or more of the total plant revenue) or on a by-product basis (where revenue is less that 10 percent) where more than one product is derived from a manufacturing process. Since Andina did not establish the basis for either by-product or co-product accounting treatment, nor identify any costs it incurred after the crushing process necessary to place the granular material in marketable condition, the Department should disallow this reduction in Andina's COP.

Andina counters that the Department's methodology for treating by-products is to allocate full production costs to the production of the prime product, offsetting these costs by the amount of revenue earned on any sales of the by-product. Andina maintains that in this instance the Department reduced the cost of producing silicon metal by the revenue generated from sales of charcoal and quartz "fines" (unusable sizes of charcoal and quartz).

Department's Position: We agree with Andina. It is the Department's practice to credit the cost of production for any revenues received as a result of the sale of any by-product. In this instance, the Department determined that the charcoal and quartz fines that Andina produces qualify as by-products because they are an unavoidable consequence of the production of silicon metal (see Certain Circular Welded Carbon Steel Pipes and Tubes From Thailand; Final Results of Antidumping Administrative Review (56 FR 8356 November 19, 1991), Final Determination of Sales at Less Than Fair Value; Frozen Concentrated Orange Juice from Brazil (52 FR 8328–9, March 17, 1987), and Final Determination of Sales at Less Than Fair Value; Titanium Sponge from Japan (49 FR 38687 October 1, 1984)). At verification we confirmed that Andina received revenue from the sale of by-products and have continued for these final results to deduct the revenue generated from sales of surplus materials from Andina's cost of production.

Comment 8: Petitioners urge the Department to carefully review Andina's allocation of electrical energy costs, as Andina used its total energy costs for 1991 even though silicon metal was not produced during a portion of the year. Therefore, petitioners request that the Department recalculate Andina's electrical energy costs, excluding the energy cost and usage figures for those periods during the year when silicon metal was not in production.

Andina contends that no logic supports the theory that in constructing the cost of hydraulic energy generated by Andina, the Department should exclude the months with the lowest generation costs, whether or not these costs are related to the manufacture of silicon metal. Andina maintains that it followed the Department's questionnaire and used the cost for the entire fiscal year as it did for all expenses relevant to COP and CV. In addition, the annual reporting period for energy costs coincides closely to the hydraulic year; it includes both periods of low generation (fall and winter) and periods of higher generation (spring and summer). Andina also states that its energy operations are not product-specific as petitioners seem to believe, but unified, with the cost of electric energy per kilowatt hour consumed bring the same for the manufacture of all products.

Department's Position: We agree with Andina and have continued to use Andina's energy costs as reported. Andina's calculation of energy costs for the entire fiscal year is consistent with its calculation of all other expenses and satisfies the requirements in the Department's questionnaire. In addition, we traced this item extensively at verification and found the documentation acceptable.

Comment 9: Petitioners claim that Andina's continual revision of its hourly wage rates and the Department's failure to discuss or explain in its verification report the discrepancies between the various reported figures render the final rate suspect. The Department should, therefore, compute Andina's labor costs using a weighted-average direct hourly wage based on silicon metal production during 1991

Andina concedes that it initially reported the labor hours dedicated to the production of silicon metal incorrectly. This error was due to a misunderstanding of the quantity to report, "productive hours" (hours actually dedicated to the production process) or "paid hours" (hours paid for by the company, including vacation, maternity leave, etc.). Andina further

asserts that petitioners' calculations of the hourly labor rate are based on inferences and manipulation of the data. Andina concludes that the Department should make no adjustment to the reported hourly labor rate in the COP calculation.

Department's Position: Initially Andina incorrectly reported its hourly labor rate based only on "productive hours." It subsequently revised its hourly wage rate to include "paid hours," that is, hours for vacation, absences for sickness, maternity leave, etc. We verified the hourly wage rate which Andina submitted in its revised supplemental response of June 17, 1993, and are satisfied that the figures are accurate. The purpose of verification is to substantiate the data respondents have reported as accurate. Therefore, we have continued to use the hourly rate reported by Andina in its June 17, 1993 submission.

Comment 10: Petitioners maintain that the inconsistencies present in Andina's method of reporting packing costs in its original questionnaire response and in subsequent supplementary responses render the final reported figure suspect. Petitioners further argue that it is not clear if Andina, for purposes of the COP calculation, accounted for packing in the production costs or in the direct selling expenses. In light of these inconsistencies, petitioners urge the Department to calculate, at a minimum, a weighted-average packing cost.

In response to petitioners' comments, Andina states that the crushing and packing of silicon metal is simultaneous and automatic and the associated costs are initially accumulated in the "silicon metal crushing" cost center. However, for purposes of preparing the financial statements, the expenses for packing material, silicon metal packing, and delivery of packed silicon metal are transferred to the category "direct selling expense." The expenses reported in the category "shipping/packing" represent the cost of labor used in the packing operation. Given these facts, Andina asserts that the addition of packing costs to CV constitutes double counting of this expense.

Department's Position: At verification we traced each of Andina's reported direct selling expenses to the general ledger and established that packing material expenses were included in direct selling expenses. The labor portion of the packing expense was listed under shipping/packing in the COP calculations (see Verification Report, p. 19). Therefore, we have continued to use the packing expense as reported by Andina. To avoid double counting of the packing material expense we have excluded this expense from the packing item in calculating CV.

Comment 11: Petitioners maintain that Andina initially stated that to calculate COP it included all duties incurred to import electrodes used in production. Andina further stated that it had a zero percent duty rate on electrodes from March through December of its 1991 COP calculation period. However, petitioners point out that in a supplemental response, Andina claimed drawback on duties paid on electrodes imported during March of 1991 at a 22 percent duty rate. Petitioners contend that given the lag time between the importation of electrodes and their incorporation in silicon metal, it is highly likely that Andina paid duties on electrodes used to manufacture the silicon metal sold during the POR. Even though at verification the Department recalculated the cost of one shipment to include taxes, petitioners assert that such an adjustment does not account for the unreported import duties paid on electrodes. Therefore, to account for these unreported duties, petitioners urge the Department to add 22 percent to the per metric ton cost of electrodes reported by Andina.

Andina disagrees with petitioners' contention that the Department should make a minimum adjustment of 22 percent of the cost of electrodes reported by Andina in the calculation of the COP of silicon metal. Andina asserts that it included all of the import duties paid on all of the electrode imports made during 1991. When the Department found during verification that one of the electrodes was imported under Argentina's Temporary Admission Regime and was exempt from the payment of import duties, the Department recalculated the cost of that import and recalculated the average cost for 1991 for electrodes as if all of the importations were made with the goal of producing silicon metal for sale in the local market. Although Andina objects to the Department's adjustments, it asserts there is no basis for the petitioners' request to increase all import costs, as all the other imported electrode costs during 1991 were inclusive of import charges.

Department's Position: We disagree with petitioners. At verification we traced the taxes paid on each of the electrodes used in the silicon metal exports to the Unites States during the POR and found that all taxes, with the exception of the one entered under the Temporary Admissions Regime, had been included in the cost calculation of electrodes. To derive an average cost of electrodes entered in 1991, the cost of the electrodes should be tax inclusive. We recalculated the cost of electrodes including the import of the electrode entered under the Temporary Admissions Regime and have used the revised data in our COP calculations. With respect to Andina's objections to the adjustment, it has provided no basis for that concern.

Comment 12: Petitioners contend that the Department should make no upward adjustment to U.S. price (USP) to account for taxes that Andina reported to be subject to the "reembolso" rebate program because in *American Alloys, Inc.,* v. *United States,* 810 F. Supp. 1294 (CIT 1993), the CIT remanded to the Department the final antidumping duty determination in the original investigation, instructing the Department to limit the adjustment to USP for any tax rebate to the amount of the tax actually passed through to home market purchasers. Petitioners further argue that the CIT affirmed the Department's redetermination on remand that "no taxes [were] being passed through."

Petitioners state that the Department's failure to determine whether any Argentine taxes on silicon metal rebated on exportation were taxes directly imposed on silicon metal or inputs physically incorporated into silicon metal, as required by section 772(d)(1)(C) of the Tariff Act, contravenes the statutory language of this section, the legislative history of this provision, and the Department's consistent past practice. Petitioners maintain that the Department conducted "no investigation whatsoever" into the existence of the threshold criteria for the taxes to be used as the basis for adjustment to USP. This failure to determine whether or not the rebated taxes actually qualified to provide the basis for an increase in USP was contrary to law. Thus, according to petitioners, the Department cannot make any adjustments to USP to account for tax rebates under the "reembolso" program in its final results.

Andina counters that simple logic compels the addition of the rebated amounts to USP: (1) The "reembolso" program rebates indirect taxes accumulated through the production stage; (2) the taxes, therefore, are included in the price to the consumer when the product is sold in Argentina; (3) the relevant international norms allow a country to avoid "exporting taxes" by allowing a rebate of the taxes; and (4) the fact that the exporter actually receives the rebate is the best argument for the need for an adjustment to USP.

Relative to the "pass-through" issue, Andina acknowledges the accuracy of petitioners' description of the original investigation and the subsequent court proceedings, but states that there are other cases decided by the same court which reached the opposite conclusion: The Department need not consider tax pass-through before making an adjustment to USP for indirect taxes. Andina affirms the Department's position to maintain its traditional practice of not being required to perform a pass-through study.

Department's Position: We agree with Andina. Like almost every free-market country, Argentina levies indirect consumption taxes on goods sold in the home market, but, consistent with international practice, either does not collect or rebate such taxes on export sales. At verification we examined Decree 1555/86 which established the 12.5 percent tax rebate rate for silicon metal and Decree 1011/91 which changed the rate to 8.30 percent, effective June 1, 1991. Decree 1011/91 states that "the achievement of a more significant integration of the Argentine economy in international trade is a goal pursued by the Argentine industrial and commercial policy. Therefore, taxes paid during the manufacturing process of a product to be exported must not adversely affect its competitiveness * * *" (see Exhibit 8 of Andina's January 6, 1993 response).

At verification Andina explained that the "reembolos" tax is called indirect because it is levied on the purchases of raw materials, is included in the home market unit price, and is booked as a cost. Under the "reembolso" program Andina is eligible to receive a tax rebate of a statutorily established percentage of the net value of the exported silicon, i.e., the export price of the silicon metal minus the cost of any imported raw materials entering duty free under the Temporary Admission Program. To confirm the validity of this tax rebate on exports, we traced the taxes rebated to Andina on a specific import from the Customs' Certificate to the bank statement reflecting the 12.5 percent tax rebate (see Verification Report, p. 9).

We impose no limitation on taxes added to USP based upon the measurement of the incidence of such taxes in the home market, because the statute requires no such measurement. We are not following *Zenith* v. *United States*, 633 F. Supp. 1382 (CIT 1986), appeal dismissed, 875 F.2d 291 (Fed. Cir. 1989), and its progeny with respect to this issue, because we do not agree with that decision. Moreover, the CAFC recently affirmed our position that the statute does not require a measurement of "tax pass-through" (see *Daewoo Electronics Co., Ltd., et al.* v. *United States*, Ct. Nos. 92–1558, et seq. (September 30, 1993)).

In addition, we disagree with petitioners' argument that the adjustment to USP for the rebate of indirect taxes must be limited to the rebate of taxes paid on inputs that are physically incorporated into the subject merchandise. In section 321(b) of the Trade Act of 1974, Congress limited the adjustments to USP for the rebate of taxes to those instances in which "the direct relationship of the tax to the product being exported, or components thereof, could be demonstrated" (H.R. No. 93–571, at 69).

It might be argued that by including the "directly related" standard, Congress intended that a separate subsidy investigation be undertaken whenever an adjustment involving the rebate of indirect taxes is to be made pursuant to section 772(d)(1)(C) of the Tariff Act. However, other than indicating that the adjustment should be limited where the existence of an excessive rebate is established, neither the statutory language nor the legislative history of this provision contains any express indication that Congress intended that the administering authority conduct a separate countervailing duty (CVD) investigation within an antidumping investigation in order to limit USP adjustments. Moreover, there is no indication that the Treasury Department, which was involved in the drafting of the 1974 Trade Act and which was responsible for administering the antidumping (AD) law until 1980, ever interpreted the amended USP section to require that a subsidy inquiry for information on physical incorporation be conducted in the context of a stand-alone AD investigation (for further discussion of the Department's position, see Final Determination of Silicon Metal from Argentina, 56 FR 37891, August 9, 1991 (Comment 2)).

Indeed, in *American Alloys, Inc.* v. *U.S.*, Slip Op. 93–4 (CIT January 11, 1993, p. 12), the CIT held that "Commerce properly determined that it need not conduct a 'physical incorporation' subsidy inquiry before making an upward adjustment to USP for indirect taxes rebated pursuant to Argentina's reembolso program." Commerce argued, and the CIT agreed, that if petitioners believed that respondent was benefiting from the overremission of such taxes, then petitioners' remedy was to seek relief under the CVD statute.

Therefore, even without taking into account the turnover tax and the lote hogar tax (which we have determined are not indirect taxes (see our response to Comment 16)), or the import duties, the statistics tax, and the merchant marine tax (which we have already adjusted for through duty drawback), we are satisfied that the "reembolso" program qualifies as a rebate of indirect taxes within the meaning of section 772(d)(1)(C) of the Tariff Act, and that an adjustment for the amount of the reembolso rebate is proper. We verified that Andina receives a rebate under the reembolso program for taxes imposed directly upon the product or its components. Accordingly, for these final results, we have continued to make an upward adjustment to USP for the amount of this rebate.

Comment 13: Petitioners assert that the Department's proposed methodology to add to the USP the absolute amount of tax on the comparison merchandise sold in the country of exportation contradicts both the Federal Circuit's decision in *Zenith Electronics Corp.* v. *United States*, 92–1043, –1044, –1045, –1046 (Fed. Cir. March 19, 1993) (*Zenith II*)), and the statutory language in section 772(d)(1)(C) of the Tariff Act.

Petitioners argue that the thrust of the court's decision in *Zenith II* is the Department's obligation to adjust USP for rebated or noncollected taxes, in a manner that does not skew the analysis by artificially inflating or deflating the antidumping margin. It is petitioner's contention that the methodology used by the Department incorporates a multiplier effect and deflates the dumping margin. Petitioners contend that the flaw in the Department's method lies in its application of the tax rate to "the comparison merchandise sold in the country of exportation," rather than to the price of the exported goods. Assuming a lawful adjustment to USP can be made, petitioners conclude that the relevant tax rate should be applied to the price of silicon metal when exported to the United States, not to the price when sold in the home market, which further artificially and unlawfully reduces the dumping margin. Petitioners also note that in this instance the statutory prerequisites to such an adjustment were not met and no adjustment should have been made.

Department's Position: On March 19, 1993, the CAFC, in affirming the decision of *Zenith II*, ruled that section 772(d)(1)(C) of the Tariff Act provides for an addition to USP to account for taxes which the exporting country would have assessed on the merchandise had it been sold in the home market, and that section 773(a)(4)(B) of the Tariff Act does not allow circumstance-of-sale adjustments

to FMV for differences in taxes. Accordingly, we have changed our practice, and will no longer calculate a hypothetical tax on the USP, but will, for the time being, in conformance with *Zenith II*, add to the USP the absolute amount of tax on the comparison merchandise sold in the country of exportation. By adding the amount of home market tax to USP, absolute dumping margins are not inflated or deflated by differences in taxes included in FMV and those included in U.S. price.

In addition, we will propose a change in 19 CFR 353.2(f)(2) to provide for the calculation of weighted-average dumping margins by dividing the aggregated dumping margins, calculated as described above, by the aggregated U.S. prices net of taxes. This change would result in weighted-average dumping margin rates that are neither inflated nor deflated as a result of our methodology to account for taxes paid in the home market but rebated or not collected by reason of exportation. We are in the process of drafting this proposed change, and we will begin the rule-making process as soon as possible.

Comment 14: Petitioners assert that Andina has attempted to double count the adjustment that it claimed for statistics and marine taxes by including them in its calculation of duty drawback and then listing them separately in its U.S. sales listing. To the extent that the Department allows an adjustment for duty drawback, petitioners state that the Department should not include either of these taxes in its duty drawback calculation and then count them again as separate adjustments to USP.

Andina states that it never intended to duplicate the calculation of these taxes. The double counting resulted from the Department's misinterpretation of the information presented in Andina's U.S. sales listing. Andina states that the amounts for the marine and statistics tax should be deducted from the USP as they are paid upon exportation, not importation.

Department's Position: We agree with petitioners and Andina that the statistics and marine taxes should not be double counted. We have continued to include these taxes in duty drawback when they are imposed on imported products. We have subtracted the statistics and marine taxes, however, from the USP when they are levied on the completed exported product (see Verification Report, pp 8–9).

Comment 15: Petitioners maintain that the Department should make no upward adjustment to USP for duty drawback because Andina failed to substantiate the various amounts of duty drawback that it has claimed. Petitioners state that Andina initially provided illegible, incomprehensible worksheets. Subsequent responses failed to clarify the duty drawback calculations. Petitioners further claim that the Department's verification of a single example of the duty drawback procedure does not correct or justify Andina's previous mistakes so as to warrant any adjustment to USP.

Andina disagrees with petitioners' contention that it has not substantiated its calculation of duty drawback. Andina recognizes that the procedure for determining duty drawback is complicated and the personnel preparing the first submissions were not familiar with the program. To determine duty drawback Argentine Customs issues the shipping documentation and the temporary import declaration affected by a particular export operation, as well as the quantities and CIF values of duty drawback that correspond to the operation. Andina asserts that this process was checked extensively at verification and Andina was able to show that its revised information was absolutely correct. Therefore, Andina maintains there is no basis for the Department to change the adjustment used in the preliminary results.

Department's Position: Although we acknowledge petitioners' assertion that Andina's numerous submissions resulted in confused treatment of the subject, we were able to establish the validity of Andina's revised data at verification. Contrary to petitioners' contention that we only verified a single example of the drawback procedure, we actually examined this procedure and the appropriate documentation in the course of our U.S. sales traces and determined the accuracy of the drawback claim associated with each U.S. sale (see Verification Report, p. 4).

Comment 16: Andina believes the Department should add the amount for the turnover tax and the lote hogar tax to the USP as it represents "indirect taxes" imposed on sales and transferred to purchasers during the sale period. If these taxes are paid on home market sales, but not on exports, Andina contends that the amount of the tax must be added to the USP, and whether or not it can or cannot be tied to individual sales of silicon metal is irrelevant. Moreover, the indirect nature of this tax is not affected by whether the tax is imposed on each home market sale or on the sum of home market sales, nor is it affected by whether it is paid upon the collection of each invoice or monthly. Since it is an indirect tax, Andina concludes that the addition of this tax to the USP is appropriate.

Petitioner counters that in its Final Determination (56 FR 37893, August 9, 1991) the Department correctly disallowed any adjustment for the turnover tax and the lote hogar tax. Nothing in Andina's argument or in the verification report supports Andina's claim that there are "indirect taxes" which should serve as a basis for any adjustment to USP; nor does Andina assert that the nature of these taxes has changed since the Final Determination. Accordingly, petitioners state that the Department should continue to disallow any adjustment to the USP for the turnover or lote hogar taxes.

Department's Position: We disagree with Andina. Section 771(d)(1)(C) of the Tariff Act provides that the Department make an adjustment for any indirect taxes imposed directly upon the "merchandise or components thereof" that have not been collected by reason of exportation of the merchandise to the United States, but only to the extent that such taxes are added to or included in the price of the merchandise when sold in the home market. See, e.g., Frozen Concentrated Orange Juice From Brazil; Final Results and Termination in Part of Antidumping Duty Administrative Review (55 FR 47502 November 14, 1990). In the less-than-fair-value investigation, we determined that the taxes in question should be viewed as taxes on gross revenue, not taxes imposed directly upon the merchandise or components thereof. Since Andina did not provide any new information which would give us reason to alter our previous determination of the nature of these taxes, we have not made any adjustment for the turnover or lote hogar taxes in these final results of review.

Comment 17: Andina asserts that the Department's verification report misinterpreted Andina's sales procedures which resulted in some confusion about the date of sale. Andina explains that when it desires to export merchandise to the United States, it offers the product to international traders via a "sales offer." The quantity and price of the product that the client agrees to purchase are established in the trader's response (i.e., the purchase order) to Andina's "sales offer." Andina states that the date of this response constitutes the date of sale. Andina also questions the Department's statement that Andina adjusts the quantity of product stipulated in the "trader's response." Andina explains that the small differences between the quantity of product stipulated in the trader's response and the quantity actually shipped are attributable to differences in

measurement by the scales used to weigh the product. Thus, because the "trader's response" establishes the quantity and value of the sale, Andina maintains that the date of this document constitutes the date of sale.

Given these facts, Andina contends that the three U.S. sales reported in March should be excluded from this administrative review because they occurred prior to the POR. Andina states that the exclusion of these sales would be consistent with the Department's questionnaire which requested information on sales *during* the POR and corresponds to the Department's discussion of the date of sale in its preliminary results of review (58 FR 44499, August 23, 1993).

Petitioners assert that the Department correctly followed section 751(a)(2) of the Tariff Act, which states that the Department must calculate margins for all entries of subject merchandise that occurred during the POR, even if the alleged date of sale is outside the POR. According to petitioners, the Department's express focus on "entries" of subject merchandise renders irrelevant Andina's claim that sales of silicon metal that entered the United States during the POR were made prior to the POR and should, therefore, be disregarded by the Department in its calculation of the proper margin for Andina.

Petitioners also believe that even if the Department were to consider sales rather than entries during the POR, it should still reject Andina's claim that certain sales should be excluded from this review because they were allegedly sold before the POR. Petitioners state that under established Departmental precedent, the appropriate date of sale is the date upon which the price and quantity are firmly set, which is often the date of shipment. In this case, however, petitioners claim that Andina suddenly reversed itself and maintained that the date of sale was the date of the "trader's response" because this document is considered a purchase order. Petitioners contend that the purchase order date cannot be considered the date of sale because the order is subject to change and, even if the Department were to consider the appropriate date of sale to be the "trader's response" date, this new factual information was not submitted in a timely manner and should be rejected. Thus, pursuant to 19 CFR 353.31(a)(1)(ii), petitioners conclude that the Department should disregard Andina's untimely, unsolicited new factual information.

Department's Position: Andina's attempt to clarify the Department's interpretation of the correct "date of sale" is based solely on a misunderstanding of the terms used in the verification report. As we stated in our preliminary results, at verification we established that the terms of sale for the U.S. merchandise were set when the customer responded to Andina's offer of sale, stating the quantity and the per-unit cost the customer would agree to accept. Since the customer's stated price and quantity did not change between the initial acceptance of the offer and the date of shipment, we agree with Andina that the date of the "trader's response" is the date of sale.

This consensus on the date of sale does not, however, extend to our exclusion of the three sales made prior to the POR. It has been our long-standing practice in purchase price (PP) situations to request in our questionnaire that the respondent report all sales which entered the commerce of the United States during the POR. Otherwise, we would never analyze these sales for assessment purposes. Section 751 of the Tariff Act requires the Department to determine FMV and USP for each entry of merchandise subject to the antidumping duty order, and to determine the amount by which FMV exceeds USP. Therefore, whenever the data permit, we conduct a review based on entries of the subject merchandise (see Television Receivers, Monochrome and Color, From Japan: Final Results of Antidumping Duty Administrative Review (58 FR 11214, February 24, 1993)). In addition, the Department's decision to review entries is also supported by the Department's regulations which give us discretion to base the review on "entries, exports or sales" (see 19 CFR 353.22(b)). For these final results we have continued to use those sales which occurred prior to the POR, but entered the United States during the POR.

Comment 18: Andina contends that the one sale of scrap silicon metal should be excluded from this review because the date of sale, March 22, 1991, is outside the POR (see Comment 17 above). Secondly, this sale was of a product not within the scope of the antidumping duty order, which is described as "merchandise containing at least 98–99% silicon metal." This sale was of a product containing only 97.5% silicon, with a granulometry of only 3 to 6 mm. Andina, therefore, concludes that this sale should be excluded from the review. If included, however, it should not be compared to a product with 98–99% silicon content with a granulometry of 10/150 mm. Andina suggests that if the Department insists on including this sale, it should be compared to its sale of an identical product exported to the Netherlands during the POR.

Petitioners state that, contrary to Andina's contention, in the preliminary determination in the original investigation the scope of the investigation specifically covered "silicon metal containing at least 96.00 * * * percent silicon by weight." This scope finding was sustained in the final determination and thereafter revised to cover silicon metal containing at least 89 percent silicon by weight. Petitioners further assert that there is no size limitation on the merchandise within the scope of this review. Therefore, petitioners conclude that Andina's contention the sale of "scrap" is outside the scope of this review must be rejected as inconsistent with the express terms of the controlling order in this administrative review.

Department's Position: We agree with petitioners that this sale of "scrap" containing 97.5% silicon by weight is clearly within the scope of this review, which defines silicon metal as containing at least 89 percent, with a higher aluminum content, but less than 99.99 percent silicon by weight. We requested information on this product in our supplementary questionnaire, asking Andina to provide CV information or a such or similar product sold to a third country for comparison purposes if the product could not be compared to commercial grade silicon metal sold in the home market. Andina, however, did not provide different grade information or difference in merchandise data which would have allowed us to make a more accurate comparison. Therefore, we have continued to use the CV of commercial grade silicon metal to calculate an FMV to compare with the U.S. sale of scrap.

Comment 19: Andina contends that the Department's calculation of the COP and CV is incorrect because Andina's calculation of its COP presented in the June 17, 1993 supplementary response is for the production of commercial grade silicon metal for metallurgical and chemical use. It does not include the metric tons of production of "rezago" (outside chemical grade) or "polvo" (out of granulometry). To derive the correct COP of silicon metal on a per-unit basis, Andina maintains that the total cost must be divided by total production including "rezago" and "polvo," not just the quantity of commercial grade silicon metal.

Department's Position: We disagree with Andina. In its submissions and at verification Andina maintained that all of the costs and expenses necessary to produce silicon metal are attributable

completely to the production of commercial silicon metal, exclusive of "rezago" and "polvo." If the COP does not include the production of "rezago" and "polvo," the per-unit cost should not be derived by dividing the total cost by the total metric tons produced, including the quantity of "rezago" and "polvo." We have continued to use the verified per-unit costs of commercial grade silicon metal obtained by dividing the total cost of commercial grade silicon metal by the total metric tons of commercial grade produced.

Final Results of Review

As a result of our review, we determine the weighted-average dumping margins for the period March 29, 1991 through July 31, 1992, to be:

Company	Margin percentage
Andina, S.A.I.C.	2.06
Silarsa, S.A.I.C.	54.67

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between U.S. price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed companies will be the rates listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will be 8.65 percent. On May 25, 1993, the CIT in *Floral Trade Council* v. *United States*, Slip Op. 93–79, and *Federal-Mogul Corporation and the Torrington Company* v. *United States*, Slip Op. 93–83, determined that once an "all others" rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement these decisions, it is appropriate to maintain the original "all others" rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders for the purposes of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping duty order, the "all others" rate for the purposes of this review will be 8.65, the "all others" rate established in the final notice of the LTFV investigation (56 FR 37891, August 9, 1991).

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

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

This notice also serves as the only reminder to parties subject to administrative protection order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

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

Dated: December 3, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–30405 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–DS–M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews: Decision of Panel

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of the panel.

SUMMARY: On November 17, 1993, the Binational Panel reviewing the final determination of dumping made by the Deputy Minister of National Revenue for Customs, Excise and Taxation, respecting Gypsum Board Originating in or Exported from the United States of America (Secretariat File No. CDA–93–1904–01) issued its decision. The Panel remanded both the Period of Investigation (POI) issue and interest expenses issues to Revenue Canada for further consideration and action not inconsistent with the decision. The panel further directed Revenue Canada to complete its work within ninety (90) days of the date of the decision, by February 16, 1994. A copy of the complete panel decision is available from the FTA Binational Secretariat.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established Rules of Procedure for Article 1904 Binational Panel Reviews ("Rules"). These Rules were published in the **Federal Register** on December 30, 1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the **Federal Register** on December 27, 1989 (54 FR 53165). The Rules were further amended and a consolidated version of the amended Rules was published in the **Federal Register** on June 15, 1992 (57 FR 26698). The panel review in this matter was conducted in accordance with these Rules, as amended.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

Dated: December 8, 1993.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 93–30406 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–GT–M

National Institute of Standards and Technology

Prospective Grant of Exclusive Patent License

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of prospective grant of exclusive patent license.

SUMMARY: This notice is in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institute of Standards and Technology ("NIST"), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Application Serial No. 08/062,534, titled, "Method of Fabricating Articles" to The University of Maryland at College Park, having a place of business in College Park, Maryland. This invention was co-developed by employees of The University of Maryland at College Park and NIST. The inventors' respective patent rights in this invention have been assigned to The University of Maryland and the United States of America.

FOR FURTHER INFORMATION CONTACT: Bruce E. Mattson, National Institute of Standards and Technology, Technology Development and Small Business Program, Building 221, room B–256, Gaithersburg, MD 20899.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published notice, NIST receives written evidence and argument which establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. The University of Maryland will have the right to, and intends to, grant sublicenses to commercial entities desiring to use the method.

U.S. Patent Application Serial No. 08/062,534 relates to a method of cutting oxide ceramic workpieces, or cutting workpieces with an oxide ceramic cutting point, using a cutting fluid that includes a boron compound.

The availability of the invention for licensing was published in the **Federal Register**, Vol. 58, No. 141 (July 28, 1993). A copy of the patent application may be obtained from NIST at the foregoing address.

Dated: December 7, 1993.

Samuel Kramer,

[FR Doc. 93–30436 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Endangered Species; Permits

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

ACTION: Issuance of an amendment to and receipt of a modification request for scientific research permit 802 (P512).

On June 12, 1992, notice was published (57 FR 25009) that an application had been filed by Dr. André Landry to take sea turtles for scientific research activities. On November 23, 1992 (57 FR 56903), Dr. Landry was issued Permit 802 for the above taking subject to certain conditions set forth therein, as authorized under the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

Notice is hereby given that on December 6, 1993, as authorized by the ESA, NMFS issued Amendment 1 to Permit 802. This amendment is in response to the recent mortality of a Kemp's ridley turtle and two bottlenose dolphins during sea turtle research activities conducted under the authority of Dr. Landry's ESA Permit 802.

The take of marine mammals is not authorized by the permit. Further, the mortality of a sea turtle requires that the research techniques be reevaluated and revised if necessary. In accordance with 50 CFR 222.26, NMFS amended the permit to include provisions to prevent the future take of marine mammals and mortality to sea turtles.

Issuance of this amendment, as required by the ESA, was based on a finding that the permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the listed species which are the subject of the permit; (3) is consistent with the purposes and policies set forth in Section 2 of the ESA. The permit was also issued in accordance with and is subject to Parts 217–227 of Title 50 CFR, the NMFS regulations governing listed species permits.

Also, notice is hereby given that Dr. Landry has applied in due form for a modification to Permit 802. Dr. Landry requests authorization to capture an additional 100 Kemp's ridley (*Lepidochelys kempii*) sea turtles. These turtles would be flipper tagged, weighed, and measured. Blood and fecal samples would be collected, and the turtles would also be equipped with radio, sonic, and/or satellite tags. In addition, by NMFS' request, double flipper tags, passive integrated transponder (PIT) tags and magnetic tags would be attached to or inserted in all Kemp's ridley turtles taken. Dr. Landry requests the increased take annually for the duration of the permit, through December 31, 1997.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and options contained in this application summary are those of the applicant and do not necessarily reflect the views of NMFS.

The application, permit, amendment, supporting documentation, and documents submitted in connection with the above modification request are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910 (301–713–2322); and

National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, FL 33702 (813–893–3366).

Dated: December 6, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–30496 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–22–M

COMMISSION OF FINE ARTS

1994 National Capital Arts and Cultural Affairs Program

Notice is hereby given that Public Law 99–190, as amended, authorizing the National Capital Arts and Cultural Affairs Program, has been funded for 1994 in the amount of $7,500,000. All requests for information and applications for grants should be addressed to: Charles H. Atherton, Secretary, Commission of Fine Arts, Pension Building, Suite 312, 441 F Street, NW., Washington, DC 20001, Phone: 202–504–2200.

Deadlines for receipt of submission of grants applications is 1 March 1994.

This program provides grants for general operating support of organizations whose primary purpose is performing, exhibiting, and/or presenting the arts. To be eligible for these grants, organizations must be located in the District of Columbia, must be not-for-profit, non-academic institutions of demonstrated national repute, and must have annual income, exclusive of federal funds, in excess of one million dollars for the current year and for the past three years.

Charles H. Atherton,

Secretary.

[FR Doc. 93–30495 Filed 12–13–93; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Korea

December 8, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: December 15, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6707. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 52619, published on November 4, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 8, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 29, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on December 15, 1993, you are directed to increase the limits for the following categories, as provided by the current bilateral agreement between the Governments of the United States and the Republic of Korea:

Category	Adjusted twelve-month limit [1]
Group I	
200–229, 300–326, 360–363, 369–O [2], 400–414, 464–469, 600–629, 665–669 and 670–O [3], as a group.	403,741,682 square meters equivalent.
Sublevels within Group I	
200	449,564 kilograms.
611	3,618,352 square meters.
619/620	97,141,930 square meters.
625/626/627/628/629.	15,024,778 square meters.
Sublevels within Group II	
239	975,428 kilograms.
333/334/335	261,685 dozen of which not more than 133,750 dozen shall be in Category 335.
338/339	1,163,042 dozen.
340	657,469 dozen of which not more than 343,098 dozen shall be in Category 340–D [4].
345	114,033 dozen.
347/348	463,294 dozen.
351/651	223,003 dozen.
352	173,535 dozen.
433	14,476 dozen.
435	36,202 dozen.
442	51,790 dozen.
444	55,400 numbers.
448	36,434 dozen.
459–W [5]	98,557 kilograms.
633/634/635	1,385,444 dozen of which not more than 157,408 dozen shall be in Category 633 and not more than 586,608 dozen shall be in Category 635.
636	283,400 dozen.
Sublevel within Group III	
835	30,475 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

[2] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015, 4202.92.6000 (Category 369–L); and 5601.21.0090.

[3] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020 (Category 670–L).

[4] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

[5] Category 459–W: only HTS number 6505.90.4090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–30481 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

December 8, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or

call (202) 927–6719. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement, effected by exchange of notes dated August 21, 1990 and September 28, 1990, as amended, concerning cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products establishes limits for the period beginning January 1, 1994 and extending through December 31, 1994.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 8, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated August 21, 1990 and September 28, 1990, concerning cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1994, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Taiwan and exported during the twelve-month period beginning on January 1, 1994 and extending through December 31, 1994, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I	
200–224, 225/317/326, 226, 227, 229, 300/301/607, 313–315, 360–363, 369–L/670–L/870 [1], 369–S [2], 369–O [3], 400–414, 464–469, 600–606, 611, 613/614/615/617, 618, 619/620, 621–624, 625/626/627/628/629, 665, 666, 669–P [4], 669–T [5], 669–O [6], 670–H [7] and 670–O [8], as a group.	550,689,948 square meters equivalent.
Sublevels in Group I	
218	19,144,917 square meters.
225/317/326	33,982,178 square meters.
226	6,166,680 square meters.
300/301/607	1,592,046 kilograms of which not more than 1,326,704 kilograms shall be in Category 300, not more than 1,326,704 kilograms shall be in Category 301 and not more than 1,326,704 kilograms shall be in Category 607.
363	11,846,980 numbers.
369–L/670–L/870	44,379,719 kilograms.
611	2,759,533 square meters.
613/614/615/617	17,114,347 square meters.
619/620	12,579,310 square meters.
625/626/627/628/629.	16,368,653 square meters.
669–P	297,577 kilograms.
669–T	967,186 kilograms.
670–H	16,994,185 kilograms.
Group I subgroup	
200, 219, 313, 314, 315, 361, 369–S, and 604, as a group.	131,025,141 square meters equivalent.
Within Group I subgroup	
200	618,609 kilograms.
219	14,078,919 square meters.
313	63,416,645 square meters.
314	25,078,288 square meters.
315	19,216,358 square meters.
361	1,242,649 numbers.
369–S	473,223 kilograms.
604	212,451 kilograms.
Group II	
237, 239, 330–332, 333/334/335, 336, 338/339, 340–345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359–C/659–C [9], 359–H/659–H [10], 359–O [11], 431–444, 445/446, 447/448, 459, 630–632, 633/634/635, 636, 638/639, 640, 641–644, 645/646, 647/648, 649, 651, 653, 654, 659–S [12], 659–O [13], 831–844 and 846–859, as a group.	755,000,000 square meters equivalent.
Sublevels in Group II	
237	604,388 dozen.
239	5,306,818 kilograms.
331	497,197 dozen pairs.
336	102,970 dozen.
338/339	737,940 dozen.
340	1,114,446 dozen.
345	107,592 dozen.
347/348	1,064,931 dozen of which not more than 1,064,931 dozen shall be in Categories 347–W/348–W [14].
352/652	2,731,917 dozen.
359–C/659–C	1,447,633 kilograms.
359–H/659–H	4,700,702 kilograms.
433	14,501 dozen.
434	10,068 dozen.
435	23,909 dozen.
436	4,759 dozen.
438	26,869 dozen.
440	5,204 dozen.
442	43,519 dozen.
443	40,598 numbers.
444	57,819 numbers.
445/446	132,747 dozen.
631	4,497,105 dozen pairs.
633/634/635	1,634,440 dozen of which not more than 959,317 dozen shall be in Categories 633/634 and not more than 850,077 dozen shall be in Category 635.
638/639	6,565,058 dozen.
640	1,058,909 dozen of which not more than 281,710 dozen shall be in Category 640–Y [15].
642	777,133 dozen.
643	483,134 numbers.
644	655,669 numbers.
645/646	4,107,691 dozen.

Category	Twelve-month restraint limit
647/648	5,248,544 dozen of which not more than 5,248,544 dozen shall be in Categories 647–W/648–W[16].
659–S	1,601,702 kilograms.
835	17,230 dozen.
Group II subgroup 333/334/335, 341, 342, 350/650, 351, 447/448, 636, 641 and 651, as a group.	73,280,666 square meters equivalent.
Within Group II subgroup	
333/334/335	264,915 dozen of which not more than 143,496 dozen shall be in Category 335.
341	331,548 dozen.
342	207,119 dozen.
350/650	130,076 dozen.
351	344,578 dozen.
447/448	19,814 dozen.
636	364,901 dozen.
641	727,436 dozen of which not more than 254,602 dozen shall be in Category 641–Y[17].
651	432,126 dozen.
Group III	
845	847,816 dozen.

[1] Category 870; Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6090; Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.

[2] Category 369–S: only HTS number 6307.10.2005.

[3] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015, 4202.92.6090 (Category 369–L); and 6307.10.2005 (Category 369–S).

[4] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

[5] Category 669–T: only HTS numbers 6306.12.0000, 6306.19.0010 and 6306.22.9030.

[6] Category 669–O: all HTS numbers except 6305.31.0010, 6305.31.0020, 6305.39.0000 (Category 669–P); 6306.12.0000, 6306.19.0010 and 6306.22.9030 (Category 669–T).

[7] Category 670–H: only HTS numbers 4202.22.4030 and 4202.22.8050.

[8] Category 670–O: all HTS numbers except 4202.22.4030 4202.22.8050 (Category 670–H); 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

[9] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[10] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[11] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6505.90.1540 and 6505.90.2060 (Category 359–H).

[12] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[13] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[14] Category 347–W: only HTS numbers 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.3020, 6210.40.2033, 6211.20.1520, 6211.20.3010 and 6211.32.0040; Category 348–W: only HTS numbers 6204 12.0030, 6204.19.3030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.3010, 6204.69.9010, 6210.50.2033, 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050.

[15] Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[16] Category 647–W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2010, 6203.49.2030, 6203.49.2040, 6203.49.2060, 6203.49.3030, 6210.40.1035, 6211.20.1525, 6211.20.3030 and 6211.33.0030; Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.3030, 6204.69.9030, 6210.50.1035, 6211.20.1555, 6211.20.6030, 6211.43.0040 and 6217.90.0060.

[17] Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

Imports charged to these category limits for the period January 1, 1993 through December 31, 1993 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Bilateral Textile Agreement, effected by exchange of notes dated August 21, 1990 and September 28, 1990, as amended.

The conversion factors for the following merged categories are as follows:

Category	Conversion factors (square meters equivalent/category unit)
300/301/607	8.5
333/334/335	33.75
352/652	11.3
359–C/659–C	10.1
359–H/659–H	11.5
369–L/670–L/870	3.8
633/634/635	34.1
638/639	12.5

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–30482 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF EDUCATION

[CFDA 84.060A]

Formula Grant Program Under the Indian Education Act of 1988, Subpart 1; Notice Inviting Applications for New and Continuation Awards for Fiscal Year (FY) 1994

Purpose: Provides grants for supplementary projects that meet the special educational and culturally related academic needs of Indian children. In developing applications for this program, local educational agencies should use this opportunity to support the elements of the National Education Goals that are relevant to their unique missions.

Eligible Applicants: Local educational agencies (LEAs) and certain schools operated by Indian tribes and

organizations (Tribal schools) that received funds under this program in fiscal year 1988, and, if sufficient funds are available, LEAs and Tribal schools that were not grantees in fiscal year 1988, and to schools operated by the Bureau of Indian Affairs (BIA).

Deadline for Transmittal of Applications: March 11, 1994. Applications not meeting the deadline will not be considered for funding in the initial allocation of awards. Applications not meeting the deadline may be considered for funding if the Secretary determines, under section 5316(b) of the Indian Education Act, that funds are available and that reallocation of those funds to those applicants would best assist in advancing the purposes of the program. However, the amount and date of an individual award, if any, made under section 5316(b) of the Act may not be the same to which the applicant would have been entitled if the application had been submitted on time.

Deadline for Intergovernmental Review: May 10, 1994.

Applications Available: December 10, 1993.

Available Funds: The appropriation for this program for fiscal year 1994 is $57,209,000, which should be sufficient to fund all eligible applicants. Therefore, the Department encourages all eligible applicants to apply, including those entities that were not grantees under the program in fiscal year 1988.

Estimated Range of Awards: $580 to $1,430,000.

Estimated Average Size of Awards: $46,825.

Estimated Number of Awards: 1,203.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, and 86; and (b) the regulations for this program in 34 CFR parts 250 and 251.

For Applications or Information Contact: Sandra Spaulding, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202–6335. 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.

Program Authority: 25 U.S.C. 2601–2606, 2651.

Dated: December 6, 1993.

Thomas W. Payzant,

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 93–30400 Filed 12–13–93; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Wetlands Involvement for Site Characterization Activities at the Pantex Plant, Amarillo, TX

AGENCY: Department of Energy (DOE).

ACTION: Notice of wetlands involvement.

SUMMARY: DOE proposes to conduct site characterization investigations, some of which would be within wetlands, at its Pantex Plant northeast of Amarillo, Texas.

In accordance with 10 CFR part 1022, DOE will prepare a wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected wetlands.

DATES: Comments on the proposed action must be received by December 29, 1993.

ADDRESSES: All comments concerning this Notice should be addressed to: Wetlands Comments, Tom Walton, Public Affairs Office, U.S. Department of Energy, Amarillo Area Office, P.O. Box 30020, Amarillo, Texas 79177, (806) 477–3120, (806) 477–3185 (Fax).

Information on this proposed action, including a map of proposed sampling locations, is also available.

FOR FURTHER INFORMATION CONTACT: Information on general DOE wetlands environmental review requirements is available from Carol M. Borgstrom, Director, Office of NEPA Oversight, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4600, (800) 472–2756.

SUPPLEMENTARY INFORMATION: DOE proposes to carry out a Resource Conservation and Recovery Act (RCRA) Facility Investigation which includes site characterization activities, some of which would be within wetlands at the Pantex Plant. The site characterizations would be conducted as part of the Permit for Industrial Solid Waste Management Site issued by the Texas Water Commission (now known as the Texas Natural Resources Conservation Commission) and would be part of DOE's effort to determine the existence, nature, and extent of any environmental contamination resulting from Pantex operations. These activities would occur in Solid Waste Management Units (SWMU) 6 (Playa Basin 1), SWMU 7 (Playa Basin 2), SWMU 8 (Playa Basin 3), SWMU 9 (Playa Basin 4), and SWMU 10 (Pantex Lake). The site characterization activities near or in the wetlands would include:

1. Locating sediment sampling, soil boring, and monitor well locations.
2. Surface water sampling at SWMU 6 (Playa Basin 1).
3. Sediment sampling within each of the playa basins.
4. Drilling six boreholes around each of the playa basins.
5. Drilling of two monitoring wells south of SWMU 6 (Playa Basin 1).
6. Ground-water sampling.

If the investigations determine that there is actual contamination and remediation is required, additional drilling would be performed in the playas to determine the scope and extent of the contamination.

A more specific description of the six actions as above follows:

1. Locating sediment sampling, soil boring, and monitor well locations would require that a stake be driven in the ground at a preplanned point for reference. The sediment sampling stake locations would be determined by surveying. The soil boring and monitor well locations would be determined by a field check of an approved general location specified in an approved RCRA Site Investigation Work Plan.

2. Surface water sampling at SWMU 6 would consist of collecting a sample bottle of surface water from a selected sediment sampling site, provided there is water present at the sediment sampling site. The sediment sites would be located by surveyor prior to collection. Site access would be by wading.

3. Sediment sampling in the playa basins would consist of taking a sample of the sediment with a hand auger (dry playa basin locations) or with a vibrating core sampling device (sample locations with standing water). The sediment samples would be typically 2 inches in diameter and 1 foot deep. The sediment sample locations would be located by surveyors prior to collection. The sediment sampling locations are located within the wetlands. Access would be by walking to the site or wading if water is present. No surface expression of the activity is expected.

4. Borehole drilling would include driving a wheel-mounted, hollow-stem auger to the site, drilling the hole, collecting soil samples as the drilling progresses, filling the completed borehole with a cement/bentonite mixture and leaving. The drill rig would use predetermined access routes to each borehole site. There would be six

boreholes surrounding each playa basin. The boreholes would be 30-feet deep and 6 inches in diameter. The drill cuttings would be collected in 55-gallon drums, analyzed for possible contaminants, and disposed of appropriately in accordance to the results of the analysis. Surface evidence of the activity would consist of downed vegetation at the site, and a 10- to 12-inch circle of concrete flush with the ground surface. The boreholes would not be located within the area of the playa basin that is expected to be flooded during the seasonal rains. The drill rigs would not cross any wetland areas.

5. Drilling of two new monitoring wells would involve driving a drilling rig to the site, drilling the well, collecting soil samples as the drilling progresses, developing the well, installing casing and dedicated sampling pumping systems, and departing the site. The well diameters would be 10 to 12 inches and would be drilled to approximately 300 feet. Drill cuttings would be brought to the surface, collected in bins for analysis of possible contaminants, and disposed of appropriately in accordance with the results of the analysis. Surface evidence of activity would consist of downed vegetation, a 1-foot by 3-feet high steel well cover, and a 4-feet by 4-feet concrete pad around the well cover with four steel guard posts. The wells would not be located in an area that is subject to flooding. The well drilling rigs would not cross any wetland areas.

6. Ground water sampling would consist of driving a truck to the site, pumping the wells, and collecting samples for analysis. Sampling would be done on a quarterly basis for one year.

In accordance with DOE regulations for compliance with wetlands environmental review requirements (10 CFR part 1022), DOE will prepare a wetlands assessment for this proposed DOE action.

Issued in Washington, DC, on December 3, 1993.

Ralph G. Lightner,

Director, Office of Southwestern Area Programs, Environmental Restoration.

[FR Doc. 93–30476 Filed 12–13–93; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Project No. 11392 North Carolina]

J & T Hydro Co.; Availability of Draft Environmental Assessment

December 8, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380, the Office of Hydropower Licensing has reviewed the application for an original, minor license for the Ramseur Hydroelectric Project, located on the Deep River, in the City of Ramseur, Randolph County, North Carolina and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the project, with appropriate mitigation or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Please submit any comments within 30 days from the date of this notice. Comments should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix Project No. 11392 to all comments. For further information, please contact Rich McGuire, Environmental Coordinator, at (202) 219–3084.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30438 Filed 12–13–93; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11226–002 Idaho]

Hammond Hydroelectric Co.; Surrender of Preliminary Permit

December 8, 1993.

Take notice that Hammond Hydroelectric Company, Permittee for the Challis Creek Hydro Site #2 Project No. 11226, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 11226 was issued June 26, 1992, and would have expired May 31, 1995. The project would have been located on Challis and Mill Creeks in Custer County, Idaho.

The Permittee filed the request on November 26, 1993, and the preliminary permit for Project No. 11226 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30444 Filed 12–13–93; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP94–76–000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 8, 1993.

Take notice that on December 3, 1993, Carnegie Natural Gas Company (Carnegie), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 9, with a proposed effective date of January 4, 1994.

Carnegie states that it is filing the above tariff sheet as a limited application under section 4 of the Natural Gas Act and the Commission's Order No. 636 to direct bill to Carnegie's former bundled firm sales customers gas costs direct billed to Carnegie by Carnegie's upstream pipeline, Texas Eastern Transmission Corporation (Texas Eastern), pursuant to Texas Eastern's filing in Docket No. RP94–36–000. Carnegie stated that it is making this filing pursuant to Section 31.3(b) of the General Terms and Conditions of its FERC Gas Tariff.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to interview or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 15, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30439 Filed 12–13–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–4–59–000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 8, 1993.

Take notice that on December 3, 1993, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1.

Northern states that it is filing 2 Revised Sheet No. 53 to establish the November 1993 Index Price for determining the dollar/volume equivalent for any transportation imbalances that may exist on contracts between Northern and its Shippers.

Northern states that copies of the filing were served upon the company's customers and interested state commissions.

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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 15, 1993. Protests will be considered by the Commission in determining the appropriate proceeding, but will not serve to make protestant parties to the proceedings. 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30440 Filed 12–13–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–74–013]

South Georgia Natural Gas Co.; Report of Refunds

December 8, 1993.

Take notice that on December 2, 1993, South Georgia Natural Gas Company (South Georgia) tendered for filing with the Federal Energy Regulatory Commission (Commission) a refund report pursuant to the Stipulation and Agreement dated April 8, 1993 (Stipulation), which the Commission approved, as modified, in its order dated August 23, 1993, in Docket Nos. RS92–49, et al., effective November 1, 1993.

South Georgia asserts that in accordance with Section 1, Article V, of the Stipulation, South Georgia refunded the difference between the revenues collected under the as-filed rates in Docket No. RP92–74–000 and the revenues which would have been collected under the interim rates indicated in Appendix C of the Stipulation from August 1, 1992, through the last day prior to implementation of the interim rates under the Stipulation together with interest through November 17, 1993, the date of the refunds.

South Georgia states that copies of the filing are being mailed to all of South Georgia's customers, interested state commissions and interested parties as well as parties of record in Docket Nos. RS92–49, RP92–74 and CP92–668.

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 (§ 385.211). All such protests should be filed on or before December 15, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the 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. 93–30441 Filed 12–13–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–15–000]

Southern Natural Gas Co.; Informal Settlement Conference

December 8, 1993.

Take notice that an informal settlement conference will be convened in this proceeding on Friday, December 17, 1993, at 11 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Betsy Carr (202) 208–1240.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30442 Filed 12–13–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP90–137–012 and TM93–6–49–004]

Williston Basin Interstate Pipeline Co.; Compliance Filing

December 8, 1993.

Take notice that on December 3, 1993 Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2, in compliance with the Commission's Order dated November 3, 1993.

Williston Basin states that the tariff sheets are being filed in compliance with Ordering Paragraph (B) of the Commission's November 3, 1993 Order which directed Williston Basin to file tariff sheets which reflect no take-or-pay throughput surcharge as applicable for service provided to Northern States Power Company under Rate Schedule X–13 retroactive to November 1, 1992.

Williston Basin states that copies of the filing are being served upon each of the parties listed on the mailing list.

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 December 15, 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 the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–30443 Filed 12–13–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Arms Control and Nonproliferation

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government

of Japan concerning Peaceful Uses of Nuclear Energy, and the Agreement for Cooperation between the Government of the United States of America and the Government of Norway concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval for the following retransfer: RTD/NO(JA)–26, for the transfer of irradiated fuel segments from Japan to Norway for power ramp tests and ultimate disposal in Norway. The fuel segments contain 4,591 grams of uranium, 17 grams of the isotope uranium-235 (.37 percent enrichment) and 108.89 grams of plutonium.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC, on December 8, 1993.

Edward T. Fei,

Acting Director, Office of Nonproliferation Policy, Office of Arms Control and Nonproliferation.

[FR Doc. 93–30475 Filed 12–13–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–44603; FRL–4747–1]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on methylethylketoxime (MEKO) (CAS No. 96–29–7) submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received.

I. Test Data Submissions

Test data for MEKO were submitted by the Industrial Health Foundation, Inc. pursuant to a test rule at 40 CFR 799.2700. They were received by EPA on November 9, 1993. The submission describes an "Inhalation Oncogenicity Study of MEKO in Rats and Mice; Part I - Mice." This chemical is sold primarily as a nonreactive antiskinning agent in alkyd surface coating and paints. It is also used as a blocking agent for isocyanates and siloxanes.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44603). This record includes copies of all studies reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. ET–G102, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.

Dated: December 6, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–30465 Filed 12–13–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL RESERVE SYSTEM

FBOP Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has 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.

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 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.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 30, 1993.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *FBOP Corporation*, Oak Park, Illinois; to engage *de novo* in the acquisition of loans from its insured subsidiaries pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 8, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-30413 Filed 12-13-93; 8:45 am]

BILLING CODE 6210-01-F

Josephine Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 6, 1993.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Josephine Bancshares, Inc., Prestonburg, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank Josephine, Prestonburg, Kentucky.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Citizens Bancorporation, Inc., Tulsa, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank of Tulsa, Tulsa, Oklahoma.

2. Commerce Bancshares, Inc., Kansas City, Missouri, and CBI-Central Kansas, Inc., Kansas City, Missouri; to merge with The Walnut Valley Corporation, El Dorado, Kansas, and thereby indirectly acquire Walnut Valley State Bank, El Dorado, Kansas.

Board of Governors of the Federal Reserve System, December 8, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-30414 Filed 12-13-93; 8:45 am]

BILLING CODE 6210-01-F

James and Sue Markwell; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 3, 1994.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. James and Sue Markwell, Island, Kentucky; to acquire an additional 16.8 percent of the voting shares of Community Bancorp of McLean County, Kentucky, Inc., Island, Kentucky, for a total of 27.5 percent, and thereby indirectly acquire First Security Bank and Trust, Island, Kentucky.

Board of Governors of the Federal Reserve System, December 8, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-30415 Filed 12-13-93; 8:45 am]

BILLING CODE 6210-01-F

Republic Bancorp Co., et al.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) 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, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

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 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.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 6, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Republic Bancorp Co., Orland Park, Illinois; to acquire 100 percent of the voting shares of MAH Bancorp, Inc., Orland Park, Illinois; and Republic Bancorp Company, Orland Park, Illinois, and thereby indirectly acquire Republic Bank of Chicago, Chicago, Illinois.

In connection with this application, Applicant and Republic Bancorp Company, Orland Park, Illinois, also propose to acquire MAH Financial, Inc., Chicago, Illinois, its subsidiary, APL Financial, Inc., Chicago, Illinois, and thereby indirectly acquire First Cook Community Bank, F.S.B., Chicago, Illinois, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 8, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-30416 Filed 12-13-93; 8:45 am]

BILLING CODE 6210-01-F

UNITEDCORP, 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 December 29, 1993.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. UNITEDCORP, Bangor, Maine; to engage *de novo* through its subsidiaries, Trust Company of Maine, Inc., Bangor, Maine, and Fiduciary Services, Inc., Bangor, Maine, in trust company functions pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. F & M Bank Corp., Timberville, Virginia; to engage *de novo* in community development in the form of (i) a $400,000 investment in Housing Equity Fund of Virginia II, L.P., an equity fund which plans to finance low-cost housing in Virginia; and (ii) equity investments, or loans for rental property or equity positions in similar housing projects pursuant to § 225.25(b)(6) of the Board's Regulation Y. These activities will be conducted in the State of Virginia.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Zappco, Inc., St. Cloud, Minnesota; to engage *de novo* in management consulting to depository institutions, including providing advice on credit policies and administration, advice on compliance policies and current regulatory issues, and providing audit services pursuant to 225.25(b)(11) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 8, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-30417 Filed 12-13-93; 8:45 am]

BILLING CODE 6210-01-F

[Docket No. R-0817]

Federal Reserve Bank Services; Correction

In FR Doc. 93-29384 published on December 1, 1993, on page 63366, in the third column, seven lines up from the bottom of the column, in the "DATES" caption, "February 28, 1993" is corrected to read "March 4, 1994".

By order of the Board of Governors of the Federal Reserve System, December 8, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-30412 Filed 12-13-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Study of the Puncture Resistance of Glove Liners: Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Study of the Puncture Resistance of Glove Liners.

Time and Date: 1 p.m.–4:30 p.m., January 12, 1994.

Place: Division of Safety Research, Large Conference Room, NIOSH, CDC, 3040 University Avenue, Morgantown, West Virginia 26505–2888.

Status: Open to the public, limited only by the space available.

Purpose: The purpose of the meeting is to obtain information for the development of a NIOSH protocol for a proposed experiment that will determine the puncture resistance of glove liners to cannula and suture needles. Viewpoints and suggestions from industry, labor, academia, other government agencies, and the public are invited.

Contact Person for Additional Information: Daniel J. Hewett, NIOSH, CDC, 944 Chestnut Ridge Road, Mailstop 119, Morgantown, West Virginia 26505–2888, telephone 304/284–5803.

Dated: December 7, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–30420 Filed 12–13–93; 8:45 am]

BILLING CODE 4160–19–M

The National Center for Environmental Health (NCEH); Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Workshop on the Health Effects of Air Pollution from Non-Nuclear Energy Production and Use: Developing a Research Agenda.

Times and Dates: 1 p.m.–5 p.m., January 20, 1994; 8 a.m.–2:30 p.m., January 21, 1994.

Place: Hyatt Regency Suites, Perimeter Northwest, 2999 Windy Hill Road, Marietta, Georgia 30067.

Status: Open to the public, limited only by the space available.

Purpose: In December 1990, the Secretaries of the Department of Energy (DOE) and Department of Health and Human Services (HHS) signed a Memorandum of Understanding (MOU) that transferred the responsibility for the management and conduct of energy-related analytic epidemiologic studies from DOE to HHS. This MOU includes guidelines for HHS to assume responsibility for setting a research agenda for persons potentially exposed to radiation and potential health hazards resulting from non-nuclear energy production and use. HHS has delegated responsibility for this program to CDC. Thus far, the focus of CDC has been on the development of the radiation research agenda.

With this workshop, CDC will start to develop a MOU-related research agenda to address health effects of persons exposed to potential hazards resulting from non-nuclear energy production and use. The specific purpose of the workshop is to solicit individual advice and recommendations from scientists and representatives of other Federal agencies, State and local governments, academia, and the public regarding epidemiologic research needs on the health effects of air pollution from non-nuclear energy production and use. The results of the workshop will be used to develop a proposed research agenda to be presented to the HHS Advisory Committee for Energy-Related Epidemiologic Research as stipulated by the MOU.

Matters To Be Discussed: The following topic areas will be discussed: (1) Domestic Energy Consumption and Conservation, (2) Transportation, and (3) Municipal and Industrial Energy Production and Use. The discussions will be open to all participants.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: James Rifenburg, Public Health Advisor, Air Pollution and Respiratory Health Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE., (F-39), Atlanta, Georgia 30341-3724, telephone 404/488-7320, FAX 404/488-7335.

Dated: December 7, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93-30419 Filed 12-13-93; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 93E-0250]

Determination of Regulatory Review Period for Purposes of Patent Extension; Ventritex® Cadence® Model V-100 Tiered Therapy Defibrillator System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Ventritex® Cadence® Model V-100 Tiered Therapy Defibrillator System and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

FDA recently appproved for marketing the medical device Ventritex® Cadence® Model V-100 Tiered Therapy Defibrillator System. Ventritex® Cadence® Model V-100 Tiered Therapy Defibrillator System is indicated for use in patients with a history of hemodynamically compromising ventricular tachyarrhythmias. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Ventritex® Cadence® Model V-100 Tiered Therapy Defibrillator System (U.S. Patent No. 4,868,908) from Ventritex, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated July 28, 1993, advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of Ventritex® Cadence® Model V-100 Tiered Therapy Defibrillator System represented the first commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA has determined that the applicable regulatory review period for Ventritex® Cadence® Model V-100 Tiered Therapy Defibrillator System is 1,473 days. Of this time, 895 days occurred during the testing phase of the regulatory review period, while 578 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date the investigational device exemption (IDE) became effective*: April 20, 1989. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the Federal Food, Drug, and Cosmetic Act became effective on June 20, 1989. However, FDA records indicate that the IDE became effective on April 20, 1989, the date on which conditional approval of the IDE was granted.

2. *The date an application was initially submitted with respect to the device under section 515 of the Federal Food, Drug, and Cosmetic Act*: October 1, 1991. FDA has verified the applicant's claim that the premarket approval application (PMA) for Ventritex® Cadence® Model V-100 Tiered Therapy Defibrillator System (PMA No. P910023) was initially submitted on October 1, 1991.

3. *The date the application was approved*: April 30, 1993. FDA has verified the applicant's claim that PMA No. P910023 was approved on April 30, 1993.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 223 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before February 14, 1994, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before June 13, 1994, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 24, 1993.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 93-30428 Filed 12-13-93; 8:45 am]

BILLING CODE 4160-01-F

Health Care Financing Administration

[BPD–776–PN]

RIN 0938–AG27

Medicare Program; Proposed Additions To and Deletions From the Current List of Covered Procedures for Ambulatory Surgical Centers

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: This proposed notice would implement section 1833(i)(1) of the Social Security Act, which requires, in part, that the list of covered ambulatory surgical center (ASC) procedures be reviewed and updated at least every 2 years.

This notice announces and solicits public comment on the specific proposed additions to, and deletions from, the list of surgical procedures for which facility services are covered when the procedures are performed in a Medicare-participating ASC. The notice also announces and solicits public comment on our proposal to change our criteria for deleting procedures from the ASC list. Additionally, it announces and solicits public comment on the assignment of payment groups for each addition.

DATES: Written comments will be considered if we receive them at the appropriate address, as provided below, by 5 p.m. on February 14, 1994.

ADDRESSES: Mail written comments (an original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–776–PN, P.O. Box 26688, Baltimore, MD 21207.

If you prefer, you may deliver your written comments (an original and 3 copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, MD 21207.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–776–PN. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 783–3238 or by faxing to (202) 275–6802. The cost for each copy is $4.50. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Bob Cereghino, (410) 966–4645 for Proposed Additions or Deletions; Joan Sanow, (410) 966–5723 for Proposed Payment Groups.

SUPPLEMENTARY INFORMATION:

I. Background

Section 934 of the Omnibus Reconciliation Act of 1980 (Public Law 96–499), enacted on December 5, 1980, amended sections 1832(a)(2) and 1833 of the Social Security Act (the Act) to authorize the Secretary to provide benefits for services performed in an ambulatory surgical center (ASC). Section 1833(i)(1) of the Act requires the Secretary to specify, in consultation with appropriate medical organizations, surgical procedures that, although appropriately performed in an inpatient hospital setting, can also be performed safely on an ambulatory basis. The report accompanying the legislation explained that the Congress intended that procedures currently performed on an ambulatory basis in a physician's office, which do not generally require the more elaborate facilities of an ASC, should not be included in the list of covered procedures (H.R. Rep. No. 1167, 96th Cong., 2d Sess. 390, reprinted in 1980 U.S.C.C.A.N. 5526, 5753). Section 9343 of the Omnibus Budget Reconciliation Act of 1986 (OBRA '86) (Public Law 99–509), enacted on October 21, 1986, required that the list of covered ASC procedures be reviewed and updated at least every 2 years.

On August 5, 1982, we published a final rule in the **Federal Register** (47 FR 34094) to establish Medicare coverage for ASC services at 42 CFR part 416. These regulations were amended on November 14, 1986 (51 FR 41351), June 12, 1987 (52 FR 22454), and April 7, 1988 (53 FR 11508). We implement the provision requiring the Secretary to publish a list of procedures covered in an ASC through issuance of periodic notices in the **Federal Register.**

Section 9343 of OBRA '86 amended section 1833(i)(1) of the Act to require that the ASC list of procedures be reviewed and updated by April 21, 1987, and not less often than every 2 years thereafter. As a result, we published updates in the **Federal Register** on April 21, 1987 (52 FR 13176), June 1, 1989 (54 FR 23540), and December 31, 1991 (56 FR 67667). These updates supplement the original list of covered ASC procedures published on August 5, 1982 (47 FR 34099).

In line with the Congressional intent, current regulations (42 CFR 416.65(a)) list the following general requirements regarding the range of covered ASC services:

- Procedures on the list are commonly performed on an inpatient basis but, consistent with accepted medical practice, also may be performed in an ASC.
- The list excludes procedures that are commonly performed, or may be safely performed, in a physician's office.
- Procedures are limited to those requiring a dedicated operating room and generally do not require an overnight stay.
- The list does not contain procedures excluded from Medicare coverage.

In addition, current regulations (§ 416.65(b)) list the following specific requirements:

- Covered surgical procedures are limited to those that do not generally exceed—
  + A total of 90 minutes operating time; and
  + A total of 4 hours recovery or convalescent time.
- If the covered surgical procedures require anesthesia, the anesthesia must be—
  + Local or regional anesthesia; or
  + General anesthesia of 90 minutes or less duration.
- Covered surgical procedures may not be of a type that—
  + Generally result in extensive blood loss;
  + Require major or prolonged invasion of body cavities;
  + Directly involve major blood vessels; or
  + Are generally emergency or life-threatening in nature.

Currently, ASC covered procedures are classified according to an eight group payment classification system, as follows:

Group 1—$295
Group 2—$395
Group 3—$453
Group 4—$558
Group 5—$637
Group 6—$800 ($600 + $200)
Group 7—$883
Group 8—$930 ($730 + $200)

(The $200 payment allowance in Groups 6 and 8 is for intraocular lenses (IOLs).) A ninth payment group allotted exclusively to extracorporeal shock wave lithotripsy (ESWL) services was established in the notice with comment period published December 31, 1991 (56 FR 67666). The decision in *American Lithotripsy Society* v. *Sullivan*, 785 F. Supp. 1034 (D.D.C. 1992) prohibits us from paying for these services under the ASC benefit at this time. ESWL payment rates are the subject of a separate **Federal Register** proposed notice, which was published October 1, 1993 (58 FR 51355).

The ASC facility payment for all procedures in each group is established at a single rate adjusted for geographic variation. This prospectively determined facility group rate does not include physicians' fees and other medical items and services (for example, prosthetic devices, except IOLs) for which separate payment is authorized under other provisions of the Medicare program. Rather, the rate is a standard overhead amount that covers the cost of services such as nursing, supplies, equipment, and use of the facility.

Section 9343 of OBRA '86 amended section 1833(i)(2)(A) of the Act to require updating of the ASC payment rates annually beginning no later than July 1, 1987. In addition, so that the most current wage index values can be used in determining payment amounts for ASC facility services, annual ASC payment rate updates are implemented concurrently with the annual update of the inpatient hospital prospective payment system wage index published in the **Federal Register.**

Section 13531 of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) (Public Law 103–66), enacted on August 10, 1993, prohibits the Secretary from providing for any inflation update in the ASC payment rates for fiscal years 1994 and 1995; therefore, there will be no publication of an ASC payment rate update notice this year. In addition, the legislation reduced the allowance for an IOL furnished during or subsequent to cataract surgery performed in an ASC from $200 to $150 beginning January 1, 1994, and before January 1, 1999. As a result, the payment rates will remain the same in fiscal years 1994 and 1995, but the payment allowance for an IOL in Groups 6 and 8 will be reduced from $200 to $150, effective January 1, 1994. Consequently, six of the eight ASC payment group rates will remain the same in fiscal years 1994 and 1995, but the rates for Groups 6 and 8 will be reduced $50 each to reflect the lower IOL allowance, effective January 1, 1994.

In our December 1991 notice, we stated that changes in ASC payment rates and the list of ASC covered procedures would be implemented concurrently during the years in which both are updated (56 FR 67677). The ASC payment rates and the ASC procedure list were updated concurrently for the first time effective for ASC services furnished beginning December 31, 1991. Because of the OBRA '93 freeze on the ASC payment rates for fiscal years 1994 and 1995, the ASC payment rate update notice will not be published this year. The final notice updating the ASC procedures list will be published separately.

II. Provisions of the Proposed Notice

In this notice, we propose specific procedures for addition to, or deletion from, the ASC list. These proposed changes are the result of our consideration of data on site of service from the National Claims History File (NCHF), as explained in section II.A. of this notice, and general correspondence received from the public and medical community over the past few years. For each proposed addition, we propose a payment group established by our staff based on payment rates for codes on the existing ASC list in the same CPT grouping that we believe are similar in surgical method and resource consumption.

With the advice of our medical staff, we are proposing to add surgical procedures performed in ASCs that meet the requirements of § 416.65 (a) and (b) ("Covered surgical procedures"—"General standards" and "Specific standards," respectively). For a more detailed description of our criteria, see section II.A. of this notice. We are also proposing to modify our criteria for deleting procedures from the ASC list. We invite comments on the proposed deletions and additions listed in Addenda A and B and on other procedures not included in Addenda A and B. To be given serious consideration, however, commenters' requests for additions or deletions should adhere to the requirements in § 416.65(a) and (b).

In our February 8, 1990, **Federal Register** notice (55 FR 4539), we stated our intent to incorporate annual revisions of the Physicians' Current Procedural Terminology (CPT) into our list of procedures covered in an ASC. (The CPT, which is published by the American Medical Association, is a listing of descriptive terms and identifying codes for reporting medical services and procedures performed by physicians.) A new procedure code is added to the ASC list if it replaces a code that was covered in an ASC before the CPT update, as evidenced by the CPT cross-references. During the interim period between publishing **Federal Register** notices updating the ASC list, we add or delete codes in accordance with the CPT annual update through a revision of the Medicare Carriers Manual. We then solicit public comments on these codes during the next biennial update of the list.

Therefore, we are also proposing for public comment the procedure codes that were added to, or deleted from, the ASC list through changes to the Medicare Carriers Manual transmittal numbers 1418 and 1452, as a result of updates of the 1992 or 1993 editions of the CPT, as listed in Addendum C. The instructions adding these procedure codes to the Medicare Carriers Manual were effective either January 30, 1992, or January 1, 1993, as noted in Addendum C. The instructions deleting these procedure codes from the ASC covered procedures list through the Medicare Carriers Manual were effective either March 31, 1992, or will be effective July 7, 1993, as also noted in Addendum C.

In addition, we propose to remove from the ASC list five CPT codes that involve procedures relating to the usage of implantable infusion pumps not covered by Medicare: Codes 36530, 36531, 36532, 63750, and 63780. Removal of these codes is necessary to prevent erroneous Medicare payments because procedures involving implanted devices not covered by the Medicare program also are not covered.

A. Criteria for Determining Procedures To Be Added to the ASC List

In the August 1987 proposed notice (52 FR 29729), we described the criteria that we would use in developing the ASC covered procedures list. Using data from the 1984 Part B Medicare Data (BMAD) files (the BMAD files were replaced by the NCHF), we decided that if a procedure was performed on an inpatient basis 20 percent of the time or less, or in a physician's office 50 percent of the time or more, it should not be covered when performed in an ASC. We may make exceptions and override the criteria to maintain clinical consistency when we believe the data are inaccurate.

These site-of-service criteria are called the 20/50 criteria in this document. Based on our analysis of available claims payment data, we believed these levels best reflected the legislative objectives of: (1) Moving procedures from the more expensive hospital inpatient setting to the less expensive ASC setting, and (2) preventing the migration of procedures from the less expensive physician's office setting to the ASC. We indicated we would continually monitor our claims experience in order to ensure that the 20/50 criteria continue to achieve these objectives.

In developing this list of procedures for ASC coverage, we use the Common Working File (CWF) to evaluate the usual site of service of surgical procedures. The CWF is a Medicare Part A and Part B benefit coordination and pre-payment claims validation system that uses localized databases maintained by designated carriers. The data from the CWF is supplied to the NCHF maintained by our Bureau of Data Management and Strategy (BDMS). The NCHF is derived from 100 percent of the claims that are processed by BDMS. Claims source data are extracted from the NCHF to create an array of every procedure code used by each carrier in processing Medicare claims. The NCHF includes data elements such as frequency, submitted charges, allowed charges, and denied services. These variables can be arrayed for each procedure code by site of service (for example, a physician's office) and by type of service (for example, a surgical service). Procedures are reported using the HCFA Common Procedure Coding System (HCPCS).

In preparing this proposed notice, we used claims processed in calendar year 1992 as the source data in assessing site of service. We edited the claims data file to exclude claims from anesthesiologists and surgical assistants to produce more accurate site-of-service data. Failure to exclude anesthesiologists and surgical assistants would skew the inpatient percentage site of service because as many as three claims may be submitted for each inpatient procedure while a procedure performed in an ASC or physician's office is less likely to have more than one claim.

In addition to reviewing the site-of-service data for procedures suggested by the public in general correspondence, we also reviewed the data for all covered procedures on the current list as well as data for all other codes in the surgery section of the 1992 edition of the CPT. Our proposed additions and deletions are based on a comprehensive analysis of site-of-service data for all codes in the surgery section of the CPT.

We array a CPT code by site of service to determine whether it is a surgical procedure that is commonly furnished on an inpatient basis or is furnished in a physician's office less than a majority of the time. Based on these data, we decide to consider a procedure's coverage when performed in an ASC if it meets the 20/50 criteria discussed earlier in this notice.

We further exclude from ASC coverage those procedures that are generally excluded from Medicare coverage (for example, cosmetic or dental procedures) or are inappropriate for the Medicare population (for example, pediatric procedures).

B. Proposed Additions

1. Additions Based on Data

The proposed additions listed in Addendum B are the result of our consideration of site-of-service data from the NCHF, suggestions from our medical staff, and suggestions from the general public in correspondence over the past 2 years. The proposed additions are listed according to body system and CPT coding. A proposed payment group is also given for each procedure.

In developing the additions to the list, we considered all surgical procedures that met the criteria discussed in section II.A. (that is, site-of-service criteria, appropriateness for the Medicare population, and conformance with general Medicare coverage requirements). We then excluded procedures that did not meet the criteria set forth in § 416.65 (for example, extensive blood loss, prolonged invasion of body cavity, and prolonged surgical and recovery time). The remaining procedures are proposed for addition to the list of procedures covered in an ASC, as listed in Addendum B.

2. Suggestions for Additions Not Accepted

Since the publication of the December 1991 notice, we have had ongoing informal consultations with professional and medical organizations. These societies have suggested additions to the ASC list, which we have considered and some of which we have incorporated in this notice. We have also received several suggestions for procedures to be added to the list from the public through general correspondence. We have analyzed each request for site of service using the 1991 NCHF data to ascertain whether it meets the 20/50 criteria. Some correspondents have asked us to add a code solely because we have similar or related ("family") codes already on the list. We try to include related codes, but we require in most instances that these codes also meet our 20/50 criteria. In Addendum D, we list each CPT code that has been suggested but not accepted. The description for each CPT code is followed in parentheses by the 1992 billing data inpatient and office site-of-service percentages, which indicate why we did not accept the suggestion to add the code to the ASC list.

CPT codes 49310 and 49311 (laparoscopic cholecystectomy) also have been proposed by the public for addition to the ASC list. Among other indications, the medical information available to date indicates these procedures usually require at least one overnight stay. Since this exceeds the 4-hour recovery time specified in § 416.65(b)(1)(ii), we do not believe these procedures are appropriate for the outpatient ASC setting at this time. In addition, claims billing data indicate CPT code 49310 is performed 76 percent of the time on an inpatient hospital basis, and CPT code 49311 is performed 74 percent of the time on an inpatient hospital basis.

One commenter suggested adding to the ASC list the CPT code 19240, Mastectomy, modified radical, including axillary lymph nodes and pectoralis minor muscle, but excluding pectoralis major muscle. This surgery is done 92 percent of the time on an inpatient basis. It requires more than the 90 minutes operating time permitted for ASC coverage under § 416.65(b)(1)(i) and is not appropriate in the ASC setting for most Medicare patients.

One commenter to our December 1991 notice suggested the addition of the following penile prosthesis surgery codes:

CPT code	Description
54401	Insertion of penile prosthesis; inflatable (self-contained).
54405	Insertion of inflatable (multi-component) penile prosthesis, including placement of pump, cylinders, and/or reservoir.
54407	Removal, repair, or replacement of inflatable (multi-component) penile prosthesis, including pump and/or reservoir and/or cylinders.

We had proposed to add penile prosthesis surgery in our notice published December 7, 1990 (55 FR 50590) and had received comments from nine urologists, one professional society, and one supplier, all of whom had opposed our proposal to add penile prostheses to the ASC list.

The commenters believed that these procedures should not be covered in an ASC for the following reasons:

- The necessary stabilization for elderly patients may be medically difficult.
- The length of the surgical procedure often exceeds the 90 minutes specified for the maximum length of an ASC procedure.
- The patient's frequent need for irrigation and drainage and the possibility of urinary retention prolongs recovery beyond the maximum 4 hours allowed for ASC coverage.
- Patients frequently require continued administration of intravenous antibiotics to diminish the risk of infection.

We stated in our December 1991 notice that our review of recent billing data showed inpatient percentages ranging from 74 to 83 percent for penile prosthesis procedures. A further review of more recent billing data shows inpatient percentages ranging from 56 to 68 percent for these procedures. Based upon information obtained from surgeons, penile prosthesis surgery recovery time is 24 to 72 hours. We therefore continue to believe that penile prostheses implantations generally are not suitable for the Medicare population in the ASC setting.

One commenter suggested adding CPT code 43830, Gastrostomy, temporary (tube, rubber or plastic) (separate procedure). Our billing data indicate this procedure is performed 90 percent of the time on an inpatient hospital basis. Since this procedure is usually performed in the inpatient hospital setting for Medicare patients and requires an overnight stay, we are not adding it to the list of procedures covered in an ASC.

Another commenter suggested adding CPT code 43030, Cricopharyngeal myotomy. According to our billing data, this procedure is performed 79 percent of the time on an inpatient hospital basis. The commenter believes this procedure is performed secondary to voice restoration; however, medical literature indicates that this procedure is used to treat pharyngoesophageal diverticulum. We believe that this is an inpatient procedure, requiring at least an overnight stay, and is generally inappropriate for Medicare beneficiaries in an outpatient setting.

C. Criteria for Determining Procedures To Be Deleted From the ASC List

The practice of medicine has changed substantially since 1980 when the ASC legislation was enacted. At that time, it was common to perform nearly all surgery on an inpatient basis. Today there are many surgical procedures that are performed almost exclusively in an ASC, hospital outpatient department, or physician's office. As the practice of medicine has changed over the years, procedures that were at one time commonly performed on an inpatient basis gradually have shifted to the hospital outpatient department as the most common site of service, and a few eventually have shifted to the physician's office as the primary site of service. Procedures that are not done on an inpatient basis or that are primarily done in a physician's office no longer meet the conditions specified in section 1833(i) of the Act. This development results in a corresponding change in claims data to lower inpatient and higher physician's office site-of-service performance percentages, and these procedures no longer meet our 20/50 site-of-service criteria.

In our June 1, 1989, **Federal Register** notice (54 FR 23546), we deleted 48 procedures from the then-existing list that no longer met our criteria. If we applied the 20/50 criteria to our current ASC list, we would be proposing deletion of a number of procedures, such as cataract removal, that we believe are appropriate to the ASC setting.

It is our intention to implement section 1833(i) of the Act in covering procedures in an ASC that are appropriately performed on an inpatient basis, when considered in terms of proper utilization of hospital inpatient facilities, but also can be safely performed on an ambulatory basis. However, we are concerned that applying the same site-of-service criteria first to add and subsequently to delete a procedure from the ASC list will frustrate the legislative objective of shifting, when appropriate, procedures from the more expensive hospital inpatient setting to the less expensive ASC setting. Use of the identical criteria both to add and remove procedures does not provide latitude for minor fluctuation in utilization settings or errors that may occur in the site-of-service data used for analysis. We believe it preferable to change coverage in the ASC setting only if there is a trend that points to a shift in the site-of-service setting, indicating a change in practice patterns from a greater to a lesser resource intensive setting.

Consequently, we are proposing the following criteria for deleting a procedure from ASC coverage:

The combined inpatient, hospital outpatient, and ASC site-of-service percentage is less than 46 percent of the total volume; and either—

- The procedure is performed 50 percent of the time or more in a physician's office; or
- The procedure is performed 10 percent of the time or less in an inpatient hospital setting.

We believe the combined inpatient, hospital outpatient, and ASC percentage reflects the proportion of settings demonstrating use of a dedicated operating room, as intended by the law in specifying ASC coverage. We believe that, for ASC coverage to be appropriate, these operating room facilities must be required a majority of the time a procedure is performed. Thus, a procedure is not added to the ASC list if the physicians' office percentage exceeds 50 percent, as the procedure does not require operating room facilities a majority of the time. Moreover, procedures are not added to the list unless the inpatient percentage exceeds 20 percent.

We are concerned that procedures may migrate from the inpatient setting but still require the dedicated operating room a significant portion of the time the procedure is performed. Therefore, we propose alternative criteria for deleting procedures already approved for the ASC but which no longer meet the criteria.

The difficulty in developing criteria to meet this objective is that the site-of-service data include locations other than the operating room facilities (inpatient, hospital outpatient, and ASC) and physicians' offices. These other locations, such as nursing homes, patient homes, laboratories, etc., generally make up a small percentage of the total site of service. Nonetheless, the inclusion of these other sites prohibits us from considering physicians' office/operating room site-of-service criteria for deletion at the 50 percent mark.

We have considered a range of numbers for the deletion criteria, and our best judgment is that the combined inpatient, hospital outpatient, and ASC site-of-service percentage of 46 percent is the most appropriate indicator that a procedure no longer requires operating room facilities a majority of the time. These criteria provide for use of the "other" site-of-service location for as much as 4 percent of the total occurrence of the procedures without requiring us to delete the procedure.

This proposed change would allow the site of service for procedures in the

physician's office to grow from below 50 percent (when it is added) to as high as 54 percent, as long as the proportion of time the procedure is performed in the operating and recovery rooms remains at 46 percent. Similarly, the criteria allow procedures to move from an inpatient hospital site of service to an outpatient operating room site of service.

These alternative criteria would allow for the movement of procedures to a less intensive setting (that is, the inpatient usage may decrease considerably), as long as the need for dedicated operating and recovery rooms is maintained. We recognize that when lines are drawn, some procedures narrowly miss the line. Our judgment, however, is that the proposed criteria most appropriately allow for the movement of procedures to less intensive settings (that is, the inpatient usage may decrease considerably), as long as the need for dedicated operating and recovery rooms is maintained. At the same time, the proposed criteria would protect the program from having to pay a facility fee for those procedures whose site-of-service data demonstrate that they may be performed safely in a physician's office most of the time.

We may occasionally make an exception to these general criteria if, based on the advice of our medical staff, we believe that the site-of-service data are deceptive. We expect that these exceptions would be rare and would occur principally in low-volume procedures when a small number of claims reporting errors could potentially skew the percentages.

We solicit public comments on developing alternatives to the quantitative (numerical) criteria we are proposing. Any alternative suggested should focus particularly on whether a greater reliance on qualitative (rather than quantitative) criteria would assist us to better meet our objectives for determining which procedures should appropriately be covered in ASCs.

D. Proposed Deletions

1. Deletions Based on Data

Application of the revised criteria for deleting ASC coverage would result in removal of approximately 120 procedures from the list. We are concerned that deleting these procedures at this time may have an adverse effect on the ASC industry. We recognize it is important to promote consistency in the ASC list so that ASCs may plan in advance for those procedures that may need specialized equipment. In addition, the ASC list is used in other payment methodologies, such as the blended rate for hospital outpatient surgical procedures. Consequently, we are proposing to retain temporarily on the ASC list some of the procedures that would be deleted from ASC coverage. We identify in Addendum E procedures by CPT code that do not meet our proposed revised criteria for retaining coverage (46 percent operating room site of service) but: (1) Were added by our last update, the December 1991 notice, or (2) our billing data indicate have low-volume ASC performance (100 or less occurrences in an ASC), or (3) are in both of these categories. Total ASC impact on these codes may not be reflected in the 1992 service data that we have used, and these procedures may not have been included on the ASC list long enough to justify a decision for their deletion. We have proposed postponing implementation of low-volume codes because data errors are more likely to affect the coverage determination of these codes. We will continue to review these codes, however, and intend to propose deletion of these procedures from ASC coverage in our next update (in 2 years) should their failure to meet our criteria persist.

In Addendum A, we identify procedures that do not meet our criteria for retention and are not new to the list or do not have low-volume ASC performance. We propose to delete these procedures from ASC coverage at this time.

2. Deletion of Implantable Infusion Pump Procedures

In the December 31, 1991, **Federal Register** (56 FR 67698), two CPT codes were added to the ASC list in error. These codes were:

CPT code	Description
63750	Insertion, subarachnoid catheter with reservoir and/or pump for intermittent or continuous infusion of drug, including laminectomy.
63780	Insertion or replacement, subarachnoid or epidural catheter, with reservoir and/or pump for drug infusion, without laminectomy.

These codes should not have been placed on the list of covered ASC procedures since they conflict with our longstanding policy on coverage of implantable infusion pumps. This policy is contained in section 60–14B of the Coverage Issues Manual, which addresses the implantable infusion pumps that Medicare does and does not cover, effective for services furnished beginning September 26, 1984. These implantable infusion pumps are covered only for certain medical conditions. For example, intra-arterial implantable infusion pumps are covered for the administration of chemotherapy for primary hepatocellular carcinoma or Duke's Class D colorectal cancer. The pumps listed above are not intra-arterial pumps and are not used for the covered medical conditions. Other uses of the implanted infusion pump are currently under investigation by the Office of Health Technology Assessment (OHTA) in the Agency for Health Care Policy and Research of the Public Health Service (PHS) and are still considered experimental and therefore not covered under Medicare. OHTA makes its coverage recommendations based on scientific and medical literature on the safety and effectiveness of the device for the medical conditions under consideration.

Our policy on implantable infusion pumps (section 60–14B of the Coverage Issues Manual) was contained in a general notice published in the August 21, 1989, **Federal Register** (54 FR 34600), which included all Coverage Issues Manual coverage instructions issued up to that date. Subsequent Coverage Issues Manual updates are published quarterly in the **Federal Register**.

In January 1992, the updated 1992 edition of the CPT deleted the following codes:

CPT code	Description
36495	Insertion of implantable intravenous infusion pump or venous access port.
36496	Revision of implantable intravenous infusion pump or venous access port.
36497	Removal of implantable intravenous infusion pump or venous access port.

These codes were replaced with the following six new CPT codes:

CPT code	Description
36530	Insertion of implantable intravenous infusion pump.
36531	Revision of implantable intravenous infusion pump.
36532	Removal of implantable intravenous infusion pump.
36533	Insertion of implantable venous access port, with or without subcutaneous reservoir.
36534	Revision of implantable venous access port and/or subcutaneous reservoir.
36535	Removal of implantable venous access port and/or subcutaneous reservoir.

In accordance with our policy to adapt changes in the CPT to the list of covered ASC services, we included these new codes when we issued the Medicare Carriers Manual instruction concerning new codes to be added and obsolete codes to be deleted (Transmittal No. 1418, March 1992). However, CPT codes 36530, 36531, and 36532 also conflict with section 60–14B of the Coverage Issues Manual, concerning implantable infusion pumps, and should not have been included in the 1992 update of the list of ASC covered procedures. These pumps are intravenous pumps; coverage is limited to intra-arterial pumps. Therefore, we propose to remove from the ASC list of covered procedures the following CPT codes that involve implantable infusion pumps not covered by Medicare:

CPT code	Description
36530	Insertion of implantable intravenous infusion pump.
36531	Revision of implantable intravenous infusion pump.
36532	Removal of implantable intravenous infusion pump.
63750	Insertion, subarachnoid catheter with reservoir and/or pump for intermittent or continuous infusion of drug, including laminectomy.
63780	Insertion or replacement, subarachnoid or epidural catheter, with reservoir and/or pump for drug infusion, without laminectomy.

Related CPT codes 36533, 36534, and 36535, which were also added to the list of covered ASC procedures by the March 1992 Medicare Carriers Manual instruction are not affected by this notice since they concern venous access ports and not implantable infusion pumps. There is no national Medicare policy on access ports precluding their coverage.

We expect the OHTA will issue an assessment on implantable infusion pumps shortly. We will re-evaluate our policy on these pumps in light of the assessment.

E. Proposed Payment Group Assignments

We received suggestions for a number of payment group changes from several medical and professional organizations. Pending analysis of cost data collected for all procedures on the ASC list by the HCFA–452 Medicare Ambulatory Surgical Center Payment Rate Survey, we are deferring changes of payment group assignments at this time.

III. Request for Information

This proposed notice solicits comments on specific additions to and deletions from the current ASC list. We request that, when commenting on our proposed additions and deletions and in making suggestions for further revisions to the list, commenters specifically consider the requirements set forth at § 416.65 (a) and (b) ("Covered surgical procedures"—"General standards" and "Specific standards," respectively) and the other requirements discussed in the "Provisions of the Proposed Notice" section. We also request that suggestions for additional procedures or changes in existing procedures refer to each surgical procedure by CPT code. This proposed notice also solicits public comments on the payment group assigned to procedures added to the ASC list. We also request comments on our proposal to alter the data criteria we use when deleting procedures from the ASC list. The revised criteria would result in a lesser number of deletions. Comments and suggestions must be forwarded to the address indicated under the "ADDRESSES" section of this notice.

IV. Regulatory Impact Statement

A. Executive Order 12866

Executive Order 12866 (E.O. 12866) requires us to prepare an analysis for any document that meets one of the E.O. 12866 criteria for a "significant regulatory action"; that is, that may—

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

This proposed notice would permit facility fees to be paid when the 20 surgical procedure codes being added by this proposed notice are performed in an ASC. We are also proposing to delete 25 codes from the ASC list. We believe the net effect of the addition and deletion of these codes would be negligible because of the low number of changes we are proposing at this time and because of the relatively low cost and volume of these codes.

Payments to ASCs are generally lower than payments to hospitals for surgery performed in a hospital, whether on an inpatient or outpatient basis. Although we do not anticipate that many services would shift from the hospital inpatient setting to ASCs, we anticipate some program savings due to shifting of services from hospital inpatient departments to ASCs because payments to ASCs for a given surgical procedure are generally lower than payments to hospitals for the same procedure. Additional savings would be realized as a result of lower payments to a hospital when newly listed procedures continue to be performed on an outpatient basis, because the hospital outpatient rate (less deductible and coinsurance) would be the lower of: (1) The hospital's reasonable costs or charges or (2) a blend of the hospital's reasonable costs or customary charges and the amount that would be paid to a freestanding ASC in the same area for the same procedure. The blend is comprised of 42 percent hospital cost and 58 percent ASC payment rate. We believe payments based on the ASC blended rate are approximately 10 percent lower than payments based solely on reasonable cost. A factor that could offset some savings would be a shift of services from

the physician's office to the ASC setting as a result of the expansion of the list of covered ASC services. Since a facility fee is not paid when surgery is performed in a physician's office, this shifting would result in slightly increased program costs.

The deletions to the ASC list could also result in some increase in program costs and savings depending upon whether the services are shifted to the lower cost physician's office site or to a higher cost hospital outpatient unit. We do not anticipate mass shifting of the site of service associated with the procedure codes we are proposing to add or delete.

Because the net effect of this proposed notice is expected to be negligible, this proposed notice would not meet the $100 million criterion nor would it meet the other E.O. 12866 criteria. Therefore, this notice is not a significant regulatory action under E.O. 12866, and a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a notice would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all physicians, ASCs, and hospitals are considered to be small entities.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We are proposing to delete a procedure from the ASC list only if the combined hospital inpatient, hospital outpatient, and ASC site-of-service percentage is less than 46 percent of the total volume; and either the procedure is performed 50 percent of the time or more in a physician's office, or the procedure is performed 10 percent of the time or less in an inpatient hospital setting. Because procedures would not be added or deleted as a result of slight shifts of the site of service, we are adding some stability to the list that should assist all small entities to plan for the future.

Therefore, for the reasons cited above, we are not preparing analyses for either the RFA or section 1102(b) of the Act since we have determined, and the Secretary certifies, that this notice would not result in a significant economic impact on a substantial number of small entities and would not have a significant impact on the operations of a substantial number of small rural hospitals.

V. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the "**DATES**" section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VI. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Authority: Section 1833(i)(1) of the Social Security Act (42 U.S.C. 13951(i)(1)).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program.)

Dated: September 9, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: October 19, 1993.

Donna E. Shalala,

Secretary

Addendum A—Proposed Deletions from the Current List of Covered Surgical Procedures for ASCs

Note: In this addendum, "combined" percentage refers to the total of inpatient hospital, hospital outpatient department, and ASC site-of-service percentages.

CPT code	Description
	Integumentary System
11042	Debridement; skin, and subcutaneous tissue (20 percent inpatient, 55 percent office, 31.5 percent combined).
11424	Excision, benign lesion, except skin tag (unless listed elsewhere), scalp, neck, hands, feet, genitalia; lesion diameter 3.1 to 4.0 cm (5 percent inpatient, 62 percent office, 34 percent combined).
11604	Excision, malignant lesion, trunk, arms, or legs; lesion diameter 3.1 to 4.0 cm (5 percent inpatient, 68 percent office, 29 percent combined).
13101	Repair, complex, trunk; 2.6 cm to 7.5 cm (4 percent inpatient, 71 percent office, 23 percent combined).
13121	Repair, complex, scalp, arms, and/or legs; 2.6 to 7.5 cm (10.2 percent inpatient, 61 percent office, 26 percent combined).
13132	Repair, complex, forehead, cheeks, chin, mouth, neck, axillae, genitalia, hands and/or feet; 2.6 cm to 7.5 cm (4 percent inpatient, 64 percent office, 27 percent combined).
13152	Repair, complex, eyelids, nose, ears and/or lips; 2.6 cm to 7.5 cm (8 percent inpatient, 53.1 percent office, 37 percent combined).
14020	Adjacent tissue transfer or rearrangement, scalp, arms and/or legs; defect 10 sq cm or less (11 percent inpatient, 54 percent office, 42 percent combined).
14041	Adjacent tissue transfer or rearrangement, forehead, cheeks, chin, mouth, neck, axillae, genitalia, hands and/or feet; defect 10.1 sq cm to 30.0 sq cm (13 percent inpatient, 55 percent office, 44 percent combined).
	Cardiovascular System (the following three codes are not covered under Medicare)
36530	Insertion of implantable intravenous infusion pump.
36531	Revision of implantable intravenous infusion pump.
36532	Removal of implantable intravenous infusion pump.
	Urinary System
52000	Cystourethroscopy (separate procedure) (8 percent inpatient, 71 percent office, 26 percent combined).

CPT code	Description
52281	Cystourethroscopy, with calibration and/or dilation of urethral stricture or stenosis, with or without meatotomy and injection procedure for cystography, male or female (11 percent inpatient, 60 percent office, 37 percent combined).
52285	Cystourethroscopy for treatment of the female urethral syndrome with any or all of the following: urethral meatotomy, urethral dilation, internal urethrotomy, lysis of urethrovaginal septal fibrosis, lateral incisions of the bladder neck, and fulguration of polyp(s) of urethra, bladder neck, and/or trigone (12 percent inpatient, 61.1 percent office, 38 percent combined).
	Male Genital System
55700	Biopsy, prostate; needle or punch, single or multiple, any approach (11.6 percent inpatient, 69 percent office, 28 percent combined).
	Nervous System
63750	Insertion, subarachnoid catheter with reservoir and/or pump for intermittent or continuous infusion of drug, including laminectomy (not covered by Medicare).
63780	Insertion or replacement, subarachnoid or epidural catheter, with reservoir and/or pump for drug infusion, without laminectomy (not covered by Medicare).
64442	Injection, anesthetic agent; paravertebral facet joint nerve, lumbar, single level (6 percent inpatient, 62 percent office, 37 percent combined).
64510	Injection, anesthetic agent; stellate ganglion (cervical sympathetic) (6 percent inpatient, 67 percent office, 31 percent combined).
	Eye and Ocular Adnexa
66762	Iridoplasty by photocoagulation (one or more sessions) (e.g., for improvement of vision, for widening of anterior chamber angle) (2 percent inpatient, 59 percent office, 37 percent combined).
67101	Repair of retinal detachment, one or more sessions; cryotherapy or diathermy, with or without drainage of subretinal fluid (8 percent inpatient, 62 percent office, 37 percent combined).
67105	Repair of retinal detachment, one or more sessions; photocoagulation (laser or xenon arc, one or more sessions), with or without drainage of subretinal fluid (6 percent inpatient, 63 percent office, 36 percent combined).
67208	Destruction of localized lesion of retina (e.g., maculopathy, choroidopathy, small tumors), one or more sessions; cryotherapy, diathermy (5 percent inpatient, 57 percent office, 40 percent combined).
67921	Repair of entropion; suture (2 percent inpatient, 53 percent office, 45 percent combined).

Addendum B—Proposed Additions to the Current List of Covered Surgical Procedures for ASCs

Pymt grp	CPT code	Description
		Musculoskeletal System
1	20694	Removal, under anesthesia, of external fixation system.
3	20910	Cartilage graft; costochondral.
3	26416	Removal of tube or rod and insertion of extensor tendon graft (includes obtaining graft), hand or finger.
5	26587	Reconstruction of supernumerary digit, soft tissue and bone.
4	28307	Osteotomy, metatarsal, base or shaft, single, with or without lengthening, for shortening or angular correction; first metatarsal with autograft.
4	28340	Reconstruction, toe, macrodactyly; soft tissue resection.
4	28341	requiring bone resection.
4	28344	Reconstruction, toe(s); polydactyly.
4	28345	syndactyly, with or without skin graft(s), each web.
2	28456	Percutaneous skeletal fixation of tarsal bone fracture (except talus and calcaneus); with manipulation, each.
		Respiratory System
4	31084	Sinusotomy frontal; obliterative, with osteoplastic flap, brow incision.
		Digestive System
4	49250	Umbilectomy, omphalectomy, excision of umbilicus (separate procedure).
		Male Genital System
4	54015	Incision and drainage of penis, deep.
4	54205	Injection procedure for Peyronie disease; with surgical exposure of plaque.
		Female Genital System
1	56441	Lysis of labial adhesions.

Addendum B—Proposed Additions to the Current List of Covered Surgical Procedures for ASCs—Continued

Pymt grp	CPT code	Description
		Nervous System
1	62275	Injection of anesthetic substance (including narcotics), diagnostic or therapeutic; epidural, cervical or thoracic, single.
		Eye and Ocular Adnexa
7	65770	Keratoprosthesis.
4	66180	Aqueous shunt to extraocular reservoir (eg, Molteno, Schocket, Denver-Krupin).
2	66185	Revision of aqueous shunt to extraocular reservoir.
4	67340	Strabismus surgery involving exploration and/or repair of detached extraocular muscle(s).

Addendum C

1. Additions to the List of Covered Surgical Procedures for ASCs, Added to the 1992 CPT (Added to the Medicare Carriers Manual Effective January 30, 1992)

Pymt grp	CPT code	Description
		Integumentary System
3	15570	Formation of direct or tubed pedicle, with or without transfer; trunk
3	15572	scalp, arms, or legs
3	15574	forehead, cheeks, chin, mouth, neck, axillae, genitalia, hands, or feet
3	15576	eyelids, nose, ears, lips or intraoral
5	19357	Breast reconstruction, immediate or delayed, with tissue expander, including subsequent expansion
		Respiratory System
1	30801	Cauterization and/or ablation, mucosa of turbinates, unilateral or bilateral, any method, (separate procedure); superficial.
1	30802	intramural
		Cardiovascular System
3	36533	Insertion of implantable venous access port, with or without subcutaneous reservoir.
2	36534	Revision of implantable venous access port and/or subcutaneous reservoir.
1	36535	Removal of implantable venous access port and/or subcutaneous reservoir.
		Eye and Ocular Adnexa
2	66700	Ciliary body destruction; diathermy.
2	66710	cyclophotocoagulation
2	66720	cryotherapy
2	66740	cyclodialysis
6	66986	Exchange of intraocular lens.

2. Deletions from the List of Covered Surgical Procedures for ASCs, Deleted from the 1992 CPT (Deleted from the Medicare Carriers Manual Effective March 31, 1992).

CPT code	Description
	Integumentary System
15410	Free transplantation of skin flap by microsurgical technique, including microvascular anastomosis; 100 sq. cm or less.
15412	between 101 and 160 sq cm.
15414	between 161 and 230 sq cm.
15416	over 230 sq cm.
15500	Formation of tube pedicle without transfer, or major "delay" of large flap without transfer; on trunk.
15505	on scalp, arms, or legs.
15510	on forehead, cheeks, chin, mouth, neck, axillae, genitalia, hands, or feet.
15515	on eyelids, nose, ears, or lips.
15540	Primary attachment of open or tubed pedicle flap to recipient site requiring minimal preparation; to trunk.
15545	to scalp, arms, or legs.
15550	to forehead, cheeks, chin, mouth, neck, axillae, genitalia, or hands, feet.
15555	to eyelids, nose, ears, or lips.
15700	Excision of lesion and/or excisional preparation of recipient site and attachment of direct or tubed pedicle flap; trunk.
15710	scalp, arms, or legs.
15720	forehead, cheeks, chin, mouth, neck, axillae, genitalia, hands, or feet.
15730	eyelids, nose, ears, or lips.

CPT code	Description
15954	Excision, trochanteric pressure ulcer, with bipedicle flap closure;
15955	with ostectomy.
15960	Excision, heel pressure ulcer, with primary suture;
15961	with ostectomy.
15964	Excision, heel pressure ulcer, with local skin flap closure;
15965	with ostectomy.
15966	Excision, heel pressure ulcer, with other flap closure;
15967	with ostectomy.
15970	Excision, leg pressure ulcer, with primary suture;
15971	with ostectomy.
15972	Excision, leg pressure ulcer, with local skin flap(s);
15973	with ostectomy.
15974	Excision, leg pressure ulcer, with muscle or myocutaneous flap closure;
15975	with ostectomy.
15980	Excision, knee pressure ulcer, with local skin flap closure;
15981	with ostectomy.
15982	Excision, knee pressure ulcer, with other flap closure;
15983	with ostectomy
19360	Breast reconstruction with muscle or myocutaneous flap.
	Respiratory System
30820	Cryosurgery of turbinates, unilateral or bilateral.
	Cardiovascular System
36495	Insertion of implantable intravenous infusion pump or venous access port.
36496	Revision of implantable intravenous infusion pump or venous access port.
36497	Removal of implantable intravenous infusion pump or venous access port.
	Eye and Ocular Adnexa
66702	Ciliary body destruction, any method (eg, diathermy, cryotherapy, laser, dialysis).
67907	Repair of blepharoptosis; superior rectus tendon transplant.

3. Additions to the List of Covered Surgical Procedures for ASCs, Added to the 1993 CPT (Added to the Medicare Carriers Manual Effective January 1, 1993)

Pymt grp	CPT code	Description
		Respiratory System
1	31730	Transtracheal (percutaneous) introduction of needle wire dilator/stent or indwelling tube for oxygen therapy.
		Female Genital System
3	56300	Laparoscopy, diagnostic (separate procedure).
5	56303	Laparoscopy, surgical; with fulguration or excision of lesions of the ovary, pelvic viscera, or peritoneal surface by any method.
5	56304	with lysis of adhesions.
4	56305	with biopsy (single or multiple).
4	56306	with aspiration (single or multiple).
5	56307	with removal of adnexal structures (partial or total oophorectomy and/or salpingectomy).
1	56350	Hysteroscopy, diagnostic (separate procedure).
2	56352	Hysteroscopy, surgical; with lysis of intrauterine adhesions (any method).
3	56354	with removal of leiomyomata.
2	56405	Incision and drainage of vulva or perineal abscess.
1	56605	Biopsy of vulva or perineum (separate procedure); one lesion.
5	56810	Perineoplasty, repair of perineum, non-obstetrical (separate procedure).

4. Deletions from the List of Covered Surgical Procedures for ASCs, Deleted from the 1993 CPT (Deleted from the Medicare Carriers Manual Effective July 7, 1993)

CPT code	Description
	Integumentary System
10141	Incision and drainage of hematoma; complicated.
	Musculoskeletal System
21455	Closed manipulative treatment by interdental fixation of closed or open mandibular fracture.

CPT code	Description
23510	Treatment of open clavicular fracture, with uncomplicated soft tissue closure.
23580	Treatment of open scapular fracture with uncomplicated soft tissue closure.
23610	Treatment of open humeral (surgical or anatomical neck) fracture, with uncomplicated soft tissue closure.
23658	Treatment of open shoulder dislocation, with uncomplicated soft tissue closure.
24506	Treatment of closed humeral shaft fracture; percutaneous insertion of pin or rod.
24510	Treatment of open humeral shaft fracture, with uncomplicated soft tissue closure.
24531	Treatment of closed humeral supracondylar or transcondylar fracture, without manipulation; with traction (pin or skin).
24536	Treatment of closed humeral supracondylar or transcondylar fracture, with manipulation; with traction (pin or skin).
24540	Treatment of open humeral supracondylar or transcondylar fracture, with uncomplicated soft tissue closure.
24542	Treatment of open humeral supracondylar or transcondylar fracture, with uncomplicated soft tissue closure, with traction (pin or skin).
24570	Treatment of open humeral epicondylar fracture, medial or lateral, with uncomplicated soft tissue closure.
24578	Treatment of open humeral condylar fracture, medial or lateral, with uncomplicated soft tissue closure.
24580	Treatment of closed comminuted elbow fracture (fracture distal humerus and/or proximal ulna and/or proximal radius), treatment with traction (pin or skin), without manipulation.
24583	Treatment of open comminuted elbow fracture (fracture distal humerus and/or proximal ulna and/or proximal radius), with uncomplicated soft tissue closure.
24585	Open treatment of closed or open comminuted elbow fracture (fracture distal humerus and/or proximal radius), with or without internal or external skeletal fixation.
24588	with implants and fascia lata ligament reconstruction.
24610	Treatment of open elbow dislocation, with uncomplicated soft tissue closure.
24625	Treatment of open Monteggia type of fracture dislocation at elbow (fracture proximal end of ulna with dislocation of radial head), with uncomplicated soft tissue closure.
24660	Treatment of open radial head or neck fracture, with uncomplicated soft tissue closure.
24680	Treatment of open ulnar fracture, proximal end (olecranon process), with uncomplicated soft tissue closure.
25510	Treatment of open radial shaft fracture, with uncomplicated soft tissue closure.
25540	Treatment of open ulnar shaft fracture, with uncomplicated soft tissue closure.
25570	Treatment of open radial and ulnar shaft fractures, with uncomplicated soft tissue closure.
25610	Treatment of closed, complex, distal radial fracture (e.g., Colles or Smith type) or epiphyseal separation, with or without fracture of ulnar styloid, requiring manipulation; without external skeletal fixation or percutaneous pinning.
25615	Treatment of open distal radial fracture (e.g., Colles or Smith type) or epiphyseal separation, with or without fracture of ulnar styloid, with uncomplicated soft tissue closure.
25626	Treatment of open carpal scaphoid (navicular) fracture, with uncomplicated soft tissue closure.
25640	Treatment of closed carpal bone fracture (excluding carpal scaphoid (navicular), with uncomplicated soft tissue closure, each bone.
25665	Treatment of open radiocarpal or intercarpal dislocation, one or more bones, with uncomplicated soft tissue closure.
26610	Treatment of open metacarpal fracture, single, with uncomplicated soft tissue closure, each bone.
26655	Treatment of open carpometacarpal fracture dislocation, thumb (Bennett fracture), with or without internal or external skeletal fixation.
26660	with skeletal fixation.
26680	Treatment of open carpometacarpal dislocation, other than Bennett fracture, single, with uncomplicated soft tissue closure.
26710	Treatment of open metacarpophalangeal dislocation, single, with uncomplicated soft tissue closure.
26730	Treatment of open phalangeal shaft fracture, proximal or middle phalanx, finger or thumb, with uncomplicated soft tissue closure, each.
26744	Treatment of open articular fracture, involving metacarpophalangeal or proximal interphalangeal joint, with uncomplicated soft tissue closure, each.
26780	Treatment of open interphalangeal joint dislocation, single, with uncomplicated soft tissue closure.
27190	Treatment of closed sacral fracture.
27192	Open treatment of closed or open sacral fracture.
27195	Treatment of sacroiliac and/or symphysis pubis dislocation, without manipulation.
27196	Treatment of sacroiliac and/or symphysis pubis dislocation, with anesthesia and with manipulation.
27201	Treatment of open coccygeal fracture.
27210	Treatment of closed iliac, pubic or ischial fracture.
27504	Treatment of open femoral shaft fracture (including supracondylar), with uncomplicated soft tissue closure.
27512	Treatment of open femoral fracture, distal end, medial or lateral condyle, with uncomplicated soft tissue closure.
27522	Treatment of open patellar fracture, with uncomplicated soft tissue closure.
27534	Treatment of open tibial fracture, proximal (plateau), with uncomplicated soft tissue closure.
27564	Treatment of open patellar dislocation, with uncomplicated soft tissue closure.
27754	Treatment of open tibial shaft fracture, with uncomplicated soft tissue closure.
27764	Treatment of open distal tibial fracture (medial malleolus), with uncomplicated soft tissue closure.
27782	Treatment of open proximal fibula or shaft fracture, with uncomplicated soft tissue closure.
27790	Treatment of open distal fibular fracture (lateral malleolus), with uncomplicated soft tissue closure.
27800	Treatment of closed tibia and fibula fractures, shafts; without manipulation.
27802	with manipulation.
27804	Treatment of open tibia and fibula fractures, shafts, with uncomplicated soft tissue closure (e.g., "pins above and below").
27812	Treatment of open bimalleolar ankle fracture, with uncomplicated soft tissue closure.
27820	Treatment of open trimalleolar ankle fracture, with uncomplicated soft tissue closure.
27844	Treatment of open ankle dislocation, with uncomplicated soft tissue closure.
28410	Treatment of open calcaneal fracture, with uncomplicated soft tissue closure.
28440	Treatment of open talus fracture, with uncomplicated soft tissue closure.
28460	Treatment of open tarsal bone fracture (except talus and calcaneous), with uncomplicated soft tissue closure, each.
28480	Treatment of open metatarsal fracture, with uncomplicated soft tissue closure, each.
28500	Treatment of open fracture great toe, phalanx or phalanges, with uncomplicated soft tissue closure.
28520	Treatment of open fracture, phalanx or phalanges, other than great toe, with uncomplicated soft tissue closure, each.
28640	Treatment of open metatarsophalangeal joint dislocation, with uncomplicated soft tissue closure.

CPT code	Description
28670	Treatment of open interphalangeal joint dislocation, with uncomplicated soft tissue closure.
	Respiratory System
31719	Transtracheal (percutaneous) introduction of indwelling tube for therapy (e.g., tickle tube, catheter for oxygen administration).
	Female Genital System
56000	Incision and drainage of perineal abscess (nonobstetrical).
56100	Biopsy of perineum (separate procedure).
56200	Perineoplasty, repair of perineum, nonobstetrical (separate procedure).
57451	Culdoscopy, diagnostic; with biopsy and/or lysis of adhesions or tubal sterilization.
58980	Laparoscopy, diagnostic (separate procedure).
58984	Laparoscopy, surgical; with fulguration or excision of lesions of the ovary, pelvic viscera, or peritoneal surface by any method.
58985	with lysis of adhesions.
58986	with biopsy (single or multiple).
58987	with aspiration (single or multiple).
58988	with removal of adnexal structures (partial or total oophorectomy and/or salpingectomy).
58990	Hysteroscopy; diagnostic.
58992	with lysis of intrauterine adhesions or resection of intrauterine septum (any method).
58994	with removal of submucous leiomyomata (any method).

Addendum D

1. Suggestions for Additions not Accepted Based on the 20/50 Criteria.

Note: Based on our 20/50 criteria, we do not propose to add to the ASC list the following procedures that were submitted by the public in general correspondence since the publication of the December 1991 notice. Each CPT code and description is followed in parentheses by the 1992 billing data percentages for which the procedure was performed in a physician's office or an inpatient hospital setting.

CPT code	Description
	Integumentary System
11041	Debridement; skin, full thickness (71 percent office, 6 percent inpatient).
11400	Excision, benign lesion, except skin tag (unless listed elsewhere), trunk, arms or legs; lesion diameter 0.5 cm or less (90 percent office, 1 percent inpatient)
11401	lesion diameter 0.6 to 1.0 cm (90 percent office, 1 percent inpatient)
11402	lesion diameter 1.1 to 2.0 cm (84 percent office, 2 percent inpatient)
11403	lesion diameter 2.1 to 3.0 cm (74 percent office, 4 percent inpatient).
11420	Excision, benign lesion, except skin tag (unless listed elsewhere), scalp, neck, hands, feet, genitalia; lesion diameter 0.5 cm or less (88 percent office, 1 percent inpatient)
11421	lesion diameter 0.6 to 1.0 cm (89 percent office, 1 percent inpatient)
11422	lesion diameter 1.1 to 2.0 cm (83 percent office, 2 percent inpatient)
11423	lesion diameter 2.1 to 3.0 cm (74 percent office, 3 percent inpatient).
11440	Excision, other benign lesion (unless listed elsewhere), face, ears, eyelids, nose, lips, mucous membrane; lesion diameter 0.5 cm or less (89 percent office, .95 percent inpatient).
11441	Excision, benign lesion, face, ears, eyelids, nose, lips, mucous membranes; lesion diameter 0.6 to 1.0 cm (88 percent office, 1 percent inpatient)
11442	lesion diameter, 1.1 to 2.0 cm (83 percent office, 1 percent inpatient)
11443	lesion diameter 2.1 to 3.0 cm (75 percent office, 2 percent inpatient).
11600	Excision, malignant lesion, trunk, arms, or legs; lesion diameter 0.5 cm or less (90 percent office, 1 percent inpatient)
11601	lesion diameter 0.6 to 1.0 cm (92 percent office, 1 percent inpatient)
11602	lesion diameter 1.1 to 2.0 cm (89 percent office, 1 percent inpatient)
11603	lesion diameter 2.1 to 3.0 cm (80 percent office, 3 percent inpatient).
11620	Excision, malignant lesion, scalp, neck, hands, feet, genitalia; lesion diameter 0.5 cm or less (89 percent office, 3 percent inpatient)
11621	lesion diameter 0.6 to 1.0 cm (91 percent office, 1 percent inpatient)
11622	lesion diameter 1.1 to 2.0 cm (87 percent office, 1 percent inpatient)
11623	lesion diameter 2.1 to 3.0 cm (74 percent office, 3 percent inpatient).
11640	Excision, malignant lesion, face, ears, eyelids, nose, lips; lesion diameter 0.5 cm or less (90 percent office, .96 percent inpatient).
11641	Excision, malignant lesion, face, ears, eyelids, nose, lips; lesion diameter 0.6 to 1.0 cm (90 percent office, 1 percent inpatient)
11642	lesion diameter 1.1 to 2.0 cm (82 percent office, 1 percent inpatient)
11643	lesion diameter 2.1 to 3.0 cm (70 percent office, 3 percent inpatient).
11750	Excision of nail and nail matrix, partial or complete (eg, ingrown or deformed nail) for permanent removal (88 percent office, 1 percent inpatient).
11752	Excision of nail and nail matrix, partial or complete (eg, ingrown or deformed nail) for permanent removal; with amputation of tuft of distal phalanx (71 percent office, 6 percent inpatient).
11760	Repair of nail bed (53 percent office, 3 percent inpatient).
11762	Reconstruction of nail bed with graft (65 percent office, 3 percent inpatient).
12051	Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 2.5 cm or less (56 percent office, 2 percent inpatient).
12052	Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 2.6 to 5.0 cm (3 percent inpatient).
12053	Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 5.1 to 7.5 cm (4 percent inpatient).

CPT code	Description
15820	Blepharoplasty, lower eyelid (5 percent inpatient).
15821	Blepharoplasty, lower eyelid; with extensive herniated fat pad (4 percent inpatient).
15822	Blepharoplasty, upper eyelid (3 percent inpatient).
15823	Blepharoplasty, upper eyelid; with excessive skin weighting down lid (2 percent inpatient).
15824	Rhytidectomy; forehead (10 percent inpatient).
21030	Excision of benign tumor or cyst of facial bone other than mandible (79 percent office, 9 percent inpatient).
21031	Excision of torus mandibularis (81 percent office, 7 percent inpatient).
21032	Excision of maxillary torus palatinus (76 percent office, 9 percent inpatient).
	Musculoskeletal System
28124	Partial excision (craterization, saucerization, or diaphysectomy) of bone (eg, for osteomyelitis or dorsal bossing), phalanx of toe (75 percent office, 6 percent inpatient).
28270	Capsulotomy for contracture; metatarsophalangeal joint, with or without tenorrhaphy, single, each joint (separate procedure) (76 percent office, 3 percent inpatient).
29848	Arthroscopy, wrist, surgical; with release of transverse carpal ligament (8 percent inpatient).
	Digestive System
41108	Biopsy of floor of mouth (76 percent office, 7 percent inpatient)
45330	Sigmoidoscopy, flexible fiberoptic, diagnostic (73 percent office, 10 percent inpatient).
	Urinary System
51792	Stimulus evoked response (eg, measurement of bulbocavernous reflex latency time) (74 percent office, 9 percent inpatient).
51795	Voiding pressure studies (VP); bladder voiding pressure, any technique (67 percent office, 8 percent inpatient).
51797	Voiding pressure studies (VP); intra-abdominal voiding pressure (AP) (rectal, gastric, intraperitoneal) (64 percent office, 11 percent inpatient).
	Male Genital System
54240	Penile plethysmography (85 percent office, 1 percent inpatient).
	Nervous System
62298	Injection of substance other than anesthetic, contrast, or neurolytic solutions, epidural, cervical or thoracic (separate procedure) (12 percent inpatient).
64402	Injection, anesthetic agent; facial nerve (4 percent inpatient).
64405	Injection, anesthetic agent; greater occipital nerve (62 percent office, 8 percent inpatient).
64408	Injection, anesthetic agent; vagus nerve (86 percent office, 11 percent inpatient).
64412	Injection, anesthetic agent; spinal accessory nerve (72 percent office, 10 percent inpatient).
64413	Injection, anesthetic agent; cervical plexus (72 percent office, 8 percent inpatient).
64418	Injection, anesthetic agent; suprascapular nerve (77 percent office, 2 percent inpatient).
64425	Injection, anesthetic agent; ilioinguinal, iliohypogastric nerves (13 percent inpatient).
64435	Injection, anesthetic agent; paracervical (uterine) nerve (86 percent office, 2 percent inpatient).
64440	Injection, anesthetic agent; paravertebral nerve (thoracic, lumbar, sacral, coccygeal), single vertebral level (80 percent office, 4 percent inpatient).
64441	Injection, anesthetic agent; paravertebral nerves, multiple levels (eg, regional block) (75 percent office, 5 percent inpatient).
64445	Injection, anesthetic agent; sciatic nerve (85 percent office, 3 percent inpatient).
64450	Injection, anesthetic agent; other peripheral nerve or branch (77 percent office, 2 percent inpatient).
64505	Injection, anesthetic agent; sphenopalatine ganglion (87 percent office, 3 percent inpatient).
64508	Injection, anesthetic agent; carotid sinus (separate procedure) (80 percent office, 12 percent inpatient).
64612	Destruction by neurolytic agent (chemodenervation of muscle endplate); muscles enervated by facial nerve (eg, for blepharoplasm, hemifacial spasm) (84 percent office, .91 percent inpatient).
64613	Destruction by neurolytic agent (chemodenervation of muscle endplate); cervical spinal muscles (eg, for spasmodic torticollis) (74 percent office, 1 percent inpatient).
	Eye and Ocular Adnexa
65772	Corneal relaxing for correction of surgically induced astigmatism (1 percent inpatient).
65775	Corneal wedge resection for correction of surgically induced astigmatism (3 percent inpatient).
65855	Trabeculoplasty by laser surgery, one or more sessions (defined treatment series) (60 percent office, 1 percent inpatient).
66761	Iridotomy/iridectomy by laser surgery (eg, for glaucoma) (one or more sessions) (58 percent office, 1 percent inpatient).
67145	Prophylaxis of retinal detachment (eg, retinal break, lattice degeneration) without drainage, one or more sessions; photocoagulation (laser or xenon arc) (73 percent office, 2 percent inpatient).
67210	Destruction of localized lesion of retina (eg, maculopathy, choroidopathy, small tumors), one or more sessions; photocoagulation (laser or xenon arc) (79 percent office, 1 percent inpatient).
67228	Destruction of extensive or progressive retinopathy (eg, diabetic retinopathy), one or more sessions; photocoagulation (laser or xenon arc) (75 percent office, 1 percent inpatient).
67345	Chemodenervation of extraocular muscle (85 percent office, 1 percent inpatient).
67900	Repair of brow ptosis (supraciliary, mid-forehead or coronal approach) (3 percent inpatient).
68115	Excision of lesion, conjunctiva; over 1 cm (3 percent inpatient).

CPT code	Description
	Auditory System
69433	Tympanoplasty (requiring insertion of ventilating tube), local or topic anesthesia (91 percent office, 1 percent inpatient).

2. Suggestions for Additions not Accepted for Reasons other than the 20/50 Criteria.

Note: For an explanation of why these suggestions were not accepted, see the written descriptions in section II.B.2. of this notice.

	INTEGUMENTARY SYSTEM
19240	Mastectomy, modified radical, including axillary lymph nodes, with or without pectoralis minor muscle, but excluding pectoralis major muscle (92 inpatient).
	DIGESTIVE SYSTEM
43030	Cricopharyngeal myotomy (79 percent inpatient).
43830	Gastrotomy, temporary (tube, rubber or plastic) (separate procedure) (90 percent inpatient).
49310	Laparoscopy, surgical; cholecystectomy (any method) (76 percent inpatient).
49311	Laparoscopy, surgical; cholecystectomy with cholangiography (74 percent inpatient).
	MALE GENITAL SYSTEM
54401	Insertion of penile prosthesis; inflatable (self-contained) (56 percent inpatient).
54405	Insertion of inflatable (multi-component) penile prosthesis, including placement of pump, cylinders, and/or reservoir (67 percent inpatient).
54407	Removal, repair, or replacement of inflatable (multi-component) penile prosthesis, including pump and/or reservoir and/or cylinders (68 percent inpatient).

Addendum E—Procedures Intended for Deletion of ASC Coverage: These Are Either Recent Additions to the ASC List (Added on or After January 31, 1992), or Have Low-Volume ASC Performance, or Are in Both of These Categories

Note: We will retain these procedures on the ASC list at present. However, we will continue to review these codes, and we intend to propose deletion of them in our next update (in 2 years) should failure to meet our criteria persist.

CPT code	Description
	Integumentary System
11444	Excision, other benign lesion (unless listed elsewhere), face, ears, eyelids, nose, lips, mucous membrane; lesion diameter 3.1 to 4.0 cm (68 percent office, 3 percent inpatient).
11624	Excision, malignant lesion, scalp, neck, hands, feet, genitalia; lesion diameter 3.1 cm to 4.0 cm (60 percent office, 8 percent inpatient).
11644	Excision, malignant lesion, face, ears, eyelids, nose, lips; lesion diameter 3.1 to 4.0 cm (59 percent office, 5 percent inpatient).
12021	Treatment of superficial wound dehiscence; with packing (57 percent office).
13100	Repair, complex, trunk; 1.1 cm to 2.5 cm (72 percent office, 3 percent inpatient).
13120	Repair, complex, scalp, arms, and/or legs; 1.1 cm to 2.5 cm (6 percent inpatient, 29 percent combined).
13131	Repair, complex, forehead, cheeks, chin, mouth, neck, axillae, genitalia, hands and/or feet; 1.1 cm to 2.5 cm (4 percent inpatient, 28 percent combined).
13150	Repair, complex, eyelids, nose, ears and/or lips; 1.0 cm or less (61 percent office, 3 percent inpatient).
13151	1.1 cm to 2.5 cm (62 percent office, 4 percent inpatient).
14000	Adjacent tissue transfer or rearrangement, trunk; defect 10 sq cm or less (57 percent office).
14040	Adjacent tissue transfer or rearrangement, forehead, cheeks, chin, mouth, neck, axillae, genitalia, hands and/or feet; defect 10 sq cm or less (59 percent office, 6 percent inpatient).
19100	Biopsy of breast; needle (separate procedure) (67 percent office, 8 percent inpatient).
	Musculoskeletal System
20670	Removal of implant; superficial, (eg, buried wire, pin or rod) (separate procedure) (63 percent office).
21026	Excision of bone (eg, for osteomyelitis or bone abscess); facial bone(s) (65 percent office).
21040	Excision of benign cyst or tumor of mandible; simple (80 percent office).
21041	Excision of benign cyst or tumor of mandible; complex (58.7 percent office).
21100	Application of halo type appliance for maxillofacial fixation, includes removal (separate procedure) (71 percent office).
21208	Osteoplasty, facial bones; augmentation (autograft, allograft, or prosthetic implant) (61 percent office).
21246	Reconstruction of mandible or maxilla, subperiosteal implant; complete (52 percent office, 45 percent combined).
21248	Reconstruction of mandible or maxilla, endosteal implant (eg, blade, cylinder); partial (74 percent office).
21249	Reconstruction of mandible or maxilla, endosteal implant (eg, blade, cylinder); complete (62 percent office).
21440	Closed treatment of mandibular or maxillary alveolar ridge fracture (separate procedure) (50 percent office, 42 percent combined).
21452	Percutaneous treatment of mandibular fracture, with external fixation (52 percent office, 36 percent combined).
21610	Costotransversectomy (separate procedure) (55 percent office).
21700	Division of scalenus anticus; without resection of cervical rib (55 percent office).
21810	Treatment of rib fracture requiring external fixation ("flail chest") (55 percent office).
21920	Biopsy, soft tissue of back or flank; superficial (82 percent office).

CPT code	Description
23065	Biopsy, soft tissue of shoulder area; superficial (70 percent office).
23066	deep (61 percent office, 15 percent inpatient).
23330	Removal of foreign body, shoulder; subcutaneous (59 percent office).
23620	Closed treatment of greater tuberosity fracture; without manipulation (58 percent office).
24362	Arthroplasty, elbow; with implant and fascia lata ligament reconstruction (89 percent office).
25065	Biopsy, soft tissue of forearm and/or wrist; superficial (77 percent office).
25375	Multiple osteotomies, with realignment on intramedullary rod (Sofield type procedure); radius AND ulna (60 percent office, 40 percent inpatient).
25624	Closed treatment of carpal scaphoid (navicular) fracture; with manipulation (63 percent office).
26415	Extensor tendon excision, implantation of plastic tube or rod for delayed extensor tendon graft, hand or finger (90 percent office, 3 percent inpatient).
26558	Toe to finger transfer; first stage; each delay (0 percent inpatient).
26559	second stage (0 percent inpatient).
26580	Repair cleft hand (75 percent office, 12 percent inpatient).
26605	Closed treatment of metacarpal fracture, single; with manipulation, each bone (56 percent office).
27040	Biopsy, soft tissue of pelvis and hip area; superficial (79 percent office).
27105	Transfer paraspinal muscle to hip (includes fascial or tendon extension graft) (80 percent office).
27520	Closed treatment of patellar fracture, without manipulation (53 percent office).
27613	Biopsy, soft tissue of leg or ankle area; superficial (69 percent office).
27780	Closed treatment of proximal fibula or shaft fracture; without manipulation (53 percent office).
27786	Closed treatment of distal fibular fracture (lateral malleolus); without manipulation (58 percent office, 8 percent inpatient).
28008	Fasciotomy, foot and/or toe (61 percent office).
28043	Excision, tumor, foot; subcutaneous (57 percent office, 7 percent inpatient).
28225	Tenolysis, extensor, foot; single (54 percent office, 7 percent inpatient).
28261	Capsulotomy, midfoot; with tendon lengthening (65 percent office).
28400	Closed treatment of calcaneal fracture; without manipulation (58 percent office).
28545	Closed treatment of tarsal bone dislocation, other than talotarsal; requiring anesthesia (62 percent office).
28665	Closed treatment of interphalangeal joint dislocation; requiring anesthesia (65 percent office, 6 percent inpatient).
	Respiratory System
30124	Excision dermoid cyst, nose; simple, skin subcutaneous (69 percent office, 4 percent inpatient).
30580	Repair fistula; oromaxillary (combine with 31030 if antrotomy is included) (66 percent office).
30801	Cauterization and/or ablation, mucosa of turbinates, unilateral or bilateral, any method, (separate procedure); superficial (70 percent office, 4 percent inpatient).
31270	Sphenoid endoscopy, diagnostic, with or without biopsy (separate procedure) (63 percent office).
31525	Laryngoscopy direct, with or without tracheoscopy; diagnostic, except newborn (52 percent office).
31585	Treatment of closed laryngeal fracture; without manipulation (60 percent office, 20 percent inpatient).
	Hemic and Lympatic Systems
38300	Drainage of lymph node abscess or lymphadenitis; simple (63 percent office).
38505	Biopsy or excision of lymph node(s); by needle, superficial (eg, cervical, inguinal, axillary) (56 percent office).
	Digestive System
40801	Drainage of abscess, cyst, hematoma, vestibule of mouth; complicated (68 percent office).
40805	Removal of embedded foreign body, vestibule of mouth; complicated (71 percent office).
40806	Incision of labial frenum (frenotomy) (86 percent office).
40814	Excision of mucosa and submucosa, vestibule of mouth; with complex repair (74 percent office).
40816	Excision of lesion of mucosa and submucosa, vestibule of mouth; complex, with excision of underlying muscle (53 percent office).
40819	Excision of frenum, labial or buccal (frenumectomy, frenulectomy, frenectomy) (76 percent office).
40820	Destruction of lesion or scar of vestibule of mouth by physical methods (eg, laser, thermal, cryo, chemical) (65 percent office).
40840	Vestibuloplasty; anterior (61 percent office).
40843	Vestibuloplasty; posterior, bilateral (81 percent office).
41000	Intraoral incision and drainage of abscess, cyst, or hematoma of tongue or floor of mouth; lingual (76 percent office).
41005	sublingual, superficial (62 percent office).
41008	submandibular space (61 percent office).
41100	Biopsy of tongue; anterior two-thirds (81 percent office, 5 percent inpatient).
41105	Biopsy of tongue; posterior one-third (58 percent office).
41110	Excision of lesion of tongue without closure (62 percent office, 7 percent inpatient).
41112	Excision of lesion of tongue with closure; anterior two-thirds (64 percent office, 7 percent inpatient, 42 percent combined).
41115	Excision of lingual frenum (frenectomy) (75 percent office).
41800	Drainage of abscess, cyst, hematoma from dentoalveolar structures (73 percent office).
41805	Removal of embedded foreign body from dentoalveolar structures; soft tissues (88 percent office).
41806	bone (69 percent office).
41827	Excision of lesion or tumor (except listed above), dentoalveolar structures; with complex repair (62 percent office).
42000	Drainage of abscess of palate, uvula (84 percent office).
42104	Excision, lesion of palate, uvula; without closure (70 percent office).
42106	with simple primary closure (72 percent office, 6 percent inpatient).
42160	Destruction of lesion, palate or uvula (thermal, cryo or chemical) (57 percent office).
42300	Drainage of abscess; parotid, simple (67 percent office).
42310	Drainage of abscess; submaxillary or sublingual, intraoral (72 percent office).
42335	Sialolithotomy; submandibular (submaxillary), complicated, intraoral (60 percent office).

CPT code	Description
42409	Marsupialization of sublingual salivary cyst (ranula) (55.1 percent office).
42510	Parotid duct diversion, bilateral (Wilke type procedure); with ligation of both submandibular (Wharton's) ducts (84 percent office).
42700	Incision and drainage abscess; peritonsillar (59 percent office).
45305	Proctosigmoidoscopy; with biopsy (58 percent office).
45310	with removal of polyp or papilloma (56 percent office).
46030	Removal of anal seton, other marker (54 percent office).
46050	Incision and drainage, perianal abscess, superficial (63 percent office).
46220	Papillectomy or excision of single tag, anus (separate procedure) (53 percent office, 12 percent inpatient).
46937	Cryosurgery of rectal tumor; benign (74 percent office).
	Urinary System
50553	Renal endoscopy through established nephrostomy or pyelostomy, with or without irrigation, instillation, or ureteropyelography, exclusive of radiologic service; with ureteral catheterization, with or without dilation of ureter (53 percent office).
51710	Change of cystostomy tube; complicated (56 percent office).
51772	Urethral pressure profile studies (UPP) (urethral closure pressure profile), any technique (60 percent office).
52285	Cystourethroscopy for treatment of the female urethral syndrome with any or all of the following: urethral meatotomy, urethral dilation, internal urethrotomy, lysis of urethrovaginal septal fibrosis, lateral incisions of the bladder neck, and fulguration of polyp(s) of urethra, bladder neck, and/or trigone (61 percent office).
53420	Urethroplasty, two-stage reconstruction or repair of prostatic or membraneous urethra; first stage (69 percent office).
	Female Genital System
57180	Introduction of any hemostatic agent or pack for spontaneous or traumatic nonobstetrical vaginal hemorrhage (separate procedure) (54 percent office).
57800	Dilation of cervical canal, instrumental (separate procedure) (80 percent office).
	Endocrine System
60000	Incision and drainage of thyroglossal cyst, infected (69 percent office, 8 percent inpatient).
	Nervous System
61070	Puncture of shunt tubing or reservoir for aspiration or injection procedure (64 percent office).
64420	Injection, anesthetic agent; intercostal nerve, single (56 percent office).
64736	Transection or avulsion of; mental nerve (68 percent office).
64876	Suture of nerve; requiring shortening of bone of extremity (list separately in addition to code for nerve suture) (0 percent inpatient).
64907	Nerve pedicle transfer; second stage (0 percent inpatient).
	Eye and Ocular Adnexa
65270	Repair of laceration; conjunctiva, with or without nonperforating laceration sclera, direct closure (53 percent office).
65272	Repair of laceration; conjunctiva, by mobilization and rearrangement, without hospitalization (57 percent office, 2 percent inpatient).
65275	cornea, nonperforating, with or without removal foreign body (73 percent office, 3 percent inpatient).
65805	Paracentesis of anterior chamber of eye (separate procedure); with therapeutic release of aqueous (59 percent office).
67031	Severing of vitreous strands, vitreous face adhesions, sheets, membranes or opacities, laser surgery (one or more stages) (61 percent office, 1 percent inpatient).
67141	Prophylaxis of retinal detachment (eg, retinal break, lattice degeneration) without drainage, one or more sessions, cryotherapy, diathermy (59 percent office).
68340	Repair of symblepharon; division of symblepharon with or without insertion of conformer or contact lens (46 percent office, 7 percent inpatient, 51 percent combined).
	Auditory System
69710	Implantation or replacement of electromagnetic bone conduction hearing device in temporal bone (100 percent office, 0 percent inpatient).

[FR Doc. 93-30449 Filed 12-13-93; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-93-1047; FR-3610-D-01]

Delegation of Concurrent Authority to the Deputy Assistant Secretary for Operations, Office of Community Planning and Development

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of concurrent authority.

SUMMARY: The Secretary of Housing and Urban Development is delegating to the Deputy Assistant Secretary for Operations, Office of Community Planning and Development, concurrently with the Assistant Secretary for Community Planning and Development, the power and authority delegated to the Assistant Secretary for Community Planning and Development, except for the authority to waive regulations.

EFFECTIVE DATE: December 1, 1993.

FOR FURTHER INFORMATION CONTACT: John C. Barnett, Director, Organization and Management Services Division, Office of Management, Office of Community Planning and Development, Department of Housing and Urban Development, Room 7230, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-2087, TDD (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: In the delegation of authority issued in today's **Federal Register**, the Secretary of Housing and Urban Development is delegating to the Deputy Assistant Secretary for Operations, Office of Community Planning and Development, concurrently with the Assistant Secretary for Community Planning and Development, all the power and authority delegated to the Assistant Secretary for Community Planning and Development, except for the authority to waive regulations.

Accordingly, the Secretary of Housing and Urban Development delegates as follows:

Section A. Authority Delegated

The Deputy Assistant Secretary for Operations, Office of Community Planning and Development, is hereby authorized, concurrently with the Assistant Secretary for Community Planning and Development, to exercise all the power and authority delegated to the Assistant Secretary for Community Planning and Development.

Section B. Authority Excepted

The authority delegated to the Deputy Assistant Secretary for Operations, Office of Community Planning and Development, does not include the authority to waive regulations.

Authority: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: December 1, 1993.

Henry G. Cisneros,

Secretary of Housing and Urban Development.

[FR Doc. 93-30456 Filed 12-13-93; 8:45 am]

BILLING CODE 4210-32-P

Office of the Secretary, Office of Lead-Based Paint Abatement and Poisoning Prevention

[Docket No. N-93-3447; FR-3263-N-03]

NOFA for Lead-Based Paint Abatement in Low- and Moderate-Income Private Housing: Announcement of Funding Awards

AGENCY: Office of the Secretary—Office of Lead-Based Paint Abatement and Poisoning Prevention, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the NOFA for Lead-Based Paint Abatement in Low- and Moderate-Income Private Housing. The announcement contains the names and addresses of the award winners and the amounts of awards.

FOR FURTHER INFORMATION CONTACT: Ellis G. Goldman, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-1822, ext. 112. The TDD number for the hearing impaired is (202) 708-9300 (not a toll-free number), or 1-800-877-8339.

SUPPLEMENTARY INFORMATION: The purpose of the competition was to award grant funding for approximately $47,700,000 for the grant program for lead-based paint abatement in low- and moderate-income private housing.

The 1993 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** notice published on Monday, July 6, 1992, (57 FR 29774). Applications were scored and selected for funding on the basis of selection criteria contained in that Notice.

A total of $20,972,950 million has been awarded to the final five grantees. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the Department is publishing the names, addresses, and amounts of those awards as follows:

NOFA for Lead-Based Paint Abatement in Low- and Moderate-Income Private Housing

Alameda County, California, Dept. of Planning, 224 W. Winton Avenue, Room 108, Hayward, VA 94544 ..... $4,410,296

Boston, Massachusetts, Public Facilities Commission, Suffolk County, 26 Court Street, 6th Floor, Boston, MA 02108 ..... $3,525,005

State of Minnesota, Minnesota State Housing Finance Agency, 400 Sibley Street, Suite 300, St. Paul, MN 55101 ..... $2,787,649

State of New Jersey, Department of Community Affairs, CN-051, Trenton, NJ 08625-0051 ..... $4,250,000

State of Wisconsin, Division of Health, PO Box 30, 1 West Wilson Street, Madison, WI 53701-0309 ..... $6,000,000

Dated: December 3, 1993.

Arthur S. Newburg,

Director, Office of Lead-Based Paint Abatement and Poisoning Prevention.

[FR Doc. 93-30458 Filed 12-13-93; 8:45 am]

BILLING CODE 4210-32-P

Office of Administration

[Docket No. N-93-3687]

Notices of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Joseph Lackey, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed

forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information:

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submissions will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 2, 1993.

John T. Murphy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Public Housing Agency Application, Project Proposal and Legal Authority for Public Housing Development

Office: Public and Indian Housing

Description of the Need for the Information and its Proposed Use: The forms will provide the Department with sufficient information to determine relative funding priorities for localities, PHA eligibility to participate in the program, and whether project proposals meet the program requirements.

Form Number: HUD–52470, 52471, 52472, 9009, 52483A, 52651A, 52485, 51971–I, and 52482

Respondents: State or Local Governments

Frequency of Submission: Recordkeeping and Annually

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	382		(1)		(1)		5,545
Recordkeeping	382		1		1		382

[1] Varies.

Total Estimated Burden Hours: 5,927

Status: Reinstatement

Contact: Raymond W. Hamilton, HUD, (202) 708–1938; Joseph F. Lackey, Jr., OMB (202) 395–7316.

Dated: December 7, 1993.

Proposal: Procedures for Obtaining Certificates of Insurance for Development and Modernization Projects

Office: Public and Indian Housing

Description of the Need for the Information and Its Proposed Use: The Department requires public housing agencies to obtain certificates of insurance from contractors and subcontractors involved in construction work for development of a new public housing project or modernization of an existing project. These certificates are maintained on file during the course of the project.

Form Number: None

Respondents: State or Local Governments and Non-Profit Institutions

Frequency of Submission: Annually and Recordkeeping

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Certificates	3,240		12		.5		19,440
Recordkeeping	3,240		1		6		19,440

Total Estimated Burden Hours: 38,880

Status: Reinstatement

Contact: William C. Thorson, HUD, (202) 708–4703; Joseph F. Lackey, Jr., OMB, (202) 395–7316

Dated: December 2, 1993.

Proposal: Owner/Tenant Certification for Multifamily Housing Programs

Office: Housing

Description of the Need for the Information and Its Proposed Use: The information is needed to determine tenant eligibility, to compute tenant annual rents for those tenants occupying HUD subsidized housing units, and to collect information on citizenship/alien status to effect program utilization and need.

Form Number: HUD–50059 and HUD–50059d/f/g

Respondents: Individuals or Household, Businesses or Other For-Profit, Small Businesses or Organizations, Federal Agencies or Employees, and Non-Profit Institutions

Frequency of Submission: Annually

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Annual Reporting	2,171,256		1		.92		1,997,556

Total Estimated Burden Hours: 1,997,556
Status: Revision
Contact: James J. Tahash, HUD, (202) 708–3944; Joseph F. Lackey, Jr., OMB, (202) 395–7316

Dated: November 8, 1993.

Proposal: Initial/Annual Escrow Account Settlement (FR–3255)
Office: Housing
Description of the Need for the Information and Its Proposed Use: The Real Estate Settlement Procedures Act requires mortgage originators to submit an initial escrow account statement describing payments and disbursements to the account. Mortgage servicers are required to submit annual escrow account statements describing the previous year's activity and certifying that the account was operated legally.
Form Number: None
Respondents: Individuals or Households, Businesses or Other For-Profit, and Small Businesses or Organizations
Frequency of Submission: Recordkeeping, On Occasion, and Annually
Reporting Burden:

	Number of respondents	×	Frequency of Response	×	Hours per response	=	Burden hours
Information Collection	2,000		19,775		.1176		4,649,250
Recordkeeping	2,000		1		329.6		659,167

Total Estimated Burden Hours: 5,308,417
Status: New
Contact: William Reid, HUD, (202) 708–0421, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: November 8, 1993.

Proposal: Title II Approval of Mortgagees/Eligibility Requirements (FR–2854)
Office: Housing
Description of the Need for the Information and Its Proposed Use: Participating mortgagees in HUD's mortgage insurance programs are required to obtain prior approval. The information collection requires the modifications for the mortgages to quality for the insured loan programs.
Form Number: HUD–92001, 92001A, 92001B, 92001C, 92001D, and 92001E
Respondents: Businesses or Other For-Profit
Frequency of Submission: On Occasion and Recordkeeping
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	1,716		1		(1)		1,000
Recordkeeping	8,600		1		.33		2,825

[1] Varies.

Total Estimated Burden Hours: 3,825
Status: Reinstatement
Contact: David S. Callaway, HUD, (202) 708–1824, Joseph F. Lackey, Jr., (202) 395–7316.

Dated: November 5, 1993

Proposal: Prepayment of a HUD-Insured Mortgage by an Owner of Low-Income Housing
Office: Housing
Description of the Need for the Information and Its Proposed Use: The information collection is necessary for the prepayment of HUD-insured mortgages by an owner of low-income housing. The provisions ensure that affordable multifamily housing units are preserved to the maximum extent practicable for lower income families. The information collection is also used to minimize the displacement of lower income families while public and private sectors find long term remedies to the potential loss of affordable housing.
Form Number: None
Respondents: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, and Federal Agencies or Employees
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collections	51		3		(1)		997

[1] Varies.

Total Estimated Burden Hours: 997
Status: Extension
Contact: Besty Keeler, HUD, (202) 708–1142, Joseph F. Lackey, Jr., OMB (202) 395–7316.

Dated: November 17, 1993.

[FR Doc. 93–30451 Filed 12–13–93; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–93–3538; FR–3370–N–03]

Housing Counseling—Disaster Relief Housing Counseling: Announcement of Funding Awards for FY 1993

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by HUD under the Notice of Funding Availability, published on January 21, 1993, which announced the availability of funds for disaster relief housing counseling. The announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Thomas Miles, Program Advisor, Single Family Servicing Division, Department of Housing and Urban Development, room 9178, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–1672 or (202) 708–4594 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 106 of the Housing and Urban Development Act of 1968 (section 106) authorizes HUD to provide a program of housing counseling services to designated homeowners and tenants. Under the section 106 housing counseling program, HUD contracts with public or private organizations to provide the housing counseling services authorized by section 106. These organizations are referred to as HUD-approved housing counseling agencies. When the Congress makes funds available to assist the housing counseling program, HUD announces the availability of these funds, and invites applications from eligible HUD-approved counseling agencies, through a notice of funding availability (NOFA) published in the **Federal Register**.

In a Notice of Funding Availability (NOFA) published on January 21, 1993 (58 FR 5556), HUD announced that $500,000 in funding had been made available by the Dire Emergency Supplementary Appropriations Act of 1992 (Pub. L. 102–386, approved September 23, 1992) for eligible HUD-approved housing counseling agencies to provide emergency housing counseling to homebuyers, homeowners, and renters living in areas adversely affected by Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and other natural disasters as declared by the President of the United States.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing in this notice the names and addresses of the HUD-approved agencies awarded funds under the January 21, 1993 NOFA, and the amount of funds awarded to each agency. This information is provided in Appendix A to this document.

Dated: December 2, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

Appendix A—Disaster Relief Housing Counseling Grants, Florida, Louisiana, and Hawaii

Florida

Consumer Credit Counseling of SW Florida, 2500 Airport Rd., South, Suite 210, Naples, FL 33407 ..... $12,000
Consumer Credit Counseling of South Florida, 13014 N.E. 8th Ave., North Miami, FL 33161 ..... $82,560
West Perrine Community Development Corporation, Miami, FL $14,405

Louisiana

St. Landry Community Action Agency, P.O. Drawer 1510, Opelousas, LA 70570 ..... $20,000
Desire Community Housing Corp., 3251 St. Ferdinand St., New Orleans, LA 70126 ..... $75,000
Central City Housing Development Corp., 2020 Jackson Ave., New Orleans, LA 70113 ..... $29,815
St. Mary Community Action Agency, 1407 Barrow Street, Franklin, LA 70538 ..... $17,660
S.M.I.L.E. Community Action Agency, 501 St. John St., Lafayette, LA 70501 ..... $40,000
St. James Parish Council/Dept. of Human Resources, P.O. Box 87, Convent, LA 70723 ..... $4,000

Hawaii

Hale Mahaolu, 200 Nina Ave., Kahului, HI 96732 ..... $8,765
Hawaii Credit Counseling Services, 2153 North King Street, #306, Honolulu, HI 96919 ..... $45,500
Total $349,705

[FR Doc. 93–30453 Filed 12–13–93; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. N–93–3554; FR–3355–N–02]

Housing Counseling Program: Announcement of Funding Awards for FY 1993

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding award decisions made by the Department under its Housing Counseling Program for Fiscal Year 1993. The announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Thomas Miles, Program Advisor, Single Family Servicing Division, Department of Housing and Urban Development, room 9178, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–1672 or (202) 708–4594 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 106 of the Housing and Urban Development Act of 1968 (section 106) authorizes HUD to provide a program of housing counseling services to designated homeowners and tenants. Under the section 106 housing counseling program, HUD contracts with public or private organizations to provide the housing counseling services authorized by section 106. These organizations are referred to as HUD-approved housing counseling agencies. When the Congress makes funds available to assist the housing counseling program, HUD announces the availability of these funds, and invites applications from eligible HUD-approved counseling agencies, through

a notice of funding availability (NOFA) published in the **Federal Register**.

In a Notice of Funding Availability (NOFA) published on April 16, 1993 (58 FR 21064), HUD announced that a total amount of $6,025,000 was appropriated for the section 106 housing counseling program by the HUD Appropriations Act of 1993 (Pub. L. 102–389, approved October 6, 1992).

Of the $6,025,000 available for housing counseling activities, the April 16, 1993 NOFA advised the public that HUD would use: (1) $500,000 to assist public housing and section 8 assisted tenants move out of poverty-stricken areas in accordance with section 162(a) of the Housing and Community Development Act of 1992; (2) $125,000 to help resolve a litigation matter in Boston, Massachusetts that involves housing counseling; (3) $200,000 to continue operation of the HUD toll-free telephone number (1–800–569–4287), which directs callers to the HUD-approved housing counseling agencies in their areas; (4) $200,000 to provide training on HUD's Home Equity Conversion Mortgage Program to HUD-approved housing counseling agencies; and (5) $365,000 to continue funding of the prepurchase and foreclosure prevention counseling demonstration authorized by section 106(d) and implemented in Fiscal Year 1992.[1]

After deduction of these amounts, HUD announced the availability of up to $4,635,000 in FY 1993 funds for the counseling activities authorized by section 106. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing (by Region) the names, addresses of the HUD-approved agencies awarded funds under the FY 1993 Housing Counseling NOFA, and the amount of funds awarded to each agency. This information is provided in Appendix A to this document. This notice also announces the amount of funds awarded to the agencies participating in the prepurchase and foreclosure prevention counseling demonstration. This information is provided in Appendix B to this document.

[1] This demonstration program was authorized by section 577(c) of the National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990). As provided by the statute, the demonstration is conducted in three target areas, which cannot be located in less than two separate metropolitan areas. The target areas selected for the demonstration were Decatur, GA and Chicago, IL.

Dated: December 2, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

Appendix A—Housing Counseling Agencies Receiving Grants For Fiscal Year 1993

Region	Total grant amount	Number of grants
I	$62,438	9
II	350,250	43
III	493,605	65
IV	1,187,914	94
V	799,235	60
VI	675,564	41
VII	130,221	21
VIII	189,411	22
IX	661,824	28
X	84,519	13
Totals	4,634,981	396

Region 1

Central Maine Agency On Aging, Inc., P.O. Box 248, Gardiner, ME 04345	$2,000
Housing Allowance Project, Inc., 322 Main Street, Springfield, MA 01105	17,000
Quincy Community Action Programs, Inc. 1509 Hancock St., Quincy, MA 02169	7,000
Urban League of Greater Hartford, 1 State Street, Hartford, CT 06112	7,000
Consumer Credit Counseling Services of Conn., 151 New Park Avenue, Hartford, CT 06106	6,000
Blackstone Valley Comm. Action Program, 129 School Street, Pawtucket, RI 02860	5,438
Coastal Economic Development Corp., 6 Oak Grove Ave., Bath, ME 04530	2,000
Champlain Office of Opportunity, 191 North Street, Burlington, VT 05401	7,000
Consumer Credit Counseling Svc. of E. Mass., 8 Winter St., Suite 900, Boston, MA 02109	6,000
	62,438

Region 2

Housing Assistance Center, 1233 Main Street, Buffalo, NY 14209	18,215
Housing Council on Monroe County, 242 Andrews Street, Rochester, NY 14604	18,215
Middlesex County Econ. Oppor. Corp., 841 Georges Road, 2nd Floor, N Brunswick, NJ 08902	8,750
Catholic Charities, Diocese of Metuchen, 540–550 Route 22 East, Bridgewater, NJ 08807	5,000
Urban League of Union County, 272 North Broad St. Elizabeth, NJ 07207	5,000
Check-Mate, 550 Cookman Ave., Asbury Park NJ 07712	11,000
Urban League of Essex County, 3 Williams St., Suite 300, Newark, NJ 07102	18,216
Paterson Task Force, 155 Ellison Street, Paterson, NJ 07505	15,000
The Home Partnership, 450 7th Street, Hoboken, NJ 07030	18,216
Cayuga County Homesite Development, 60 Clark Street, Auburn, NY 13021	5,000
United Tenants of Albany, 33 Clinton Ave., Albany, NY 12207	6,125
Housing Assistance Program of Essex County, Church Street, Elizabeth, NY 12932	6,125
Metro-Interfaith Services, 21 New Street, Binghamton, NY 13903	18,215
Consumer Credit Couns. Serv., 120 E. Washington St., 1006 Univ. Bldg., Syracuse, NY 13202	8,750
Better Neighborhoods, Inc., 986 Albany St., Schnectady, NY 12307	18,215
Troy Rehabilitation and Improvement Program, 415 River St., 3rd Floor, Troy, NY 12180	5,000
Cornell Cooperative Extension, 50 West High Street, Ballston Spa, NY 12020	5,000
Long Island Housing Services, 1747–42A Veterans Memorial Highway, Islandia, NY 11722	17,215
Family Service League of Suffolk Cnty., 642 New York Ave., Huntington, NY 11743	5,000
Family Service Association of Nassau County, 336 Fulton Ave., Hempstead, NY 11550	10,000
Jersey Counseling and Development, 1840 South Broadway, Camden, NJ 08104	18,215
Atlantic Human Resources, 10 South Tennessee Ave., Atlantic City, NJ 08401	4,997
Albany County Rural Housing Alliance, 34 South Main St., Voorheesville, NY 12186	6,300
Association for Neighborhood Rehab., 201 State St., Ogdenburg, NY 13669	5,000
East Patchogue Alliance, 1731 Montauk Highway, Bellport, NY 11713	1,000
Black River Housing Council, 216 Washington St., Watertown, NY 13601	1,000
Catskill Mountain Housing Development Corp., P.O. Box 473, Catskill, NY 12414	5,000
Coalition for People's Rights, 184 Liberty St., Newburgh, NY 12550	4,970
Cortland Housing Assistance Council, 4 Lincoln Ave., Suite 203, Cortland, NY 13045	1,000
Enterprise Community Development Housing, 777 Bergen Ave., Suite 208, Jersey City, NJ 07304	1,000
Lewis County Opportunities, P.O. Box 111, New Bremen, NY 13367	7,000
Margaret Community Corp., 1920 New Haven Avenue, Far Rockaway, NY 11691	1,000

Monmouth County Board of Social Services, Freehold, NJ 07728	18,216
Neighborhood Housing Services, 121 West 27th St., Room 404, New York, NY	5,000
NE Hawley Development Assoc., 101 Gertrude St., Syracuse, NY 13203	1,000
North Fork Housing Alliance, 110 South Street, Greenport NY 11944	5,000
Putnam County Housing Corp., 110 Old Route 6, Bldg. 2, Carmel, NY 10512	5,000
Rural Sullivan County Housing Opportunities, 375 Broadway, Monticello, NY 12701	5,000
Somerset County, Office of Aging, 614 1st Avenue, Raritan, NJ 08869	1,000
Suffolk County, Dept. for Aging 395 Oser Avenue, Hauppage, NY 11788	5,000
Urban League for Bergen County, 106 West Palisade Ave., Englewood, NJ 07631	12,545
Urban League of Onondaga County, 324 University Dr., Suite 301, Syracuse, NY 13210	8,750
Westchester Residential Opportunities, 470 Mamaroneck Ave., White Plains, NY 10605	5,000
	350,250

Region 3

Consumer Credit Counseling Service of Western PA, 309 Smithfield St., Pittsburgh, PA 15237	21,000
Warren-Forest County's Economic Opportunity, P.O. Box 547, Warren, PA 16365	4,375
Elder-ado, Inc., 320 Brownsville Road, Pittsburgh, PA 15210	3,500
Housing Council of York, 116 N. George Street, York, PA 17401	15,750
Housing Opportunities, Inc., 133 7th Avenue, McKeesport, PA 15134	15,750
Commission on Economic Opportunity, 211-213 S. Main Street, Wilkes-Barre, PA 18701	5,250
Community Resources for Independence, 2222 Filmore Ave., Erie, PA 16506	3,500
Garfield Jubilee Association, 5138 Penn Ave., Pittsburgh, PA 15224	3,500
Berks Community Action Program, 227-229 N. 5th Street, Reading, PA 19601	5,250
Philadelphia Council for Commun. Advan., 100 N. 17th St., Suite 600, Philadelphia, PA 19102	10,500
Fayette County Community Action Agency, 137 N. Beeson Ave., Uniontown, PA 15401	6,125
Consumer Credit Counseling Services, 3671 Crescent Court E., Whitehall, PA 18052	5,250
Booker T. Washington Center, 1720 Holland St., Erie, PA 16503	4,375
Northwest Counseling Service, Inc., 5601 N. Broad Street, Philadelphia, PA 19141	26,250
Mercer County Community Action Agency, 309 Ohio Street, Sharon, PA 16146	3,500
Tenant's Action Group of Philadelphia, 21 South 12th Street, Philadelphia, PA 19107	4,375
Allied Human Services Association, Inc., 33-39 S. Jefferson St., New Castle, PA	3,500
Shenango Valley Urban League, Inc., 39 Chestnut St., Sharon, PA 16146	5,250
Family Service-Upper Ohio Valley, 51 11th Street, Wheeling, WV 26003	8,750
Consumer Credit Counseling Service of Bluefield, P.O. Box 6282, Bluefield, WV 24701	5,250
Community Assistance Network, 7701 Dunmanway, Baltimore, MD 21222	8,750
Total Action Against Poverty in Roanoke Valley, P.O. Box 2868, Roanoke, VA 24001	7,000
Dorchester Community Development Corporation, 435 High Street, Cambridge, MD 21613	4,375
Consumer Credit Couns. Serv./ Mid Ohio Valley, 2715 Murdoch Ave. B-4, Parkersburg, WV 26101	12,250
Consumer Credit Couns. Serv./ Kanawha Valley, 8 Capitol St., Suite 200, Charleston, WV 25301	8,750
Monticello Area Community Action Agency, 215 East High St., Charlottesville, VA 22901	$5,250
Shore Up, Inc., 520 Snow Hill Road, Salisbury, MD 21803	5,250
Sussex County Community Action Agency, 308 N. Railroad Ave., Georgetown, DE 19947	5,250
Neighborhood House, 601 New Castle Ave., Wilmington, DE 19801	5,250
Harford County Housing Authority, 15 S. Main Street, Suite 106, Bel Air, MD 21014	7,000
Near Northeast Community Improvement Corp., 1326 Florida Ave., NE, Washington, DC 20002	6,125
Housing Counseling Services, 2430 Ontario Road, NW, Washington, DC 20009	5,250
Criss-Cross, Inc., 115 S. 4th Street, Suite 305, Clarksburg, WV 26302	5,810
Richmond Housing Opportunities Made Equal, 1218 W. Cary Street, Richmond, VA 23220	28,000
Howard County, Housing and Community Devel., 10650 Hickory Ridge Rd., Columbia, MD 21044	4,375
CCCS of Southern West Virginia, Pinecrest Hospital, Room D217, Beckley, WV 25802	4,375
Far SE Community Org., 3100 Martin Luther King Jr. Ave., SE, #205, Washington, DC 20032	6,125
Marshall Heights Community Devel. Org., 3917 Minnesota Ave., SE, Washington, DC 20019	7,000
St. Ambrose Housing Aid Center, 321 E. 25th St., Baltimore, MD 21218	21,000
Urban League of Greater Richmond, 101 East Clay Street, Richmond, VA 23219	12,250
Housing Opportunities Commission, 10400 Detrick Ave., Kensington, MD 20895	7,000
Prince William Co. Cooperative Extension Serv., 8805 Sudley Rd., Manassas, VA 22110	14,000
Baltimore Urban League, 1150 Mondawmin Councourse, Baltimore, MD 21215	4,375
University Legal Services, 300 I Street, NE, Suite 202, Washington, DC 20002	17,500
Anne Arundel County Economic Opportunity Committee, P.O. Box 1951, Annapolis, MD 21404	14,000
Community Housing Inc., 613 Washington St., Wilmington, DE 19801	5,250
Foundation for Senior Independence, 8610 Midlothian Turnpike, Suite 1, Richmond, VA 23235	3,500
Southeastern Tidewater Opportunity Project, 2551 Almeda Ave., Norfolk, VA 23513	8,750
Urban League of Pittsburgh, One Smithfield St., 3rd Floor, Pittsburgh, PA 15222	5,250
Bayfront NATO, 312 Chestnut St., Erie, PA 16507	3,500
Philadelphia Housing Development Corp., 1234 Market St., 10th Floor, Philadelphia, PA 19107	5,250
Office of Human Affairs, P.O. Box 37, Newport News, VA 23607	8,750
Family Services, 1304 Fifth Ave., Huntington, WV 25701	7,000
Hill Community Development Corp., 2015–2017 Centre Ave., Pittsburgh, PA 15219	3,500
Center for Independent Living of SW PA, 7110 Penn Ave., Pittsburgh, PA 15208	3,500
Washington-Greene Community Action Corp., 315 Hallam Ave., Washington, PA 15301	4,900
Housing Association of Delaware Valley, 1314 Chestnut St., Suite 900, Philadelphia, PA 19107	5,250
Urban League of Metropolitan Harrisburg, 25 N. Fourth St., Harrisburg, PA 17101	7,000
Tabor Community Services, 439 East King Street, Lancaster, PA	15,750
Communities Organized to Improve Life, 11 S. Carrollton Ave., Baltimore, MD 21223	4,375
Northwood Health Systems, 2121 Eoff Street, Wheeling, WV 26003	3,500
MAC Incorporated, Area Agency on Aging, 1504 Riverside Dr., Salisbury, MD 21801	3,500

Elk County Housing Authority, 424 Water St. Ext., Johnsonburg, PA 15845	3,500
Greater Erie Community Action Committee, 18 West Ninth Street, Erie, PA 16501	1,750
People Incorporated of SW VA, 988 West Main Street, Abingdon, VA 24210	2,520

Region 4

City of Albany, Economic Development, 230 S. Jackson St., Suite 315, Albany, GA 31701	1,995
Athens-Clarke County Government, 155 E. Washington St., Athens, GA 30603	10,535
Coastal Georgia Area Community Action Authority, 2801 4th St., Brunswick, GA 31521	2,415
Coastal Plain Areas Econ. Oppor. Auth., 2019 Ashley St., Valdosta, GA 31603	8,610
DeKalb-Fulton Housing Counseling Center, 4151 Memorial Dr., Suite 107E Decatur, GA 30032	71,388
Economic Opportunity for Savannah-Chatham, 618 W. Anderson St., Savannah, GA 31402	26,285
Greater Macon Housing Corporation, 682 Cherry St., Suite 1108, Macon, GA 31201	1,995
Metro Columbus Urban League, 802 First Ave., Columbus, GA 31901	7,910
Metro Fair Housing Services, 1083 Austin Ave., NE, Atlanta, GA 30307	3,255
Middle Georgia Community Action Agency, 708 Elberta Rd., Warner Robins, GA 31099	4,375
Auburn Housing Authority, 931 Booker St., Auburn, AL 36830	6,650
Birmingham Urban League, 1717 Fourth Ave. North, Birmingham, AL 35202	12,705
Commun. Action Agency/Calhoun/Cleburne/Cherokee, 1702 Noble St., Anniston, AL 36202	16,555
Commun. Action/Huntsville/Madison/Limeston, 4015 Stringfield Rd., Huntsville, AL 35810	2,975
Commun. Action Agency of N. Central Alabama, 107 2nd Ave., NE, Decatur, AL 35602	7,700
Commun. Action Agency of NW Alabama, 502 East College St., Florence, AL 35603	315
Community Service Programs of W. Alabama, 601 17th St., Tuscaloosa, AL 35401	16,275
Housing Authority of Brimingham, 1826 3rd Ave. S., Birmingham, AL 35401	17,605
Mobile Housing Board, 151 S. Claiborne St., Mobile, AL 36633	29,260
Montgomery Housing Authority, 1020 Bell St., Montgomery, AL 36104	15,225
Human Resource Development Corp., P.O. Box 1417, Enterprise, AL 36331	6,195
Carolina Regional Legal Services, 279 W. Evans St., Florence, SC 29503	10,570
Chesterfield-Marlboro Econ. Oppor., 71 Second St., Cheraw, SC 29502	1,015
Family Services Center, 1800 Main St., Columbia, SC 29201	6,580
Greenville Urban League, 15 Regency Hill Dr., Greenville, SC 29607	19,880
Palmetto Legal Services, 2109 Bull St., Columbia, SC 29202	8,575
Pee Dee Community Action Agency, P.O. Drawer 12670, Florence, SC 29505	20,580
Piedmont Legal Services, 148 E. Main St., Spartanburg, SC 29301	7,350
Spectrum Institute, 1108 Woodrow St., Columbia, SC 29211	21.035
Trident United Way, 32 Ann Street, Charleston, SC 29413	18,165
Aiken/Barnwell Counties, Community Action Agency, P.O. Box 2055, Aiken, SC 29802	1,785
Sunbelt Human Advancement Resources, P.O. Box 10204, Greenville, SC 29603	1,995
Wateree Community Action, 12 S. Main St., Sumter, SC 29151	5,670
CEIBA Housing and Economic Dev., P.O. Box 203, Lauro Pinero 252, Ceiba, PR 00735	15,470
Instituto Ponceno Del Hogar, P.O. Box 5009, Ponce, PR 00733	7,980
Broward County Housing Authority, 1773 N. State Road 7, Lauderhill, FL 33313	22,750
CCCS/Palm Beach Co., 224 Datura St., Suite 205, West Palm Beach, FL 33401	40,565
CCCS/South Florida, 13014 N.E. 8th Ave., North Miami, FL 33161	59,900
Urban League of Palm Beach Co., 1700 N. Australian Ave., West Palm Beach, FL 33407	2,520
CCCS/Western North Carolina, 50 S. French Broad Ave., Suite 236, Asheville, NC 28801	11,410
CCCS/Forsyth County, 926 Brookstown Ave., Winston-Salem, NC 27101	11,620
Cumberland Commun. Action Program, P.O. Drawer 2009, Fayetteville, NC 28302	32,690
Family Housing Services, 910 N. Alexander St., Charlotte, NC 28206	35,665
Johnston-Lee Community Action, P.O. Drawer 711, Smithfield, NC 27577	17,745
Joint Orange-Chatham Community Action, 105 W. Chatham St., Pittsboro, NC 27312	9,415
North Carolina Client Councils, 216 E. Church St., Smithfield, NC 27577	14,350
Raleigh Housing Authority, 600 Tucker St., Raleigh, NC 27611	2,975
Gulf Coast Community Action Agency, 500 24th St., Gulfport, MS 39502	5,215
Housing Education and Econ. Dev., 3405 Medgar Evers Blvd., Jackson, MS 39203	16,030
Mississippi Dept. of Human Services, 421 W. Pascagoula St., Jackson, MS 39203	3,395
Jacksonville Urban League, 233 West Duval St., Jacksonville, FL 32202	11,725
Tallahassee Urban League, 923 Old Bainbridge Rd., Tallahassee, FL 32303	12,705
CCCS/Greater Knoxville, 1012 Heiskell Ave., Knoxville, TN 37921	7,140
Douglas-Cherokee Economic Auth., 524 E. 1st North St., Morristown, TN 37816	2,450
East TN Human Resource Agency, 408 N. Cedar Bluff Rd., Suite 150, Knoxville, TN 37923	595
Upper East TN Human Dev. Agency, 301 Louis St., Kingsport, TN 37662	595
ACCEPT Consumer Credit Counseling, 510 E. Chestnut St., Louisville, KY 40201	12,075
Appalachian Foothills Housing Agency, 1448 Diedrich Blvd., Russell, KY 41169	1,190
Jefferson County Housing Authority, 810 Barret Ave., 4th Flr., Louisville, KY 40204	9,310
Louisville Urban League, 1535 W. Broadway, Louisville, KY 40203	21,735
Northern Kentucky Community Center, 824 Greenup St., Covington, KY 41011	25,515
Purchase Area Housing Corp., U.S. Highway 45 N, Mayfield, KY 42066	1,785
Tenant Services and Housing Counseling, 200 E. Main St., Lexington, KY 40507	12,845
Housing Opportunities Corp., 147 Jefferson Ave., Suite 800, Memphis, TN 38103	14,420
West Tennessee Legal Serv., 210 W. Main St., Jackson, TN 38302	17,570
Citizens for Affordable Housing, 1719 West End Ave., Suite 607, Nashville, TN 37203	19,950
HOPE, Inc., 1501 Herman St., Suite S, Nashville, TN 37208	16,205
Metropolitan Devel. and Housing Agency, 701 S. 6th St., Nashville, TN 37206	5,075
Metropolitan Social Services, 25 Middleton St., Nashville, TN 37201	37,240
Nashville Urban League, 1219 9th Ave., N, Nashville, TN 37208	13,055
Target Community Association, 606 E. Washington St., Pulaski, TN 38478	9,730
Consumer Credit Counseling Service, 455 South Orange Ave., Suite 400, Orlando, FL 32801	84,571
Metropolitan Orlando Urban League, 2512 W. Colonial Dr., Orlando, FL 32803	2,415
The Agricultural and Labor Program, Lynchburg Rd., Winter Haven, FL 33881	9,905
City of Tampa, Community Redevelopment Agency, 1310 9th Ave., Tampa, FL 33605	40,530

CCCS of the Florida Gulf Coast, 5201 W. Kennedy Blvd., Tampa, FL 33609	2,940
Manatee Opportunity Council, 235 Ninth Ave. W, Bradenton, FL 34205	4,515
Hillsborough County Housing, 9260 Bay Plaza Blvd., Suite 510, Tampa, FL 33601	7,980
Consumer Credit Counseling of SW Florida, 2500 Airport Rd., South, Suite 210, Naples, FL 33407	1,995
The Albemarle Commission, 512 S. Church St., Hertford, NC 27944	1,995
Council on Aging of Wake County, 1001 Navaho Drive, Suite 213, Raleigh, NC 27609	1,995
Durham Affordable Housing Coalition, 331 W. Main St., Suite 408, Durham, NC 27701	1,995
Sandhills Community Action Program, 103 Saunders St., Carthage, NC 28327	1,995
Western Piedmont Council of Governments, 317 1st Ave., NW, Hickory, NC 28601	1,995
Jackson County Civic Action Committee, 5343 Jefferson St., Moss Point, MS 39562	1,995
North Mississippi Rural Legal Services, 2134 West Jackson Ave., Oxford, MS 38655	1,995
Housing Devel. Corp. of Tallahassee & Leon Cntys., 515–B John Knox Rd., Tallahassee, FL 32303	1,995
Chattanooga Human Services Dept., 501 West 12th St., Chattanooga, TN 37402	7,980
Knoxville Area Urban League, 2416 Magnolia Ave., Knoxville, TN 37923	32,550
SE Tennessee Human Resource Agency, 215 S. Rankin Ave., Dunlap, TN 37327	1,995
Brighton Center, 7th and Park St., Newport, KY 41072	12,565
Memphis National Business League, 3161 Park Ave., Memphis, TN 38111	1,995
Metropolitan Action Commission, 1624 5th Ave., North, Nashville, TN 37208	1,995
Consumer Credit Counseling of Brevard, 220 Coral Sands Drive, Rockledge, FL 32955	1,995
	1,187,914

Region 5

Family Service Association, 1704 North Road, SE, Warren, OH 44484	24,621
Near West Side Multi-Service Corp., 4115 Bridge Ave., Cleveland, OH 44113	2,240
Urban League of Greater Cleveland, 12001 Shaker Boulevard, Cleveland, OH 44120	7,996
Catholic Charities, Diocese of Youngstown, 225 Elm Street, Youngstown, OH 44503	8,814
Lutheran Housing Corporation, 4208 Prospect Ave., Cleveland, OH 44103	46,960
Family Service Agency, 535 Marmion Ave., Youngstown, OH 44502	7,522
Spanish Coalition for Housing, 3439 West North Ave., Chicago, IL 60647	27,162
Commun. Serv. Council of Northern Will County, 719 Parkwood Ave., Romeoville, IL 60441	18,160
Lake County Community Action Project, 106 South Sheridan Road, Waukegan, IL 60085	10,938
Commun. & Econ. Devel. Assoc. of Cook County, 224 N Des Plaines St., Chicago, IL 60661	60,974
Springfield Dept. of Human Relations, 227 S 7th St., Suite 204, Springfield, IL 62701	8,470
Chicago Urban League, 4510 South Michigan Ave., Chicago, IL 60653	17,600
Michigan Housing Counselors, 237 Gratiot, Mt. Clemens, MI 48043	18,376
TULC Non-Profit Housing Corporation, 3901 Grand River, Detroit, MI 48208	45,735
Detroit Non-Profit Housing Corp., 1200 Sixth St., Suite 404, Detroit, MI 48226	33,030
Credit Counseling Centers, 38505 Country Club Dr., #210, Farmington Hills, MI 48331	27,920
Regional Housing Center, 595 East Broad St., Suite 120, Columbus, OH 43205	17,816
CONSOC Housing Counseling, 1889 East Livingston Ave., Columbus, OH 43209	21,520
Portsmouth Inner-City Development Corp., 1206 Waller St., Portsmouth, OH 45662	2,584
Urban League of Flint, 202 East Boulevard Drive, Suite 200, Flint, MI 48503	16,351
Marion-Crawford Community Action Commission, 240 E. Church St., Marion, OH 43302	2,000
Better Housing League of Greater Cincinnati, 2400 Reading Road, Cincinnati, OH 45202	54,468
Community Action of Greater Indianapolis, 2445 N Meridian St., Indianapolis, IN 46208	36,766
Lake County, 2293 North Main Street, Crown Point, IN 46307	10,365
Housing Authority of the City of Fort Wayne, 2013 S. Anthony Blvd., Fort Wayne, IN 46869	11,269
Hope of Evansville, 100 Washington Ave., Evansville, IN 47713	3,790
Hoosier Uplands Economic Development Corp., 521 W. Main Street, Mitchell, IN 47446	16,567
Urban League of Northwest Indiana, 3101 Broadway, Gary, IN 46409	15,447
Housing Assistance Office, P.O. Box 1558, South Bend, IN 46634	3,661
Anderson Housing Authority, 528 West 11th Street, Anderson, IN 46016	27,990
REAL Services of St. Joseph County, Inc., 622 N. Michigan, South Bend, IN 46634	2,001
Housing Authority of the City of South Bend, 501 S. Scott St., South Bend, IN 46634	2,000
Human Development Comm., 429 Montague Ave., Caro, MI 48723	3,015
Housing Resource Center, 300 North Washington Square, Suite 302, Lansing, MI 48933	2,369
Consumer Credit Counseling Service, 1111 3rd Ave. South, Suite 336, Minneapolis, MN 55404	16,135
St. Paul Housing Information Office, 21 West Fourth St., St. Paul, MN 55102	15,050
Senior Housing Inc., 1885 University Ave., Suite 190, St. Paul, MN 55104	6,159
TACTICS, Inc. (Pilot City Regional Center), 1315 Penn Avenue North, Minneapolis, MN 55411	11,930
Southern Minnesota Regional Legal Services, 46 East 4th St., St. Paul, MN 55101	12,016
Community Advocates, 4906 West Fond du Lac Ave., Milwaukee, WI 53216	8,330
Community Action Inc., 2300 Kellogg Ave., Janesville, WI 53546	8,377
Milwaukee United for Better Housing, 4011 W Capitol Dr., Suite 100, Milwaukee, WI 53216	13,500
Walker's Point Development, 734 South Fifth St., Milwaukee, WI 53204	18,117
Racine/Kenosha Community Action Agency, 72 7th Street, Racine, WI 53403	3,360
Kankakee Neighborhood Housing Services, 1006 East Maple St., Kankakee, IL 60901	2,000
Consumer Credit Counseling, 363 S. Main, Suite 505, Decatur, IL 62523	8,599
Housing Coalition of Illinois, 6419 W. 28th St., Berwyn, IL 60402	2,000
Housing Authority of the County of Lake, 33928 N. Route 45, Grayslake, IL 60030	2,000
Chicago Roseland Coalition for Community Control, 11015 S. Michigan Ave., Chicago, IL 60628	9,805
CEFS Economic Opportunity, 101 N. 4th St., 4th Floor, Effingham, IL 62401	2,000
Housing Directors of Greater Toledo-Cleveland, 442 Floyd St., Toledo, OH 43620	2,000
Burton Neighborhood Housing Serv., 1335 Kenneth St., Burton, MI 48529	2,000
Consumer Credit Counseling Serv. of Columbus, 697 E. Broad St., Columbus, OH 43215	25,181
Knox County Housing Authority, RR1 Box 412–C–5, Bicknell, IN 47512	2,000
City of Bloomington, P.O. Box 100, Bloomington, IN 47402	2,886
Hammond Housing Authority, 7329 Columbia Circle West, Hammond, IN 46324	2,001

Coalition of Wisconsin Aging Group, 1245 E. Washington Ave., #166, Madison, WI 53703	2,000
Neighborhood Housing Service of Kenosha, 5605 16th Ave., Kenosha, WI 53140	2,000
Nelson Neighborhood Improvement Assoc., 1330 Fifth St., Muskegon, MI 49441	2,000
Northwest Michigan Human Service Agency, 3963 Three Mile Road, Traverse City, MI 49684	1,292
	799,235

Region 6

Consumer Credit Counseling/Dallas, 8737 King George Rd., Suite 200, Dallas, TX 75207	94,015
Dallas Urban League, 3625 North Hall St., Suite 700, Dallas, TX 75219	21,000
Housing Opportunities/Fort Worth, 1305 Magnolia Avenue, Fort Worth, TX 76104	74,724
Community Care Housing Dev., 4625 North Freeway, Suite 260, Houston, TX 77091	10,600
Consumer Credit Counseling Services, 4203 Fannin, Houston, TX 77091	30,000
Gulf Coast Community Service Association, 6300 Bowling Green, Houston, TX 77021	20,493
Housing Opportunities Inc., 2900 Woodridge, Suite 302, Houston, TX 77087	24,000
Houston Area Urban League, 3215 Fannin, Houston, TX 77004	10,300
Organization of Christians Assisting People, 600 Foley, Port Arthur, TX 77640	2,000
City of San Antonio, 115 Plaza de Armas, Suite 200, San Antonio, TX 78205	17,950
CCCS/San Antonio, 4203 Woodcock Dr., Suite 251, San Antonio, TX 78228	16,630
Austin Housing Authority, 1640 E. 2nd St., Austin, TX 78702	21,823
Colonias Del Valle, 1203 East Ferguson, Pharr, TX 78228	2,825
Child and Family Services, 1221 W. Ben White Blvd., Suite 112B, Austin, TX 78704	24,600
Greater El Paso S.E.R., 4838 Montana Ave., El Paso, TX 79903	6,500
Guadalupe Economic Services Corp., 1416 1st Street, Lubbock, TX 79041	37,663
Crawford-Sebastian Community Dev., 4831 Armour Ave., Fort Smith, AK 72914	19,000
Family Service Agency of Central Arkansas, 2700 Willow, N Little Rock, AK 72115	7,000
White River Regional Authority, P.O. Box 650, Melbourne, AK 72556	4,013
Urban League of Arkansas, 2200 Main Street, Little Rock, AK 72206	6,700
Central City Housing Development Corp., 2020 Jackson Ave., New Orleans, LA 70113	5,600
Desire Community Housing Corp., 3251 St. Ferdinand St., New Orleans, LA 70126	29,625
St. James Parish Council/Dept. of Human Resources, P.O. Box 87, Convent, LA 70723	3,600
St. Landry Community Action Agency, P.O. Drawer 1510, Opelousas, LA 70570	7,200
S.M.I.L.E. Community Action Agency, 501 St. John St., Lafayette, LA 70501	3,900
St. Mary Community Action Agency, 1407 Barrow Street, Franklin, LA 70538	1,100
Caddo Community Action Agency, 1530 Arlington, Shreveport, LA 71103	2,867
CENLA Community Action Committee, 230 Bolton Avenue, Alexandria, LA 71301	5,870
Ouachita Multi-Purpose Community Action Agency, 315 Plum, Monroe, LA 71210	4,500
Neighborhood Housing Service of Shreveport, 3034 Lakeshore Dr., Shreveport, LA 71133	5,000
Credit Counseling Centers of Oklahoma, 2140 South Harvard, Tulsa, OK 74159	24,522
Consumer Credit Counseling Service, 3230 N. Rockwell, Bethany, OK 73008	15,183
Housing Authority of the Chickasaw Nation, 401 Country Club, Ada OK 74821	28,952
Consumer Credit Counseling Service of NM, 2727 San Pedro, NE, Albuquerque, NM 87110	19,339
Consumer Credit Counseling Service of Fort Worth, 807 Texas St., #100, Fort Worth, TX 76102	5,000
Community Development Corp. of Brownsville, 1150 E. Adams St., Brownsville, TX 78520	6,120
Central Texas Council of Governments, 302 E. Central, Belton, TX 76513	25,000
Dallas Commun. Action Committee, 2121 Main St., #100, Dallas, TX 75201	10,000
Deep Fork CAF, 320 Northwood Dr., Okmulgee, OK 74447	750
Family Support Services, 111 West Central, Bentonville, AR 72712	3,000
Marshall Housing Authority, 406 Popular St., Marshall, TX 75671	16,600
	675,564

Region 7

Housing and Credit Counseling, 1195 SW Buchanan, Suite 203, Topeka, KS 66604	7,000
Family Housing Advisory Services, Inc., 2416 Lake Street, Omaha, NE 68111	12,956
Urban League of Wichita, Inc., 1405 N. Minneapolis, Wichita, KS 67214	4,644
Northside Residential Housing Corp., 5647 Delmar Blvd., St. Louis, MO 63112	14,963
Consumer Credit Counseling Services, 742 Duvall, P.O. Box 843, Salina, KS 67402	4,000
Missouri Valley Human Resource, P.O. Box 550, 1415 S. Odell St., Marshall, MO 65340	1,000
Economic Opportunity Foundation, 1542 Minnesota Avenue, Kansas City, KS 66102	3,000
West Central Missouri Community Action Agency, 106 West 4th, Appleton City, MO 64724	2,000
North Area Community Forum, 1005 Dunn Road, Florissant, MO 63031	8,000
Hawkeye Area Community Action Program Inc., 5560 Sixth St., SW, Cedar Rapids, IA 52404	4,000
Assistance, Info, Direction (AID) Center, 206 6th St., Sioux City, IA 51101	3,189
Lincoln Action Program, Inc., 2702 South 11th St., Lincoln, NE 68502	2,000
Urban League of Metropolitan St. Louis, 3701 Grandel Square, St. Louis, MO 63108	15,000
Metropolitan Lutheran Ministry, 3031 Holmes, Kansas City, MO 64109	12,000
City of Des Moines, E 1st and Des Moines St, Des Moines, IA 50307	7,000
Housing Options Provided for the Elderly, 4265 Shaw Blvd., St. Louis, MO 63110	1,000
Greater Kansas City Housing Information Center, 3810 Paseo, Kansas City, MO 64109	19,769
Central Nebraska Goodwill Industries, 1804 South Eddy Street, Grand Island, NE 68801	1,500
North East Community Action, 16 North Court St., Bowling Green, MO 63334	2,700
David William Blakley Memorial Center, 629 South 26th, St. Joseph, MO 64507	2,000
Consumer Credit Counseling Service of St. Louis, 1300 Hampton Ave., St. Louis, MO 63139	2,500
	130,221

Region 8

Weber State University, 3750 Harrison Blvd., Ogden, UT 84408	2,872
Salt Lake Community Action, 764 South, 200 West, Salt Lake City, UT 84101	22,237
Catholic Social Services, 302 Jefferson St., Pueblo, CO 81004	4,977
Boulder County Housing Authority, P.O. Box 471, Boulder, CO 80306	19,457
Consumer Credit Couns. Ser. of N. CO, 1136 E. Stuart, Suite 4201, Ft. Collins, CO 80525	12,641
Neighbor-to-Neighbor, 424 Pine St., Suite 203, Ft. Collins, CO 80524	20,940
Northeast Denver Housing Authority, 1735 Gaylord St., Denver, CO 80206	14,070

Adams County Housing Authority, 7190 Colorado Blvd., Commerce City, CO 80222	14,454
Consumer Credit Couns. Ser. of S. CO, 1233 Lake Plaza Drive, Colorado Springs, CO 80906	15,341
City of Aurora, Homeownership Assistance Program, 9801 East Colfax Ave., Aurora, CO 80010	15,261
Brothers Redevelopment, 1111 Osage St., Suite 210, Denver, CO 80204	14,666
SE North Dakota Community Action, 3233 South University Dr., Fargo, ND 58108	1,853
Community Action and Development, 652 West Villard, Dickinson, ND 58601	516
Community Action Opportunity, 420 3rd St. SW, P.O. Box 1057, Minot, ND 58702	2,237
Consumer Credit Counsel. Serv. of Lutheran Soc. Serv., 601 W 11th St., Sioux Falls, SD 57709	927
Consumer Credit Counseling Serv. of the Black Hills, 621 6th Street, Rapid City, SD 57709	14,573
Northwest Montana Human Resources, P.O. Box 1058, Kalispell, MT 59901	2,515
Southwest Community Resources, 572 E. 6th Avenue, Durango, CO 81301	741
Community Action Program, Region VII, 2105 Lee Avenue, Bismarck, ND 58504	3,309
Quad County Community Action Agency, 27½ South 3rd Street, Grand Forks, ND 58201	834
Community Action Program, Region VI, Highway 281 North, Jamestown, ND 58201	1,800
District 7, Human Resources Development Council, 17 North 31st Street, Billings, MT 59103	3,190
	189,411

Region 9

Consumer Credit Counseling Services of Arizona, 2535 Camelback Rd., Phoenix, AZ 85017	80,010
Chicanos Por La Causa, Inc., 1112 East Buckeye Road, Phoenix, AZ 85034	43,085
Fair Housing of Orange County, 1222 North Broadway, Santa Ana, CA 92701	40,250
Inland Mediation Board, 410 North Lemon Ave., Ontario, CA 91764	58,905
Consumer Credit Counseling Services of Arizona, 6135 E. Grant Rd., Tucson, AZ 85712	28,000
Chicanos Por La Causa, Inc., 1525 N. Oracle Road, Tucson, AZ 85705	20,020
Westminister Neighborhood Association, Inc., 1776 East Century Blvd., Los Angeles, CA 90017	35,000
Consumer Credit Counseling Services of Los Angeles, 1308 West 8th St., Los Angeles, CA 90017	47,530
Better Valley Services, 800 Laurel Canyon Road, North Hollywood, CA 91605	25,025
Housing Authority of the County of Santa Barbara, 815 West Ocean, Lompac, CA 93436	10,010
Poor People Pulling Together, 1801 N. "J" Street, Las Vegas, NV 89105	17,500
Housing Authority of the County of Stanislaus, 1701 Robertson Road, Modesto, CA 95351	20,020
Neighborhood House Association, 841 South 41st St., San Diego, CA 92113	30,030
Eden Council for Hope and Opportunity, 770 "A" St., Hayward, CA 94541	40,985
City of Oakland, 300 Lakeside Drive, 15th Floor, Oakland, CA 94612	15,050
Pacific Community Services, 401 Railroad Ave., P.O. Box 1397, Pittsburg, CA 94565	10,010
Project Sentinel, 430 Sherman Ave., Suite 308, Palo Alto, CA 94306	$16,030
Human Investment Projects, Inc., 364 South Railroad Ave., San Mateo, CA 94401	3,990
Independent Living Resources, 70 Tenth Street, San Francisco, CA 94103	2,940
Project Match, 1671 Park Ave., #21, San Jose, CA 95126	3,990
Council on the Aging of Sonoma County, 730 Bennett Valley Road, Santa Rosa, CA 95404	2,170
Hawaii Credit Counseling Services, 2153 North King Street, #306, Honolulu, HI 96919	11,244
Catholic Charities, 150 East Olive St., Colton, CA 92824	10,010
Phoenix Community Housing Resource Board, 3627 East Indian School Rd., Phoenix, AZ 85034	10,010
City of Phoenix Neighborhood Services, 920 East Madison, Suite B, Phoenix, AZ 85034	50,015
Consumer Credit Counseling of Las Vegas, 3650 S. Decatur St., Suite 18, Las Vegas, NV 89103	10,010
Housing Authority of Santa Cruz, 2160 41st Ave., Capitola, CA 95010	10,010
City of Vacaville, 650 Merchant St., Vacaville, CA 95688	9,975
	661,824

Region 10

Pierce County Community Action Agency, 8811 S. Tacoma Way, Bldg. 2, Tacoma, WA 98499	2,695
Freemont Public Association, 3601 Freemont Ave. N., Seattle, WA 98103	12,086
Urban League of Metropolitan Seattle, 105 14th Ave., Seattle, WA 98122	15,223
Anchorage Neighborhood Housing Serv., 3700 Woodland Dr., Suite 500, Anchorage, AK 99517	1,667
Consumer Credit Counseling Services of Alaska, 208 E. Fourth Ave., Anchorage, AK 99501	3,535
Umpqua Community Action Network, 2448 West Harvard Blvd., Roseburg, OR 97470	5,928
Housing Services of Oregon, 34420 SW Tualatin Valley Highway, Hillsboro, OR 97123	5,950
Community Action Agency, 124 New 6th Street, Lewiston, ID 83501	2,000
Portland Housing Center, 2755 N.E. Broadway, Portland, OR 97232	3,010
Aberdeen Neighborhood Housing Services, 710 East Market, Aberdeen, WA 98520	4,000
Spokane Neighborhood Action Programs, E 2116 First Ave., Spokane, WA 99202	23,415
Access Inc., 510 E. Main St., Medford, OR 97501	2,000
Oregon Housing and Associated Services, 525 Glen Creek Rd., NW., Suite 210, Salem, OR 97304	3,010
	84,519

Appendix B—Prepurchase and Foreclosure Prevention Counseling Demonstration Funding for FY 1993

1. DeKalb-Fulton Housing Counseling Center, 4151 Memorial Dr., Suite 107E Decatur, GA 30032

   Initial Grant Amount—$116,666
   Increase—$86,140
   Amended Grant Amount—$202,140

2. Spanish Coalition for Housing, 3439 West North Ave., Chicago, IL 60647

   Initial Grant Amount—$116,666
   Increase—$235,790
   Amended Grant Amount—$352,456

3. Commun. & Econ. Devel. Assoc. of Cook County, 224 N Des Plaines St., Chicago, IL 60661

   Initial Grant Amount—$116,600
   Increase—$43,070
   Amended Grant Amount—$159,670.

[FR Doc. 93–30454 Filed 12–13–93; 8:45 am]
BILLING CODE 4210–27–M

[Docket Nos. N–93–3436; FR–3235–N–03 and N–93–3526; FR–3371–N–02]

Federally Assisted Low Income Housing Drug Elimination Grants: Announcement of Funding Awards for FY 1992 and FY 1993

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding award decisions made by the Department under its Federally Assisted Low Income Housing Drug Elimination

Grants for FY 1992 and FY 1993. This announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Lessley Wiles, Office of Multifamily Housing Management, Department of Housing and Urban Development, room 6166, 451 Seventh Street SW., Washington, DC 20410. Telephone (202) 708–0216. TDD number (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the competitions was to provide grants to Federally Assisted Low Income Housing for activities designed to eliminate drug-related crime.

A Notice of Funding Availability (NOFA) announcing HUD's FY 1992 funding of $10 million was published on August 28, 1992 (57 FR 39318). A notice making a technical amendment to the NOFA and extending the application due date was published on October 6, 1992 (57 FR 46039). The NOFA announcing HUD's FY 1993 funding of $10 million and an extension of the applications due date for applicants who had not applied for funding under the FY 1992 NOFA was published on November 23, 1992 (57 FR 54995).

A total of $20 million was awarded to 180 low income housing projects. Recipients were chosen in a national competition under selection criteria announced in the August 28, 1992 and November 23, 1992 NOFAs.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing the names and addresses of the projects awarded funds under the FY 1992 and FY 1993 NOFAs, and the amount of awards are attached to this Notice.

Dated: December 3, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

Awardees for the Federally Assisted Low Income Housing Drug Elimination Grants—FY 1992 and FY 1993

Region I (Boston)

Name of Project: Harbor Point Apartments
Project Number: 023–36602
Location: Dorchester, Maine
Recipient Name: Harbor Point Apartments Company
Amount of Award: $174,900

Name of Project: Villa Victoria II
Project Number: 023–35200
Location: Boston, Maine
Recipient Name: ETC Developers Inc.
Amount of Award: $132,000

Name of Project: Madison Park Village
Project Number: 023–35245
Location: Roxbury, Maine
Recipient Name: Madison Park Housing Corporation
Amount of Award: $92,400

Name of Project: Countryside Village
Project Number: 023–44096
Location: Marlboro, Maine
Recipient Name: Marlboro Arms Associates
Amount of Award: $34,500

Name of Project: Pynchon Terrace Apartments
Project Number: 023–44114
Location: Springfield, Maine
Recipient Name: Pynchon Partners/ Pynchon Terrace
Amount of Award: $96,000

Name of Project: Castle Square Apartments
Project Number: 023–55031
Location: Boston, Maine
Recipient Name: Trebhershaw Limited Partnership
Amount of Award: $168,900

Name of Project: Seniority House
Project Number: 023–SH008
Location: Springfield, Maine
Recipient Name: Springfield Hobby Club Housing, Inc.
Amount of Award: $15,076

Name of Project: Lower Garden Apartments
Project Number: 017–44154
Location: Hartford, Connecticut
Recipient Name: Lower Gardens Associates
Amount of Award: $126,800

Project Name: Earle Street Apartments
Project Number: 017–35002
Location: Hartford, Connecticut
Recipient Name: Earle Street Associates
Amount of Award: $175,000

Region II (New York)

Name of Project: Bedford Gardens
Project Number: 012–133–NI
Location: Brooklyn, NY
Recipient Name: Bedford Gardens Company
Amount of Award: $173,800

Name of Project: Roosevelt Gardens
Project Number: 012–57058
Location: Bronx, NY
Recipient Name: Roosevelt Gardens Associates
Amount of Award: $119,800

Name of Project: Broadway East Townhouse
Project Number: 012–017–NI
Location: Kingston, NY
Recipient Name: Kingston Property Associates LP
Amount of Award: $97,926

Name of Project: Aldus Green
Project Number: NY36,H108–001
Location: Bronx, NY
Recipient Name: Aldus Green Company
Amount of Award: $174,200

Name of Project: Arlington Terrace
Project Number: 012–083–NI
Location: Staten Island, NY
Recipient Name: North Shore Associates
Amount of Award: $171,660

Name of Project: Morrisania II
Project Number: 012–57056
Location: Bronx, NY
Recipient Name: Morrisania Towers Housing Company
Amount of Award: $175,000

Name of Project: Restore (Brooklyn Apts. & Bedfor Stuy. Restore)
Project Numbers: 012–44110 and 012–149–NI
Location: Brooklyn, NY
Recipient Name: Bedford Stuyvesant Restoration Corp.
Amount of Award: $167,500

Name of Project: Oakwood Plaza
Project Number: NJ39–H085–109
Location: Elizabeth, NJ
Recipient Name: Pierce Manor of Elizabeth Associates
Amount of Award: $115,000

Name of Project: Georgia King Village
Project Number: 031–032–NI
Location: Newark, NJ
Recipient Name: Georgia King Associates
Amount of Award: $96,859

Name of Project: Homestead Village
Project Number: 012–44076
Location: Coram, NY
Recipient Name: Homestead Village Associates
Amount of Award: $174,979

Name of Project: Starrett Spring Creek
Project Number: 012–035–NI
Location: Brooklyn, NY
Recipient Name: Starrett City Associates
Amount of Award: $25,300

Region III (Baltimore)

Name of Project: Pimlico Apartments
Project Number: 052–35061
Location: Baltimore, Maryland
Recipient Name: Pimlico Associates, Ltd.
Amount of Award: $43,600.00

Name of Project: Madison Park North Apartments
Project Number: 052–44055
Location: Baltimore, Maryland
Recipient Name: Edgewood Management Corporation
Amount of Award: $175,000.00

Name of Project: Woodland Street Apartments
Project Number: 052–44197
Location: Baltimore, Maryland
Recipient Name: Edgewood Management Corporation

Amount of Award: $86,040.00
Name of Project: Friendship Village Apartments
Project Number: 051–35017
Location Project: Virginia Beach, Virginia
Recipient Name: Virginia Mountain Housing, Inc.
Amount of Award: $164,000.00
Name of Project: Heritage Acres X
Project Number: 051–35327
Location: Suffolk, Virginia
Recipient Name: Heritage Acres & Suffolk Partnership
Amount of Award: $57,653.00
Name of Project: Bermuda Run Apartments
Project Number: 051–35316
Location: Richmond, Virginia
Recipient Name: Bermuda Run II Limited Partnership
Amount of Award: $175,000.00
Name of Project: Pine Oaks Village Apartments
Project Number: 051–35296
Location: Virginia Beach, Virginia
Recipient Name: F&W Management Corporation
Amount of Award: $52,735.50
Name of Project: Brightwood Manor
Project Number: 051–44196
Location: Roanoke, Virginia
Recipient Name: NCHP
Amount of Award: $32,922.50
Name of Project: Ruffin Road Apartments
Project Number: 051–44201
Location: Richmond, Virginia
Recipient Name: NCHP
Amount of Award: $175,000.00
Name of Project: Langley Square 1 & 2
Project Numbers: 051–44100 & 051–44190
Location: Hampton, Virginia
Recipient Name: Edgewood Management Corporation
Amount of Award: $160,364.00
Name of Project: Walmsley Terrace
Project Number: 051–44203
Location: Richmond, Virginia
Recipient Name: NCHP
Amount of Award: $48,000.00
Name of Project: Southside Gardens
Project Number: VA36–H027–123
Location: Portsmouth, Virginia
Recipient Name: Gull AGE Properties, Inc.
Amount of Award: $171,659.00
Name of Project: Paradise at Parkside
Project Number: 000–55002
Location: Washington, D.C.
Recipient Name: Jay Street Associates
Amount of Award: $175,000.00
Name of Project: Clifton Terrace
Project Number: 000–55034
Location: Washington, D.C.
Recipient Name: Clifton Terrace Associates
Amount of Award: $128,430.00
Name of Project: Louden House
Project Number: 000–44147
Location: Washington, D.C.
Recipient Name: NCHP
Amount of Award: $138,376.00
Name of Project: Gibson-Plaza
Project Number: 000–44098
Location: Washington, D.C.
Recipient Name: First Rising Mt. Zion Housing Corporation
Amount of Award: $101,700.00
Name of Project: Chesapeake-YUMA
Project Number: (NOT INSURED)
Location: Washington, D.C.
Recipient Name: Chesapeake YUMA Apartments
Amount of Award: $68,452.00
Name of Project: Ridgecrest Heights
Project Number: 000–55010
Location: Washington, D.C.
Recipient Name: Pollin Memorial Associates, Ltd.
Amount of Award: $167,065
Name of Project: East Mall Apartments
Project Number: 033–44007
Location: Pittsburgh, Pennsylvania
Recipient Name: Federal American Properties
Amount of Award: $56,820.00
Name of Project: Liberty Park Apartments
Project Number: 033–55008
Location: Pittsburgh, Pennsylvania
Recipient Name: Liberty Park Associates
Amount of Award: $134,876.00
Name of Project: Penn Circle Towers Apartments
Project Number: 033–44002
Location of Project: Pittsburgh, Pennsylvania
Recipient Name: Federal American Properties
Amount of Award: $59,126.00
Name of Project: Spring Hill Apartments
Project Number: 045–44002–LDP/SUP
Location: Charleston, West Virginia
Recipient Name: City Park Associates
Amount of Award: $20,545.00

Region IV (Atlanta)

Name of Project: Villa Monte Apartments
Project Number: 061–44015
Location: Atlanta, Georgia
Recipient Name: Villa Monte Apartments, Ltd.
Amount of Award: $157,600
Name of Project: Fairburn-Gordon Apartments
Project Number: 061–44005
Location: Atlanta, Georgia
Recipient Name: National Corporation for Housing Partnerships
Amount of Award: $43,248
Name of Project: Ozark Homes
Project Number: 062–35003
Location: Ozark, Alabama
Recipient Name: Ozark Homes, Ltd.
Amount of Award: $157,921
Name of Project: Highland Village Apartments
Project Number: 062–44007
Location: Montgomery, Alabama
Recipient Name: Highland Village, Inc.
Amount of Award: $75,000
Name of Project: Stonegate Village
Project Number: 062–92002
Location: Decatur, Alabama
Recipient Name: A.M.E. Homes of Decatur, Ltd.
Amount of Award: $98,500
Name of Project: Bayamon Housing Development
Project Number: 056–35064
Location: Hato Tejas, Bayamon
Recipient Name: Bayamon Housing Development
Amount of Award: $170,560
Name of Project: Lakeshore II Apartments
Project Number: 054–55014
Location: Greenville, SC
Recipient Name: BFDG Lakeshore II, Apartment Associates
Amount of Award: $110,650
Name of Project: Gentle Pines
Project Number: 054–36627
Location: West Columbia, SC
Recipient Name: Gentle Pines-West Columbia Associates, Ltd.
Amount of Award: $75,800
Name of Project: Bailey Lane Apartments
Project Number: 053–35328
Location: Vanceboro, NC
Recipient Name: Bailey Lane Apartments, Ltd.
Amount of Award: $69,400
Name of Project: Cokey Apartments
Project Number: 053–44150
Location: Rocky Mt., North Carolina
Recipient Name: Cokey Apartments, Ltd.
Amount of Award: $20,250
Name of Project: Pine Grove Apartments
Project Number: N/A
Location: Sharpsburg, North Carolina
Recipient Name: Wilson Associates, Ltd.
Amount of Award: $13,800
Name of Project: Southside Acres Apartments
Project Number: 053–35442
Location: Rocky Mt., North Carolina
Recipient Name: Southside Acres Associates
Amount of Award: $22,205
Name of Project: Durham Village Apartments
Project Number: 053–35334
Location: Burgaw, North Carolina
Recipient Name: Durham Village Apartments, Ltd.

Amount of Award: $6,495
Name of Project: Barrington Oaks Apartments
Project Number: 053–44074
Location: Charlotte, North Carolina
Recipient Name: Barrington Oaks Apartments Associates
Amount of Award: $175,000
Name of Project: Walnut Terrace
Project Number: NC19–0014022
Location: Williamston, North Carolina
Recipient Name: Williamston Housing Authority
Amount of Award: $48,250
Name of Project: Clancy Hills Apartments
Project Number: 053–44212
Location: Salisbury, North Carolina
Recipient Name: Clancy Hills Ltd. Partnership
Amount of Award: $108,500
Name of Project: Edgewood Manor Apartments
Project Number: 065–35082
Location: Gulfport, Mississippi
Recipient Name: Edgewood Manor Associates
Amount of Award: $91,531
Name of Project: Glendale Apartments
Project Number: 065–35042
Location: Kosciusko, Mississippi
Recipient Name: Attala Associates, Ltd.
Amount of Award: $28,005
Name of Project: Metro Manor Apartments
Project Number: 065–35263
Location: Jackson, Mississippi
Recipient Name: Metro Manor, Ltd.
Amount of Award: $174,527
Name of Project: Magnolia Terrace Apartments
Project Number: 063–44022
Location: Tallahassee, Florida
Recipient Name: Consolidated Investments, Ltd.
Amount of Award: $73,465
Name of Project: Lake Mann Garden Apartments
Project Number: 067–44107
Location: Orlando, Florida
Recipient Name: Gordon Stann Nutt
Amount of Award: $159,202
Name of Project: Marathon Apartments
Project Number: N/A
Location: Marathon, Florida
Recipient Name: Marathon Housing Associates, Ltd.
Amount of Award: $162,000
Name of Project: Key Plaza Apartments
Project Number: N/A
Location: Key West, Florida
Recipient Name: Key Plaza Apartments-II, Ltd.
Amount of Award: $135,335
Name of Project: College Trace Apartments
Project Number: 063–35205
Location: Pensacola, Florida
Recipient Name: College Trace Apartments, Ltd.
Amount of Award: $50,799
Name of Project: Palms Apartments
Project Number: 067–44065
Location: Orlando, Florida
Recipient Name: Orlando Housing Investors, Ltd.
Amount of Award: $165,570
Name of Project: Briarwood Apartments, I
Project Number: 063–44063
Location: Tallahassee, Florida
Recipient Name: Briarwood, Ltd.
Amount of Award: $117,928
Name of Project: Escambia Arms Apartments
Project Number: 063–35026
Location: Pensacola, Florida
Recipient Name: National Corporation for Housing Partnerships
Amount of Award: $16,500
Name of Project: Truman Arms Apartments, I
Project Number: 063–35027
Location: Pensacola, Florida
Recipient Name: C.A. Hobbs, Jr. & Lauryce G. Hobbs
Amount of Award: $148,043
Name of Project: Truman Arms Apartments, II
Project Number: 063–35066
Location: Pensacola, Florida
Recipient Name: C.A. Hobbs, Jr. & Lauryce G. Hobbs
Amount of Award: $77,718
Name of Project: Sandlake Villas Apartments
Project Number: 067–44148
Location: Orlando, Florida
Recipient Name: Sandlake Housing Ltd. Partnership
Amount of Award: $34,174
Name of Project: Middletowne Apartments
Project Number: 063–44049
Location: Orange Park, Florida
Recipient Name: Orange Park Project, Ltd.
Amount of Award: $117,761
Name of Project: Lincoln Fields Apartments
Project Number: 066–35161
Location: Miami, Florida
Recipient Name: Lincoln Fields, Ltd.
Amount of Award: $175,000
Name of Project: Lee Park Apartments
Project Number: 066–44024
Location: S. Miami, Florida
Recipient Name: Lee Park Cooperative
Amount of Award: $51,067
Name of Project: Mission Hills Apartments
Project Number: 063–35183
Location: Tallahassee, Florida
Recipient Name: Mission Hills Apartments, Ltd.
Amount of Award: $89,668
Name of Project: 22nd Avenue Apartments
Project Number: 066–44017
Location: Miami, Florida
Recipient Name: Bonita Ltd. Partnership
Amount of Award: $60,000
Name of Project: Mandarin Trace Apartments
Project Number: 063–35204
Location: Jacksonville, Florida
Recipient Name: Mandarin Trace Apartments, Ltd.
Amount of Award: $35,903
Name of Project: Hamilton Garden Apartments
Project Number: N/A
Location: Bartow, Florida
Recipient Name: National Corporation for Housing Partnerships
Amount of Award: $101,765
Name of Project: Tabernacle Apartments
Project Number: 087–35007
Location: Knoxville, TN
Recipient Name: Tabernacle Apartments, Ltd.
Amount of Award: $122,220
Name of Project: College Hills Apartments
Project Number: N/A
Location: Knoxville, TN
Recipient Name: Knoxville's Community Development Corporation
Amount of Award: $175,000
Name of Project: Dellway Villa Apartments
Project Number: 086–35124
Location: Nashville, TN
Recipient Name: L.H. Hardaway, Jr.
Amount of Award: $35,200
Name of Project: Westside Apartments
Project Number: N/A
Location: Nashville, TN
Recipient Name: Westside Apartments Ltd. Partnership
Amount of Award: $114,000
Name of Project: Litton Park Apartments
Project Number: N/A
Location: Nashville, TN
Recipient Name: Litton Apartments, Ltd.
Amount of Award: $159,800
Name of Project: Ridgecrest Apartments
Project Number: N/A
Location: Memphis, TN
Recipient Name: Associated Investors of Memphis
Amount of Award: $28,895

Region V (Chicago)

Name of Project: Vistula Heritage Village
Project Number: 042–35298
Location: Toledo, OH
Recipient Name: Burnett Ware

Amount of Award: $175,000
Name of Project: Capital Park Apartments
Project Number: 043–44003
Location: Columbus, OH
Recipient Name: Mary Lou Wilson
Amount of Award: $175,000
Name of Project: Lancaster Village
Project Number: 044–44005
Location: Pontiac, MI
Recipient Name: Leona Patterson
Amount of Award: $173,715
Name of Project: Clemens Ct/Newport Apartments
Project Number: 044–44219
Location: Clifton Township, MI
Recipient Name: Frank Carswell
Amount of Award: $175,000
Name of Project: Arrowwood Hills
Project Number: 044–55083
Location: Ann Arbor, MI
Recipient Name: Patricia S. Dixon
Amount of Award: $109,863
Name of Project: Danner Park Apartments
Project Number: 046–35027
Location: Dayton, OH
Recipient Name: David Hendy
Amount of Award: $28,064
Name of Project: Elder Apartments
Project Number: 046–35333
Location: Cincinnati, OH
Recipient Name: Thomas Denhart
Amount of Award: $134,720
Name of Project: Creek Wood Townhouses Apartments
Project Number: 046–35506
Location: Wilmington, OH
Recipient Name: Rev. Larry L. Harris
Amount of Award: $53,665
Name of Project: Parkside Apartments
Project Number: 046–35557
Location: Dayton, OH
Recipient Name: Lenore E. Varney
Amount of Award: $92,721
Name of Project: Rhine Main Apartments
Project Number: 046–NI061
Location: Cincinnati, OH
Recipient Name: Thomas Denhart
Amount of Award: $90,755
Name of Project: Saint Rest #2
Project Number: 046–NI065
Location: Cincinnati, OH
Recipient Name: Thomas Denhart
Amount of Award: $21,225
Name of Project: Willow Vista Apartments
Project Number: 047–94007
Location: Lansing, MI
Recipient Name: Glenn Kirkahm
Amount of Award: $106,990
Name of Project: Prairie Courts
Project Number: IL06–0036–001–RH9
Location: Chicago, IL
Recipient Name: Kathryn M. Kelly
Amount of Award: $175,000
Name of Project: Damen Courts
Project Number: 071–32086
Location: Chicago, IL
Recipient Name: Robert M. Stone
Amount of Award: $164,000
Name of Project: Clifton/Magnolia Apartments
Project Number: 071–35466/35499
Location: Chicago, IL
Recipient Name: Janet Hasz
Amount of Award: $140,000
Name of Project: Drexel Court Apartments
Project Number: 071–35471
Location: Chicago, IL
Recipient Name: Phillip A. Cammenga
Amount of Award: $76,558
Name of Project: Bennett Apartments
Project Number: 071–35506
Location: Chicago, IL
Name of Recipient: Lynn Railsback
Amount of Award: $14,480
Name of Project: Bethel New Life
Project Number: 071–35524
Location: Chicago, IL
Name of Recipient: Elzie Higginbottom
Amount of Award: $116,000
Name of Project: Kenwood Apartments
Project Number: 071–35526
Location: Chicago, IL
Name of Recipient: Elzie Higginbottom
Amount of Award: $89,360
Name of Project: Washington Court Apartments
Project Number: 071–35593
Location: Chicago, IL
Name of Recipient: Lynn Railsback
Amount of Award: $128,460
Name of Project: Grove Parc Plaza
Project Number: 071–36654/94031
Location: Chicago, IL
Name of Recipient: Vincent Knight
Amount of Award: $146,412
Name of Project: Northwest Towers
Project Number: 071–44009
Location: Chicago, IL
Name of Recipient: Elzie Higginbottom
Amount of Award: $175,000
Name of Project: Lake Park Manor
Project Number: 071–44031
Location: Chicago, IL
Name of Recipient; Elzie Higginbottom
Amount of Award: $80,000
Name of Project: Lake Park Apartments
Project Number: 071–44047
Location: Chicago, IL
Name of Recipient: Elzie Higginbottom
Amount of Award: $67,140
Name of Project: Foxview Apartments I
Project Number: 071–44069
Location: Carpentersville, IL
Name of Recipient: Diane Pedersen
Amount of Award: $151,491
Name of Project: Lake Grove Village
Project Number: 071–44082
Location: Chicago, IL
Name of Recipient: Elzie Higginbottom
Amount of Award: $175,000
Name of Project: Woodlawn Apartments
Project Number: 071–44154
Location: Chicago, IL
Name of Recipient: Carole Millison
Amount of Award: $174,067
Name of Project: Englewood Terrace
Project Number: 071–55028
Location: Chicago, IL
Name of Recipient: John Hayes
Amount of Award: $175,000
Name of Project: Dauphin Avenue Apartments
Project Number: 071–55029
Location: Chicago, IL
Name of Recipient: Elzie Higginbottom
Amount of Award: $71,990
Name of Project: NorthEastWood Apartments
Project Number: 071–55113
Location: Chicago, IL
Name of Recipient: Anthony J. Fusco, Jr.
Amount of Award: $175,000
Name of Project: 6000 S. Indiana Apartments
Project Number: 071–55119
Location: Chicago, IL
Name of Recipient: Elzie Higginbottom
Amount of Award: $175,000
Name of Project: Wentworth Garden
Project Number: 071–55155
Location: Chicago, IL
Name of Recipient: Richard R. Wood
Amount of Award: $175,000
Name of Project: Belle Manor Apartments
Project Number: 072–44005
Location: Alton, IL
Name of Recipient: Ronald L. Bohlen
Amount of Award: $93,700
Name of Project: Parkside/Mansard Square Apartments
Project Number: 072–94001
Location: Champaign, IL
Name of Recipient: Patricia Jeffers
Amount of Award: $154,495
Name of Project: Parkwood Apartments I and II
Project Number: 073–35344/073–35351
Location: Indianapolis, IN
Name of Recipient: Deborah Bell
Amount of Award: $157,865
Name of Project: Sommerset Townhomes
Project Number: 075–35316
Location: Madison, WI
Name of Recipient: Janet Jungel/Richard J. Riddle
Amount of Award: $175,000
Name of Project: Plymouth Avenue Townhomes
Project Number: 092–44125
Location: Minneapolis, MN
Name of Recipient: Roger L. Jahn

Amount of Award: $167,000
Name of Project: Findlay Place Apartments
Project Number: MHFA 75–002
Location: Minneapolis, MN
Name of Recipient: Thomas J. Johnson
Amount of Award: $165,000

Region VI (Ft. Worth)

Name of Project: Point East Apartments
Project Number: 115–44127
Location: San Antonio, TX
Name of Recipient: Richard I. Hayley
Amount of Award: $174,088

Name of Project: Westgate Apartments
Project Number: 082–55003
Location: Little Rock, AR
Name of Recipient: Westgate Apartments, Inc.
Amount of Award: $103,100

Name of Project: Valley Drive Site
Project Number: N/A
Location: Las Cruces, NM
Name of Recipient: Las Cruces Housing Authority
Amount of Award: $175,000

Name of Project: Village Park South I & II
Project Number: N/A
Location: Texarkana, AR
Name of Recipient: Village Park South, Inc.
Amount of Award: $80,366

Name of Project: Southeast Apartments
Project Number: 082–35005
Location: Pine Bluff, AR
Name of Recipient: Jefferson Apartment Co.
Amount of Award: $170,000

Name of Project: Wayman Manor
Project Number: 112–44029
Location: Temple, TX
Name of Recipient: Wayman Manor
Amount of Award: $118,720

Name of Project: Pinewood Park Apartments
Project Number: 114–35010
Location: Lufkin, TX
Name of Recipient: Pinewood Park Apartments
Amount of Award: $68,510

Name of Project: Villa D'Ames
Project Number: 064–92002
Location: Marerro, LA
Name of Recipient: Christopher Homes, Inc.
Amount of Award: $174,790

Name of Project: Willow Bend I & II
Project Number: 082–44027
Location: Little Rock, AR
Name of Recipient: Willow Bend, Inc.
Amount of Award: $51,633

Name of Project: Southport II
Project Number: 112–55050
Location: Dallas, TX
Name of Recipient: Southport Charitable Trust
Amount of Award: $72,300

Name of Project: Stone Vista Apartments
Project Number: N/A
Location: Shreveport, LA
Name of Recipient: Stone Vista-Fairfield Development Co.
Amount of Award: $155,895

Name of Project: French Embassy Apartments
Project Number: 115–44151
Location: Austin, TX
Name of Recipient: Texas French Embassy Limited Partnership
Amount of Award: $92,343

Name of Project: Tall Timbers Apartments
Project Number: 114–35249
Location: Conroe, TX
Name of Recipient: Tall Timbers Apartments
Amount of Award: $175,000

Name of Project: Mockingbird Run
Project Number: 114–35039
Location: Bryan, TX
Name of Recipient: Christopher Village, Ltd.
Amount of Award: $175,000

Name of Project: Cooper Road Plaza
Project Number: 059–35039
Location: Shreveport, LA
Name of Recipient: Post 525 Cooper Road Plaza, Inc.
Amount of Award: $84,915

Name of Project: Terrace View Apartments
Project Number: 112–55037
Location: Grand Prairie, TX
Name of Recipient: Terrace View Apartments
Amount of Award: $107,772

Region VII (Kansas City)

Name of Project: Homes of Oakridge
Project Number: 074–35003/44015
Location: Des Moines, IA
Recipient Name: Homes of Oakridge and Des Moines
Amount of Award: $99,692

Name of Project: Oakridge Apartments
Project Number: 084–35026
Location: St. Joseph, MO
Recipient Name: Oakridge Apartments, Ltd.
Amount of Award: $93,342

Name of Project: Columbus Square
Project Number: 085–35337
Location: St. Louis, MO
Recipient Name: National Corporation for Housing Partnership
Amount of Award: $50,660

Name of Project: Jeff, Vander, Lou
Project Number: 15/16/18/19 085–35197/35262
Location: St. Louis, MO
Recipient Name: National Corporation for Housing Partnerships
Amount of Award: $50,446

Name of Project: Lafayette Towne
Project Number: 085–35207
Location: St. Louis, MO
Recipient Name: National Corporation for Housing Partnerships
Amount of Award: $93,384

Name of Project: Murphy Blair I
Project Number: 085–57004
Location: St. Louis, MO
Recipient Name: First Murphy Blair Redevelopment Corp.
Amount of Award: $92,971

Name of Project: Murphy Blair II
Project Number: 085–35304
Location: St. Louis, MO
Recipient Name: Murphy Blair Associates II
Amount of Award: $40,838

Name of Project: Colony North
Project Number: M036K004/005/006/007
Location: St. Louis, MO
Recipient Name: Northland Associates
Amount of Award: $169,500

Region VIII (Denver)

Name of Project: Clare Gardens
Project Number: 101–35029
Location: Denver, CO
Recipient Name: Clare Gardens, Inc.
Amount of Award: $42,963

Name of Project: La Alma Homes
Project Number: 101–35292
Location: Denver, CO
Recipient Name: La Alma Homes
Amount of Award: $20,201

Name of Project: Lincoln Park
Project Number: 101–35294
Location: Denver, CO
Recipient Name: National Housing Partnership
Amount of Award: $32,170

Name of Project: GHB Housing
Project Number: 101–35300
Location: Colorado Springs, CO
Recipient Name: GHB Housing, Inc.
Amount of Award: $23,251

Name of Project: Capitol Hill Apartments
Project Number: 101–44153
Location: Denver, CO
Recipient Name: Security Management
Amount of Award: $81,351

Name of Project: Browning Apartments
Project Number: N/A
Location: Ogden, UT
Recipient Name: Kier Management Corporation
Amount of Award: $35,480

Name of Project: Madison Manor
Project Number: N/A
Location: Ogden, UT
Recipient Name: Kier Management Corporation
Amount of Award: $72,412

Name of Project: Mountain Range/Peery

Project Number: N/A
Location: Ogden, UT
Recipient Name: Kier Management Corporation
Amount of Award: $35,780

Name of Project: Mountain Range/ Mount View
Project Number: N/A
Location: Ogden, UT
Recipient Name: Kier Management Corporation
Amount of Award: $28,910

Name of Project: Mountain Range/ Evergreen
Project Number: N/A
Location: Ogden, UT
Recipient Name: Kier Management Corporation
Amount of Award: $21,780

Name of Project: Fontenelle
Project Number: N/A
Location: Ogden, UT
Recipient Name: Kier Management Corporation
Amount of Award: $35,780

Name of Project: Mountain Range/ Revelle
Project Number: N/A
Location: Ogden, UT
Recipient Name: Kier Management Corporation
Amount of Award: $34,744

Name of Project: Stagecoach Apartments
Project Number: 109–35050
Location: Sheridan, WY
Recipient Name: Absolute Rental Properties, Inc.
Amount of Award: $7,468

Region IX (San Francisco)

Name of Project: The Gateway Garden Apartments
Project Number: 121–35832
Location: Menlo Park, CA
Recipient Name: The Gateway Garden Apartments
Amount of Award: $153,500

Name of Project: John F. Kennedy Manor I
Project Number: 121–55075
Location: Richmond, CA
Recipient Name: John F. Kennedy Manor I
Amount of Award: $151,787

Name of Project: John F. Kennedy Manor II
Project Number: 121–44142
Location: Richmond, CA
Recipient Name: John F. Kennedy Manor II
Amount of Award: $142,879

Name of Project: St. Johns
Project Number: 121–35034
Location: Richmond, CA
Recipient Name: St. Johns
Amount of Award: $175,000

Name of Project: La Salle Apartments
Project Number: 121–35531
Location: San Francisco, CA
Recipient Name: La Salle Apartments
Amount of Award: $159,845

Name of Project: Barrett Terrace
Project Number: 121–44365
Location: Richmond, CA
Recipient Name: Barrett Terrace
Amount of Award: $175,000

Name of Project: Crescent Park Apartments
Project Number: 121–55017
Location: Richmond, CA
Recipient Name: Crescent Park Apartments
Amount of Award: $174,931

Name of Project: Bayview Hunters Point Apartments
Project Number: 121–44440
Location: San Francisco, CA
Recipient Name: Bayview Hunters Point Apartments
Amount of Award: $143,400

Name of Project: Shoreview Apartments
Project Number: 121–35534
Location: San Francisco, CA
Recipient Name: Shoreview Apartments
Amount of Award: $138,193

Name of Project: Villa Nueva
Project Number: 129–35004
Location: San Ysidro, CA
Recipient Name: Villa Nueva
Amount of Award: $158,448

Name of Project: St. Andrew's Manor
Project Number: 121–44818
Location: Oakland, CA
Recipient Name: St. Andrew's Manor
Amount of Award: $172,959

Name of Project: St. Patrick's Terrace
Project Number: 121–44816
Location: Oakland, CA
Recipient Name: St. Patrick's Terrace
Amount of Award: $165,774

Name of Project: All Hallows Apartments
Project Number: 121–44027
Location: San Francisco, CA
Recipient Name: All Hallows Apartments
Amount of Award: $175,000

Name of Project: Whispering Pines
Project Number: 136–44122
Location: Sacramento, CA
Recipient Name: Whispering Pines
Amount of Award: $115,450

Name of Project: South Mountain Terrace
Project Number: 123–35139
Location: Phoenix, AZ
Recipient Name: South Mountain Terrace
Amount of Award: $72,641

Region X (Seattle)

Name of Project: Hydaburg Apartments
Project Number: N/A (FmHA)
Location: Hydaburg, AK
Recipient Name: Tlingit - Haida Regional Housing Authority
Amount of Award: $8,700

Name of Project: Swan Creek Apartments
Project Number : 127–44088
Location: Tacoma, WA
Recipient Name: Swan Creek Inc.
Amount of Award: $116,200

Name of Project: Woodland Apts.
Project Number: 126–44118
Location: Coos Bay, OR
Recipient Name: Infinity Management, Inc
Amount of Award: $16,280

Name of Project: Winthrop Apts.
Project Number: 127–35209
Location: Tacoma, WA
Recipient Name: Conifer Management, Inc.
Amount of Award: $19,964

Name of Project: Bayview Towers, Market House, Sunset House
Project Numbers: 127–38044, 127–EH008
Location: Seattle, WA
Recipient: Seattle Housing Authority
Amount of Award: $93,540

[FR Doc. 93–30457 Filed 12–13–93; 8:45 am]
BILLING CODE 4210–27–P

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–3376; FR–3154–N–02]

Announcement of Fiscal Year 1992 Funding Awards for the Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of Fiscal Year 1992 funding awards made under the Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals. The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to help carry out this housing assistance program for homeless individuals.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Deputy Director, Office of Special Needs Assistance Programs, room 7262, Department of Housing and

Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–4300. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–9300. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for homeless individuals is to provide rental assistance to homeless individuals in rehabilitated SRO housing. The assistance is in the form of rental assistance under the Section 8 Housing Assistance Payments Program. These payments equal the rent for the unit, including utilities, minus the portion of the rent payable by the tenant under the U.S. Housing Act of 1937. HUD will make the assistance available for 10 years.

HUD enters into annual contributions contracts (ACCs) with public housing agencies (PHAs). The ACC authorizes the PHA to enter into Housing Assistance Payments (HAP) Contracts with owners in connection with the moderate rehabilitation of residential properties in which some or all of the dwelling units may not contain either food preparation or sanitary facilities. First priority for occupancy of these SRO units will be given to eligible homeless individuals.

In a Notice of Funding Availability (NOFA) published in the **Federal Register** on March 26, 1992 (57 FR 10602), the Department announced the availability of fiscal 1992 funds for this SRO program. The Department reviewed, evaluated and scored the applications received for funding based on the criteria in the NOFA.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing details concerning the recipients of these awards, as follows:

FISCAL YEAR 1992 FUNDING AWARDS FOR SECTION 8 MODERATE REHABILITATION PROGRAM FOR SINGLE ROOM OCCUPANCY DWELLINGS FOR HOMELESS INDIVIDUALS

PHA	City/site	Units	Amount
Akron Metropolitan Housing Authority	219 East Market Street, Akron	90	$3,078,000
New York State Div. of Housing and Community Renewal.	334 Clinton Avenue, Albany	6	243,360
New York State Div. of Housing and Community Renewal.	29–31 Maiden Lane, Albany	46	1,865,760
City of Atlanta Department of Housing	187 Edgewood Avenue NE., Altanta	46	1,998,240
City of Atlanta Department of Housing	2370 Stewart Avenue, Atlanta	100	4,344,000
Housing Authority of Baltimore City	313–315 S. Broadway, Baltimore	42	1,804,320
Idaho Housing Agency	695 S. Ash, Blackfoot	11	381,480
Boston Housing Authority	1053–1055 Tremont Street, Boston	18	1,226,880
Boston Housing Authority	1049–1051 Tremont Street, Boston	20	1,363,200
Boston Housing Authority	1035–1039 Tremont Street, Boston	24	1,635,840
Boston Housing Authority	316 Huntington Avenue, Boston	65	4,430,400
Cambridge Housing Authority	10 Russell Street, Cambridge	7	477,120
New York State Div. of Housing and Community Renewal.	Drewville Road, Carmel	12	717,120
Chicago Housing Authority	4626 North Magnolia, Chicago	70	3,477,600
Chicago Housing Authority	30 W. Chicago Avenue, Chicago	100	4,968,000
Columbus Metropolitan Housing Authority	1204–1206 North High Street, Columbus	10	344,400
The Housing Authority of Columbus, Georgia	1235 5th Avenue, Columbus	60	1,677,600
Housing Authority of the City of Everett	1801 Hewitt Avenue, Everett	20	960,000
Gloucester Housing Authority	7–11 Pleasant Street, Gloucester	30	1,800,000
Housing Authority of the City of Los Angeles	1963 Cahuenga, Hollywood	100	6,072,000
Huntington, West Virginia Housing Authority	1428 Seventh Avenue, Huntington	8	266,880
Huntington, West Virginia Housing Authority	546 Sixth Avenue, Huntington	75	2,502.,000
Barnstable Housing Authority	379 South Street, Hyannis	10	621,000
Barnstable Housing Authority	87 Winter Street, Hyannis	6	372,960
Michigan State Housing Development Authority	345 N. Burdick Street, Kalamazoo	84	3,003,840
Housing Authority of the City of Los Angeles	713 East 5th Street, Los Angeles	46	2,793,120
Housing Authority of the City of Los Angeles	1002 East 7th Street, Los Angeles	50	3,036,000
Metropolitan Dade County Special Housing Programs Dept.	11101 S.W. 24th Street, Miami	9	405,000
Newport News Redevelopment and Housing Authority	2400–14 West Avenue, Newport News	88	3,527,040
Berkshire County Regional Housing Authority	176 Union St. 8–10 Rand St., North Adams	41	1,622,960
Oakland Housing Authority	1445 Harrison Street, Oakland	53	3,192,720
Oklahoma City Housing Authority	130–136 Northwest 13th St., Oklahoma City	12	387,360
Housing Authority of the County of Santa Clara	4269 El Camino Real, Palo Alto	21	1,398,600
Philadelphia Housing Authority	2321 N. Broad Street, Philadelphia	65	2,995,200
Chester County Housing Authority	1500 Charlestown Road, Phoenixville	28	1,290,240
Housing Authority of Portland	718 W. Burnside, Portland	100	3,876,000
Housing Authority of the City of Salem	633 Ferry Street, SE, Salem	26	1,054,560
San Francisco Housing Authority	820 O'Farrell, San Francisco	54	3,900,960
Housing Authority of the City of Seattle	307 S. Washington St., Seattle	52	2,496,000
Housing Authority of the City of Seattle	1431 Minor, Seattle	95	4,560,000
Executive Office of Communities and Development	32 Byers Street, Springfield	44	2,117,280
City of Tucson Community Services Department	3966 East Prima Street, Tucson	14	619,920
Wilmington Housing Authority	701 Shipley, Wilmington	54	2,546,640

Dated: December 7, 1993.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 93–30459 Filed 12–13–93; 8:45 am]

BILLING CODE 4210–29–P

Office of Assistant Secretary for Community Planning and Development

[Docket No. N–93–3576; FR–3372–N–03]

Announcement of Funding Awards for Supportive Housing for the Homeless, FY 1993

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Reform Act of 1989, this announcement notifies the public of the funding decision made by the Department from the competition for funding under a Notice of Funding Availability for Supportive Housing for the Homeless. This announcement contains the names and addresses of the award winners and the amount of the awards.

DATES: December 14, 1993.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Deputy Director, Office of Special Needs Assistance Program, room 7262, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–4300. The TDD number for the hearing impaired is (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the competition was to make funding available to (1) achieve residential stability; (2) increase their skill levels and/or income; and (3) obtain greater self-determination. The Supportive Housing program is a newly authorized program under title IV of the Stewart B. McKinney Homeless Assistance Act, as amended by section 1403 of the Housing and Community Development Act of 1992 (Pub. L. 102–550), approved October 28, 1992.

The Supporting Housing grants, totaling $88.8 million, will enable 43 projects to expand support systems for the homeless. The 1993 awards in this notice were selected for funding in a national competition announced in a **Federal Register** notice published on March 15, 1993 (58 FR 13904).

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the names, addresses, and amount of those awards, as set out at the end of this notice.

Dated: December 3, 1993.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

Supportive Housing for the Homeless FY 1993 Grants

Project Name, Location and Amount:

Low Income Elderly United, Community Assistance Project, (LIEU-CAP) City and County of Los Angeles, CA Amount: $723,784.

The Salvation Army, Washington, DC Amount: $2,974,983.

Shelter, Inc., Contra Costa, CA Amount: $4,190,153.

Ministry of Caring, Inc., Wilmington, DE Amount: $940,245.

1736 Family Crisis Center, Los Angeles, CA Amount: $1,740,545.

Covenant House Florida, Ft. Lauderdale, FL Amount: $998,490.

Single Room Occupancy, Corporation, Los Angeles, CA Amount: $2,036,267.

The Salvation Army, Hollywood, FL Amount $1,358,581.

Rubicon Programs, Inc., Richmond, CA Amount: $3,358,810.

Boley, Inc., St. Petersburg, FL Amount: $522,669.

Housing Authority of the County of Sacramento, Sacramento, CA Amount: $12,844,465.

City of Chicago, Department of Human Services, Chicago, IL Amount: $690,999.

Step Up On Second, Santa Monica, CA Amount: $1,065,540.

Catholic Charities, Chicago, IL Amount: $6,305,375.

Travelers & Immigrants Aid, Chicago, IL Amount: $517,482.

Interfaith Residence D/B/A Doorways, St. Louis, MO Amount: $2,353,155.

St. Elizabeth's Southern Indiana, New Albany, IN Amount: $1,115,278.

Hennepin County Community Services Department, Minneapolis, MN Amount: $1,407,440.

Volunteers of America of Greater New Orleans, New Orleans, LA Amount: $2,293,558.

The Doe Fund, New York, NY Amount: $1,973,628.

Short Stop, Inc., Somerville, MA Amount $923,973.

The Bridge, Inc., New York, NY Amount: $975,564.

City of Baltimore, Baltimore, MD Amount: $7,096,469.

Trustees of Columbia University, New York, NY Amount: $764,290.

City of Frederick, Frederick, MD Amount: $557,772.

Postgraduate Center for Mental Health, New York, NY Amount: $2,895,923.

Justice Resource Institute, Boston, MA Amount: $1,234,357.

Homes for the Homeless, Inc., New York, NY Amount: $1,319,265.

Trustees of Health & Hospitals of the City of Boston, Inc., Boston, MA Amount: $2,136,588.

AIDS Resource Center, New York, NY Amount $1,307,843.

SOS Crisis Center, Ypsilanti, MI Amount: $1,442,421.

Bank Street College of Education, New York, NY Amount: $1,980,000.

Tremont Commonwealth Council, New York, NY Amount: $1,923,063.

Mental Health Services West, Portland, OR Amount: $3,384,172.

Community Support Services Inc., Akron, OH Amount: $400,000.

1260 Housing Development Corporation, Philadelphia, PA Amount: $1,516,705.

Transitional Housing, Inc., Cleveland, OH Amount $537,700.

The Family Place, Dallas, TX Amount: $5,327,839.

Miami Valley Housing Opportunities, Inc., Dayton, OH Amount: $436,170.

The Salvation Army, San Antonio, TX Amount: $674,361.

Tri-County Youth Services Consortium, Portland, OR Amount: $1,587,324.

Region 10 Community Service, Board, Charlottesville, VA Amount $667,623.

Seattle King County Private Industry Council, Seattle, WA Amount: $335,985.

[FR Doc. 93–30455 Filed 12–13–93; 8:45 am]

BILLING CODE 4210–29–P

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–93–3359; FR 2753–N–04]

Housing Counseling Program: Notice of Change in Toll-Free Telephone Number

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The purpose of this notice is to notify the public that the Department has a new toll-free telephone number by which a caller may obtain a list of HUD-approved housing counseling agencies in the caller's area.

FOR FURTHER INFORMATION CONTACT: Joseph C. Bates, Director, Single Family Servicing Division, room 9178, 451

Seventh Street, SW., Washington, DC 20410–0500. Telephone: (202) 708–1672 (voice) or (202) 708–4594 (TDD).

SUPPLEMENTARY INFORMATION: On December 12, 1991 (56 FR 64724), the Department published a notice which notified the public of the Department's toll-free telephone number by which an individual could obtain a list of the HUD-approved housing counseling agencies that serve the area in which the individual resides.

The purpose of this notice is to advise the public that the previously published toll-free telephone number is no longer in service. The Department has a new toll-free telephone number, which is: 1–800–569–4287.

The Department refers to this housing counseling toll-free telephone number service as the Housing Counseling Voice Response System (HCVRS). The HCVRS provides callers with information that will direct them to an appropriate HUD-approved housing counseling agency. Since first offering this service, the Department has added several enhancements to make the system more user-friendly. These enhancements include: a clearer digitized voice; a Spanish-speaking option for touch-tone phones, and faster response time.

Until November 30, 1993, users calling the former HCVRS number will hear a recording directing them to the new toll-free telephone number.

Dated: December 2, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 93–30452 Filed 12–13–93; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1076–0104), Washington, DC 20503, telephone (202) 395–7340.

Title: Procedures for Establishing That an American Indian Group Exists as an Indian Tribe.

OMB approval number: 1076–0104.

Abstract: The regulations contain seven criteria which unrecognized groups seeking Federal acknowledgment as Indian tribes must demonstrate that they meet. Information collected by petitioning groups under these regulations provides anthropological, genealogical and historical data used by the Assistant Secretary—Indian Affairs to establish whether a petitioning group has the characteristics necessary to be acknowledged as having a government-to-government relationship with the United States.

Frequency: One-time collection.

Description of Respondents: Unrecognized groups petitioning for Federal acknowledgment as tribes.

Estimated completion time: 1968 hours.

Annual responses: 4.

Annual burden hours: 7870.

Bureau clearance officer: Gail Sheridan, 202–208–2685.

Deborah J. Maddox,

Acting Director, Office of Tribal Services.

[FR Doc. 93–30388 Filed 12–13–93; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[OR–015–04–4410–04: G4–037]

Management Framework Plans, etc.: Oregon et al.

AGENCY: Bureau of Land Management (BLM), DOI.

ACTION: Notice of availability, proposed decision on the Warner Lakes Management Framework Plan Amendment.

SUMMARY: The United States Bureau of Land Management (BLM) has evaluated the impacts of a Proposed Plan Amendment to the Warner Lakes Management Framework Plan. The amendment and associated Environmental Assessment (EA) evaluated three management alternatives covering approximately 13,000 acres of BLM administered lands within a portion of the Lakeview Resource Area in Lake County, Oregon, Washoe County, Nevada, and Modoc County, California.

After evaluating the impacts of all the alternatives and considering public and agency input, the BLM is proposing to implement Alternative 3. The plan will control western juniper (Juniperus occidentalis) throughout the Plan Amendment area for the purpose of meeting watershed, wildlife, and riparian management objectives.

DATES: The Proposed Plan Amendment will be made available for a 30-day protest period on or about December 27, 1993. The proposed decision will take effect at the end of this 30-day period, pending the resolution of any protest filed.

ADDRESSES: The Proposed Plan Amendment, EA, and FONSI have been sent to all individuals, groups, and agencies involved in the planning process. Copies are also available for viewing at:

BLM, State Office, Office of Planning and Environmental Coordination, 1300 NE 44th Avenue, Portland, OR 97208–0039

BLM, Lakeview District Office, 1000 South Ninth Street, Lakeview, OR 97630

Lake County Library, County Courthouse, Lakeview, OR 97630

Additional copies may also be obtained by contacting the Lakeview District office at the above address.

Protests must be submitted in writing to: BLM, Division of Planning and Environmental Coordination (WO–760), 1849 C Street NW, (406 L St.), Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Paul Whitman, Lakeview District Office, Post Office Box 151, 1000 South Ninth Street, Lakeview, Oregon 97630, (Telephone 503–947–6110).

SUPPLEMENTARY INFORMATION: The draft Plan Amendment and EA was previously made available for public review. The comment period ended on July 15, 1993. Eight individuals, agencies, and organizations submitted comments. Substantive comments have been addressed with the Proposed Plan Amendment, EA, and Finding of No Significant Impact (FONSI). The Proposed Plan Amendment cannot be approved and implemented until the Governors of Oregon, Nevada, and California have had an opportunity to review it. Final approval of the Proposed Plan Amendment will also be subject to the final action taken on any protests which may be filed. Only those persons or organizations who participated in the planning process leading to this Proposed Plan Amendment may protest. If the public record does not indicate that a protesting individual or organization had involvement in any stage of the preparation of the Proposed Plan Amendment, then the protest will be dismissed without further review. A protest may only raise those issues which were previously submitted for the record during the planning process and must be submitted to the address

listed above. Protests must follow the requirements of 43 CFR 1610.5–2 and must be postmarked no later than the last day of the protest period. There are no provisions for an extension of this time period. It is suggested that protests be sent certified mail, return receipt requested.

June Sundeen,

Acting District Manager.

[FR Doc. 93–30497 Filed 12–13–93; 8:45 am]

BILLING CODE 4310–33–M

[WY–040–4210–05; WYW128014]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act; Wyoming

AGENCY: Bureau of Land Management.

ACTION: Notice of realty action.

SUMMARY: The following public lands near the community of Rock Springs, Wyoming have been examined and found suitable for lease or conveyance to Sweetwater County, Wyoming under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Sweetwater County proposes to use the lands for a shooting range complex.

6th Principal Meridian

T. 17 N., R. 106 W.
Section 14, E½,E½W½.
The area contains 480 acres more or less.

FOR FURTHER INFORMATION CONTACT: Bill LeBarron, Area Manager, Green River Resource Area, Bureau of Land Management, 1993 Dewar Drive, Rock Springs, Wyoming 82901.

SUPPLEMENTARY INFORMATION: The lands are not needed for Federal purposes. Lease/conveyance is consistent with current BLM land use planning and would be in the public interest. The lease/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 or 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. Those rights for a highway to Sweetwater County, by right-of-way Serial No. WYW 82642.

5. Those rights for an oil and gas pipeline to Questar Pipeline Company, by right-of-way Serial No. WYW 120941.

6. Those rights for an oil and gas pipeline to Mid-American Pipeline Company by right-of-way Serial No. WYW 69582.

7. Those rights for a road to the U.S. Department of Agriculture by right-of-way Serial No. WYW 40572.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed lease/conveyance of the lands to the District Manager, Rock Springs District Office, P.O. Box 1869, Rock Springs, Wyoming 82902–1869.

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a shooting range.

Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this proposed realty action will become final.

Dated: December 6, 1993.

William W. LeBarron,

Area Manager.

[FR Doc. 93–30421 Filed 12–13–93; 8:45 am]

BILLING CODE 4310–22–M

[AZ–930–4210–06; A–12859, AR–6265, AR–016986, AR–018629, AR–030567, AR–010997, A–1548 and A–6376]

Proposed Modifications and Continuation of Withdrawals; Opportunity for Public Comment, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to modify and continue for 20 years, Secretarial Order dated October 26, 1908, and Public Land Orders 1080, 1585, 1810, 2561, 3263, 4539, and 5228, which withdrew National Forest System lands in the Coronado National Forest for use of the Forest Service for a number of uses, including administrative sites, recreation areas, lookouts, and observatory.

The Forest Service proposes to continue the withdrawals for these purposes for 20 years, and does not anticipate any significant changes in land use. The land will remain closed to operation of the mining laws only.

DATES: Comments on this notice should be received by March 14, 1993.

ADDRESSES: Comments should be addressed to the Arizona State Director, Bureau of Land Management (BLM), P.O. Box 16565, Phoenix, Arizona, 85011.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, P.O. Box 16565, Phoenix, Arizona 85011, 602–650–0509.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that Secretarial Order dated October 26, 1908 (A–12859), and Public Land Order 1080 dated February 28, 1955 (AR–06265), Public Land Order 1585 dated February 7, 1958 (AR–016986), Public Land Order 1810 dated February 27, 1959 (AR–018629), Public Land Order 2561 dated December 15, 1961 (AR–030567), Public Land Order 3263 dated October 29, 1963 as modified (AR–010997), Public Land Order 4539 dated November 21, 1968 (A–1548), and Public Land Order 5228 dated July 14, 1976 (A–6376), withdrawing the lands from the mining laws for an indefinite period of time, be modified and continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following described land within the Coronado National Forest in the State of Arizona. Secretarial Order dated October 26, 1908 and Public Land Orders 1080, 1585, 1810, and 4539 are also proposed to be open to appropriation and use of all kinds of public land laws.

Gila and Salt River Meridian

Rucker Canyon Administrative Site (A–12859)

T. 19 S., R. 29 E.,
Sec. 23, SW¼SE¼NE¼SW¼NE¼,
S½SW¼NE¼SW¼NE¼,
SE¼SE¼NW¼SW¼NE¼,
S½NE¼SW¼SW¼NE¼,
NE¼SE¼SW¼SW¼NE¼,
NW¼SE¼SW¼NE¼,
NW¼SE¼SE¼SW¼NE¼,
W½NE¼SE¼SW¼NE¼.
The area described contains 10 acres.

Cochise Stronghold Recreation Area (AR–06265)

T. 17 S., R. 23 E.,
Sec. 25, SW¼SW¼.
The area described contains 40 acres. The E½SW¼SW¼ (20 acres) has been recommended for termination as the land is no longer needed for the purpose it was withdrawn.

Dear Creek Administrative Site (AR–06265)

T. 9S., R. 20 E.,
Sec. 10, SW¼SW¼SE¼NE¼,
S½SE¼SW¼NE¼, NE¼NW¼SE¼,
N½SE¼NW¼SE¼, W½NE¼SW¼,
NW¼SW¼NE¼SE¼, E½NE¼SE¼.
The area described contains 50 acres.

Madera Canyon Recreation Area (AR–06265)

T. 19 S., R. 14 E.,
Sec. 35, SE¼NW¼.
T. 20 S., R. 14 E.,
Sec. 2, Lot 1, SE¼NE¼, E½SE¼NW¼, E½NE¼SW¼, E½NE¼SE¼, W½NW¼SE¼.

The area described contains 183.59 acres. An additional 340 acres have been recommended for termination because they are no longer needed for the purpose they were withdrawn or are overlapped by PLO 725. The Forest Service is proposed to add 245.27 acres to the withdrawal.

Marijilda Picnic Grounds (AR–06265)

T. 8 S., R. 25 E.,
Sec. 33, N½NE¼, SW¼NE¼.
The area described contains 120 acres.

Noon Creek Administrative Site (AR–06265)

T. 9 S., R, 25 E.,
Sec. 9, SW¼NE¼, SE¼NE¼;
Sec. 10, SW¼NW¼.

The area described contains 120 acres.

Noon Creek Picnic Grounds (AR–06265)

T. 9 S., R. 25 E.,
Sec. 9, SE¼NW¼ and E½SW¼NW¼.

The area described contains 60 acres.

Pena Blanca Recreation Area (AR–06265)

T. 23 S., R. 12 E.,
Sec. 26, SE¼NW¼ and E½SW¼;
Sec. 35, W½NW¼.

The area described contains 200 acres.

Rucker Canyon Recreation Area (AR–06265)

T. 19 S., R. 30 E.,
Sec. 17, SE¼NE¼NW¼, SE¼SW¼NW¼;
Sec. 18, NE¼SE¼.

The area described contains 60 acres. An additional 560 acres is recommended for termination since they are no longer needed for the purpose they were withdrawn. The Forest Service proposes to add 60 acres to the withdrawal.

Rustler Park Recreation Area (AR–06265)

T. 17 S., R. 30 E.,
Sec. 33, SE¼ (corrected).

The area described contains 160 acres.

Sabino-Bear Canyon Administrative Site (AR–06265)

T. 13 S., R. 15 E.,
Sec. 9, E½SW¼SW¼, SE¼SW¼, S½NE¼SW¼, SE¼, S½S½NE¼.

The area described contains 280 acres.

Sabino-Bear Canyon Recreation Area (AR–06265)

Those portions lying outside the Blue Ridge Wilderness in:
T. 12 S., R. 15 E.,
Sec. 26, SW¼SE¼, SE¼SW¼;
Sec. 35, W½W½NE¼, E½E½NW¼, E½SW¼.
T. 13 S., R. 15 E.,
Sec. 2, NW¼NW¼, NW¼SW¼NW¼;
Sec. 3, SE¼NE¼, N½NE¼SE¼, SE¼NW¼SE¼, SW¼;
Sec. 9, N½NE¼, N½S½NE¼;
Sec. 10, SE¼.

The area described contains 430 acres. An additional 250 acres lying within the Blue Ridge Wilderness have been recommended for termination as the wilderness provides a greater degree of protection.

Tanque Verde Recreation Area (AR–06265)

T. 13 S., R. 16 E.,
Sec. 36, SE¼.
T. 14 S., R. 16 E.,
Sec. 1, Lots 1, 2, 7, 8, and S½NE¼.

The area described contains 351.43 acres.

Turkey Creek Administrative Site (AR–06265)

T. 18 S., R. 29 E.,
Sec. 13, S½NW¼NW¼SE¼ and N½SW¼NW¼SE¼.

The area described contains 10 acres.

Turkey Creek Recreation Area (AR–06265)

T. 18 S., R. 29 E.,
Sec. 13, NW¼SE¼SW¼, N½SW¼SW¼, N½SE¼SE¼;
Sec. 14, N½SE¼SE¼.
T. 18 S., R. 29½ E.,
Sec. 24, NW¼NE¼NW¼ (corrected).

This area described contains 90 acres. An additional 180 acres have been recommended for termination since they are no longer needed for the purpose they were withdrawn. The Forest Service proposes to add 60 acres to the withdrawal.

Pena Blanca Recreation Area Addition (AR–016986)

T. 23 S., R. 12 E.,
Sec. 23, SE¼SW¼ and SW¼SE¼;
Sec. 26, W½NE¼, N½NW¼, SW¼NW¼, W½SW¼ and NW¼SE¼.

The area described contains 400 acres.

Sabino-Bear Canyon Recreation Area (AR–016986)

T. 13 S., R. 15 E.,
Sec. 10, SE¼SW¼.

The area described contains 40 acres.

Cochise Stronghold Recreation Area (AR–018629)

T. 17 S., R. 23 E.,
Sec. 26, Lots 2, 3 and 4.

The area described contains 121.98 acres. Lot 2, containing 40.92 acres, has been recommended for termination since it is no longer needed for the purpose it was withdrawn.

Peppersauce Canyon Recreation Area (AR–018629)

T. 10 S., R. 16 E.,
Sec. 28, S½NE¼NW¼, N½SE¼NW¼, W½NW¼NE¼, except M.S. 4097 lying therein.

The area described contains 58.14 acres.

Palisades Administrative Site (AR–030567)

T. 12 S., R. 16 E.,
Sec. 4, S½S½SE¼SW¼, S½SE¼SW¼SW¼;
Sec. 9, N½NE¼NW¼, NE¼NW¼NW¼.

The area described contains 45 acres.

Calabasas Recreation Area (AR–010997)

T. 23 S., R. 13 E.,
Sec. 31, E½SE¼NW¼ and W½SW¼NE¼.

The area described contains 40 acres.

Lowell Administrative Site (AR–010997)

T. 13 S., R. 15 E.,
Sec. 9, W½SW¼SW¼ and S½NW¼SW¼.

The area described contains 40 acres.

Marshall Gulch Recreation Area (AR–010997)

T. 11 S., R. 16 E.,
Sec. 31, N½SE¼SE¼, S½N½SE¼, N½NW¼SE¼, NW¼NE¼SE¼, W½SW¼SE¼, S½SW¼NE¼, NE¼SW¼NE¼, SE¼NW¼NE¼, S½NE¼SW¼ and E½SE¼SW¼.
T. 12 S., R. 15 E. (unsurveyed),
Sec. 1, NE¼NE¼NE¼.
T. 12 S., R. 16 E. (unsurveyed),
Sec. 6, NW¼NW¼NW¼.

The area described contains 210 acres. The 20 acres located in secs. 1 and 6 are recommended for termination since they are no longer needed for the purpose they were withdrawn.

Bear Canyon Recreation Area (AR–010997)

T. 12 S., R. 16 E. (unsurveyed),
Sec. 22, NW¼SE¼, N½NE¼SE¼, SW¼NE¼SE¼, SE¼SW¼NE¼ and SE¼NE¼.

The area described contains 120 acres.

General Hitchcock Recreation Area (AR–010997)

T. 12 S., R. 16 E. (unsurveyed),
Sec. 23, NE¼NW¼, S½NW¼NW¼ and N½S½NW¼.

The area described contains 110 acres.

Rose Canyon Recreation Area (AR–010997)

T. 12 S., R. 16 E. (unsurveyed),
Sec. 10, S½SE¼, SE¼SW¼, S½SW¼SW¼, SW¼NE¼SE¼, S½NW¼ and SE¼NE¼SW¼;
Sec. 15, N½NW¼, NW¼NE¼, W½NE¼NE¼, N½S½NW¼, N½SW¼NE¼, SW¼SW¼NW¼;
Sec. 16, E½NE¼NE¼, SE¼NE¼, S½SW¼NE¼, NE¼SW¼NE¼, N½N½SE¼, S½NW¼SE¼ and E½NE¼SW¼.

The area described contains 560 acres.

Bear Wallow Recreation Area (AR–010997)

T. 12 S., R. 16 E. (unsurveyed),
Sec. 5, N½SE¼NW¼, SE¼NE¼NW¼, W½NE¼NW¼ and NW¼NW¼.

The area described contains 90 acres.

Molino Basis Recreation Area (AR–010997)

T. 13 S., R. 16 E. (unsurveyed),
Sec. 3, N½N½, N½S½NW¼ and N½SW¼NE¼.
T. 12 S., R. 16 E. (unsurveyed),
Sec. 34, S½SE¼SE¼.

The area described contains 240 acres.

Soldier Creek Recreation Area (AR–010997)

T. 8 S., R. 24 E. (unsurveyed),
Sec. 32, S½NW¼NW¼ and N½SW¼NW¼.

The area described contains 40 acres.

Shannon Recreation Area (AR–010997)

T. 9 S., R. 24 E. (unsurveyed),
Sec. 14, NW¼NE¼NE¼ and NE¼NW¼NE¼.

The area described contains 20 acres.

Stockton Pass Recreation Area (AR–010997)

T. 10 S., R. 24 E. (unsurveyed),
Sec. 1, NW¼SW¼ and S½SW¼NW¼.

The area described contains 60 acres.

Wet Canyon Recreation Area (AR–010997)

T. 9 S., R. 25 E. (unsurveyed),
Sec. 17, NE¼NE¼SW¼.

The area described contains 10 acres.

Pinery Canyon Recreation Area (AR–010997)

T. 17 S., R. 30 E. (unsurveyed),
Sec. 27, W½NW¼NW¼ and NW¼SW¼ NW¼ (corrected description);
Sec. 28, E½NE¼NE¼ (corrected description).

The area described contains 50 acres. The land in sec. 27 (30 acres) has been recommended for termination since it is no longer needed for the purpose they were withdrawn.

Mount Hopkins Astrophysical Observatory (A–1548)

T. 20 S., R. 14 E.,
Sec. 14, that portion lying outside of the Mt. Wrightson Wilderness;
Sec. 22, Lot 1, and that portion lying outside the Mt. Wrightson Wilderness;
Sec. 23, Lots 1–3, N½, N½S½, SE¼SE¼;
Sec. 24, that portion of the W½ lying outside the Mt. Wrightson Wilderness;
Sec. 26, Lots 1–3, NE¼NE¼ and S½N½.

The area described contains 1,641.98 acres. An additional 3,102.10 acres have been recommended for termination since the lands are within the Mt. Wrightson Wilderness which provides greater protection for the Observatory's use.

West Peak Lookout and Administrative Site (A–6376)

T. 8 S., R. 23 E. (unsurveyed),
Sec. 18; a metes and bounds description containing approximately 11.24 acres.

Riggs Flat Recreation Area (A–6376)

T. 8 S., R. 23 E. (unsurveyed),
Secs. 23, 26, and 35; a metes and bounds description containing approximately 290.56 acres.

Heliograph Electronic Site and Lookout (A–6376)

T. 9 S., R. 24 E. (unsurveyed),
Sec. 13; a metes and bounds description containing approximately 14.58 acres.

Hospital Flat—Treasure Park (A–6376)

T. 9 S., R. 24 E. (unsurveyed),
Secs. 10, 11, 14 and 15; a metes and bounds description containing approximately 293.71 acres.

Southern Arizona Bible Camp (A–6376)

T. 8 S., R. 24 E. (unsurveyed),
Secs. 21 and 28; a metes and bounds description containing approximately 69.06 acres.

Columbine Administrative Site (A–6376)

T. 8 S., R. 24 E. (unsurveyed),
Secs. 29 and 32; a metes and bounds description containing approximately 47.45 acres.

Arcadia Recreation Area (A–6376)

T. 9 S., R. 25 E. (unsurveyed),
Secs. 17 and 18; a metes and bounds description containing approximately 51.04 acres.

The areas described in this publication aggregate 6,829.76 acres. The purpose of these withdrawals is to protect U.S. Forest Service various use areas from prospecting and possible disturbances caused by mining. For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with these proposed actions may present their views in writing to this office. The authorized officer of the BLM will undertake such investigation as is necessary to determine the existing and potential demand for the land and its resources.

A report will be prepared for consideration to determine whether or not the withdrawal will be modified and confined and, if so, for how long. Notice of a final determination will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Herman L. Kast,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 93–30498 Filed 12–13–93; 8:45 am]

BILLING CODE 4310–32–M

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the bureau clearance officer and to the Office of Management and Budget, Paper Reduction Project, (1006–****), Washington, DC 20503, telephone 202–395–7340.

Title: Bureau of Reclamation, Lower Colorado River Well Inventory.

OMB approval number: 1006–****.

Abstract: The Bureau of Reclamation (Reclamation) desires to inventory wells in the floodplain of the lower Colorado River and other areas underlain by Colorado River water. The lower Colorado River includes that part of the Colorado River downstream from Lee Ferry in northern Arizona to the Southerly International Boundary with Mexico.

Reclamation's objectives are to assure that all Colorado River water use in the lower Colorado River basin conforms to applicable laws and regulations and is accurately accounted for. Reclamation's plan is to locate and identify every well, determine if the water use conforms to applicable laws and regulations, and estimate the volume of water used.

Anyone who pumps Colorado River water must have a Federal entitlement for its use, or be included in someone else's entitlement. If Reclamation determines that the use of Colorado River water from a well does not conform to applicable laws and regulations, Reclamation will provide information to and assist the owner or operator of the well in bringing their use of Colorado River water into compliance. If an owner or operator of a well is unable or unwilling to bring their use of Colorado River water into compliance with applicable laws and regulations, those laws and regulations stipulate that the use of Colorado River water from their well must be terminated. The use of Colorado River water without an entitlement represents the taking of water supplies that belong to others. The proper management of the Colorado River is critical to meeting the needs of all authorized users of Colorado River water in the lower Colorado River basin.

Reclamation estimates that the initial inventory will take about 4 years to complete, after which a continued data collection effort will be required for the foreseeable future to keep the inventory current. This inventory is vital because the total use of Colorado River water in Arizona, California, and Nevada is near the maximum available supply of 7.5 million acre-feet.

Reclamation employees will collect the following information:

(1) The well's exact location, and the name and address of the property owner or well operator;

(2) A photograph of the well to aid identification;

(3) The purpose(s) for which the water is used;

(4) The disposal of the unconsumed portion of the water;

(5) The volume of water currently being pumped;

(6) The physical characteristics and history of the well;

(7) The type and features of existing permits and/or contracts for the use of water from the well, if any; and

(8) The water level in the well if the well is located in a hydrologically connected area adjacent to the floodplain.

Bureau Form Number: This inventory will not be issued a Reclamation form number.

Frequency: One-time.

Description of Respondents: Well owner or operator.

Annual Responses: 1,000.

Annual Burden Hours: ½ hour per respondent, for a total of 500 hours annually.

Bureau Clearance Officer: Robert A. Lopez—303–236–6769.

Dated: November 16, 1993.

Donald R. Glaser,

Deputy Commissioner.

[FR Doc. 93–30389 Filed 12–13–93; 8:45 am]

BILLING CODE 4310–94–M

National Park Service

National Trail Study for the Ala Kahakai; Intent To Prepare an Environmental Impact Statement

SUMMARY: The National Park Service will prepare a National Trail Study/Environmental Impact Statement for the Ala Kahakai (Ancient Shoreline Trail) on the Island of Hawaii and initiate the scoping process for this document. This notice is in accordance with 40 CFR 1501.7 and 40 CFR 1508.22, of the regulations of the President's Council on Environmental Quality for the National Environmental Policy Act of 1969, Public Law 91–150.

BACKGROUND: Study of the Ala Kahakai was authorized by Public Law 102–461, October 23, 1992. The Ala Kahakai, an ancient Hawaiian trail on the Island of Hawaii, extends from the northern tip of the island approximately 175 miles along the western and southern coasts to the boundary of Hawaii Volcanoes National Park.

The study is intended to evaluate whether the Ala Kahakai route meets the criteria for a national trail as set forth in the National Trails System Act as amended, whether the Ala Kahakai qualifies as a historic trail or scenic trail, and whether designation of the Ala Kahakai route as a national trail is feasible and desirable.

Issues to be addressed in the Study/EIS include the following: objectives and practices to be observed in managing the trail; identification of significant natural, historic, and cultural resources that are to be preserved; a protection plan for any high potential historic sites or route segments; details of anticipated cooperative agreements with federal, state, and local organizations and private interests; procedures for marking the trail with signs, and proposals to foster public knowledge of the trail and help visitors understand the importance of sites along the trail; identification of sites that will provide public information about the trail; provisions for appropriate public use, including opportunities to retrace the trail route; impacts of adjacent land use; and visitor use management. The Study/EIS will present a proposal and alternatives, including no action, to address these issues and will be developed in cooperation with the public. The EIS will provide for an analysis of impacts.

Scoping to formulate and evaluate the issues and alternatives is expected to commence in February 1994 and be completed by July 1994. This public involvement will consist of a meeting in Honolulu on the Island of Oahu and meetings on the Island of Hawaii. Advance notice will be provided for these meetings. For requests to participate in this study, or for any questions on the public involvement phase, please contact the National Park Service, Western Regional Office, Division of Planning, Grants, and Environmental Quality, 600 Harrison Street, Suite 600, San Francisco, California 94107–1372, Attention: Meredith Kaplan, Ala Kahakai Team Coordinator; telephone number 415/744–3968.

The responsible official is Stanley T. Albright, Regional Director, Western Region, National Park Service. The draft study and environmental statement are expected to be available for public review in February 1995, and the final study, environmental statement, and Record of Decision completed by the end of 1995.

Dated: December 6, 1993.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 93–30487 Filed 12–13–93; 8:45 am]

BILLING CODE 4310–70–P

General Management Plan Amendment for Rincon Unit Expansion; Saguaro National Monument, Arizona; Intent to Prepare an Environmental Impact Statement

SUMMARY: The National Park Service will prepare a General Management Plan Amendment/Environmental Impact Statement (GMPA/EIS) for expansion of the Rincon Unit of Saguaro National Monument, Arizona and initiate the scoping process for this document. This notice is in accordance with 40 CFR 1501.7 and 40 CFR 1508.22, of the regulations of the President's Council on Environmental Quality for the National Environmental Policy Act of 1969, Public Law 91–190.

BACKGROUND: Public Law 102–61 expanded the Rincon Unit of the monument to include an additional area of approximately 3450 acres. The purpose of the GMPA/EIS will be to state the management philosophy for this expansion area and provide strategies for addressing major issues relating to the area. Two types of strategies will be presented in the GMPA: (1) Those required to properly manage cultural and natural resources; and (2) those required to provide for safe, accessible and appropriate use of those resources. Based on these strategies, the GMPA will identify the programs, actions and support facilities needed for their implementation.

Persons wishing to comment or express concerns on the management issues and future management direction of the Rincon Unit expansion area should address these to the Superintendent, Saguaro National Monument, 3693 South Old Spanish Trail, Tucson, Arizona 85730–5699. Questions regarding the plan should be addressed to the superintendent either by mail to the above address, or by telephone at (602) 670–6680. Comment on the scoping of the proposed GMPA/EIS should be received no later than January 31, 1994.

Public scoping sessions will be scheduled as needed and notice given in the press.

The responsible official is Stanley T. Albright, Regional Director, Western Region, National Park Service. The draft GMPA/EIS is expected to be available for public review in fall 1994, and the final GMPA/EIS and Record of Decision completed in the spring of 1995.

Dated: December 1, 1993.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 93–30494 Filed 12–13–93; 8:45 am]

BILLING CODE 4310–70–P

Yosemite Valley Implementation Plan; Yosemite National Park; Intent To Prepare a Draft Plan and Supplemental Environmental Impact Statement to the Yosemite National Park Final General Management Plan and Environmental Impact Statement

SUMMARY: In accordance with section 102(2)(c) of the National Environmental Policy Act of 1969, Public Law 91–190, and the Council on Environmental Quality regulations at 40 CFR 1502.9(c), the National Park Service will prepare a supplemental environmental impact statement (SEIS) to the 1980 Yosemite Final General Management Plan/Environmental Impact Statement (GMP/

EIS) in conjunction with the Yosemite Valley Implementation Plan.

The plan and SEIS will examine the effects of alternatives for implementing the GMP goals of reclaiming priceless natural beauty, reducing traffic congestion, allowing natural processes to prevail, reducing visitor crowding, and promoting visitor understanding and enjoyment in Yosemite Valley.

This project is intended to develop a coherent, comprehensive site plan for all necessary visitor services in Yosemite Valley. It will include alternatives for establishing transportation systems; relocating non-essential National Park Service and concession functions and facilities; and redesigning essential buildings, roads, campgrounds, interpretive centers and concession facilities. This plan will consolidate, into a single site plan, past and current planning materials such as the 1980 GMP, the 1992 Concession Services Plan, the draft Yosemite Valley Housing Plan and various transportation studies.

Persons wishing to provide initial scoping comments on the plan and environmental impact statement should address such comments to the Superintendent, Yosemite National Park, P.O. Box 577, Yosemite National Park, California 95389. Comments should be received no later than 60 days following the publication date of this notice.

SUPPLEMENTARY INFORMATION: The responsible official is Stanley T. Albright, Regional Director, Western Region, National Park Service. The draft plan and supplemental environmental impact statement is expected to be completed and available for public review by December 1994, with the final environmental impact statement and record of decision by mid-1996.

Dated: December 1, 1993.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 93–30488 Filed 12–13–93; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 4, 1993. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by December 29, 1993.

Carol D. Shull,

Chief of Registration, National Register.

CALIFORNIA

Humboldt County

Ferndale Main Street Historic District, 300–580 Main, 330 Ocean and 207–290 Francis Sts., Ferndale, 93001461

Los Angeles County

Woodbury—Story House, 2606 N. Madison Ave., Altedena, 93001463

San Diego County

Beach, A.H., House, 700 S. Juniper, Escondido, 93001462

MASSACHUSETTS

Hampshire County

Hockanum Rural Historic District, area surrounding Hockanum Rd., from Hockanum Cemetery the NE corner of Skinner State Park, Hadley, 93001474

North Hadley Historic District, roughly, area along River Dr. from Stockwell Rd. to Stockbridge St., including French, Meadow and Mt. Warner Sts., Hadley, 93001475

MISSOURI

Cole County

Dulle Farmstead Historic District, 1101 Hwy. 54 W., Jefferson City, 93001468

NEW MEXICO

Bernalillo County

El Campo Tourist Courts (Route 66 through New Mexico MPS), 5800 Central Ave. SW, Albuquerque, 93001465

Cibola County

Route 66 Rural Historic District: Laguna to McCarty's (Route 66 through New Mexico MPS), NM 124 between the I–40 interchanges, Cubero vicinity, 93001466

OHIO

Summit County

Everett Historic District, 4731–4642 Riverview Rd. and 2151–2279 Everett Rd., Cuyahoga National Recreation Area, Peninsula vicinity, 93001467

PENNSYLVANIA

Philadelphia County

Houses at 1907–1951 N. 32nd St., Philadelphia, 93001472

Washington County

Mauer, Dr. Joseph, House, 97 W. Wheeling St., Washington, 93001470

VIRGINIA

Chesterfield County

Azurest South, 2900 Boisseau St., Petersburg vicinity, 93001464

Orange County

Burlington, 6400 Constitution Hwy., Barboursville vicinity, 93001458

Spotsylvania County

Fairview, 2020 Whitelake Dr., Fredericksburg vicinity, 93001460

La Vue, US 17 Bypass, S side at jct. with RF&P RR tracks, Fredericksburg vicinity, 93001459

WYOMING

Hot Springs County

Halone, Alex, House, 204 Amoretti St., Thermopolis, 93001473

[FR Doc. 93–30489 Filed 12–13–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32404]

Central Michigan Railway Company—Trackage Rights Exemption—Detroit & Mackinac Railway Company; Notice of Exemption

Detroit & Mackinac Railway Company (D&MR) has granted approximately 5.75 miles of non-exclusive, local and overhead trackage rights to Central Michigan Railway Company (CMR). The trackage rights extend from D&M's junction with CMR near Total Refinery in Bay City, MI, north to a point near milepost 3.4 and the Kawkawlin River in Kawkawlin, MI. The trackage rights were to become effective on December 1, 1993.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Christopher Eric Hagerup, Oppenheimer Wolff & Donnelly, suite 400, 1020 Nineteenth Street, NW., Washington, DC 20036.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: December 8, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–30466 Filed 12–13–93; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Final Judgment by Consent Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and section 122 of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622, notice is hereby given that on November 22, 1993, a proposed consent decree in *United States* v. *B&G Associates, et al.*, Civil Action No. L–91–573, was lodged with the United States District Court for the District of Maryland.

The proposed consent decree with defendants B&G Associates, Benjamin J. Campagna, and Eugene J. Truono, Sr. ("Settling Defendants") resolves Settling Defendants' alleged liability to the United States based on their past and present ownership/operations, pursuant to section 107(a) (1) and (2) of CERCLA, 42 U.S.C. 9607(a) (1) and (2), at the Iron Hill Road Superfund Site ("Site"). The decree requires Settling Defendant Eugene J. Truono, Sr. to pay $50,000 to the United States in partial reimbursement of past response costs, as defined by the decree. The decree requires Settling Defendants to sell the real property located in Milton, Delaware, such property being comprised of 6.7 acres of unimproved land, and pay the net proceeds to the United States. Additionally, Settling Defendants shall pursue their individual and collective claims against Methods Engineering Corporation and its insurer for contribution pursuant to Section 113(f) of CERCLA, 42 U.S.C. 9613(f), and to pay all net proceeds, as defined in the decree, resulting from any recovery, to the United States. In consideration of Settling Defendants' full compliance with the consent decree, the United States covenants not to sue Settling Defendants for past or any future response costs incurred by the United States at the Site.

The Department of Justice will receive comments relating to the proposed consent decree with Settling Defendants for a period of thirty (30) days from the date of this publication. Comments on the decree should be addressed to the Assistant Attorney General, Environment & Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *B&G Associates, et al.*, DOJ Ref. 90–11–2–750.

A copy of the proposed consent decree may be examined at the Office of the United States Attorney, District of Maryland, U.S. Courthouse, 101 W. Lombard Street, Baltimore, Maryland 21201; the Region III office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington DC 20005, (202–624–0892). A copy of the proposed decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington DC 20005. When requesting a copy of the proposed consent decree, please enclose a check in the amount of $4.50 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 93–30390 Filed 12–13–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Charter International Oil Company*, Civil Action No. 93–12625K, was lodged on December 2, 1993, with the United States District Court for the District of Massachusetts. The settling defendant is the alleged corporate successor to a generator that arranged to have hazardous substances sent to the Sullivan's Ledge Superfund Site in New Bedford, Massachusetts, for disposal. The proposed consent decree requires the defendant to pay the United States $215,000, plus interest from the date of defendant's signature.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Charter International Oil Company*, DOJ Ref. # 90–11–2–388C.

The proposed consent decree may be examined at the office of the United States Attorney, 1107 J.W. McCormack Building, POCH, Boston, Massachusetts; the Region I Office of the Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts; and 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, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $6.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–30499 Filed 12–13–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Judgment Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a Consent Judgment in *United States* v. *Peter R. Cimmino*, Civil Action No. 93–30568/RV (N.D.Fla.) was lodged with the United States District Court for the Northern District of Florida on November 22, 1993.

The proposed Consent Judgment concerns alleged violations of sections 301 and 404 of the Clean Water Act, 33 U.S.C. 1311 and 1344 as a result of the discharge of dredged spoils, sand, dirt and other fill materials into wetlands. The wetlands involved consist of about 14 acres of seasonal and tidal wetlands adjacent to Choctawhatchee Bay located in Section 28, Township 2 South, Range 21 West, Walton County, Florida. The unauthorized fill and a previously constructed bermed drainage ditch have lowered the water table and altered the natural hydrologic regime. The discharge was accomplished in connection with development of a residential community.

The Consent Judgment requires Peter R. Cimmino to fully restore and enhance the property in accordance with a Corps-approved restoration plan attached to the Consent Judgment lodged with the Court. The Decree further requires the payment of a civil penalty in the amount of $30,000.00 for these violations of the statutes.

The Department of Justice will receive written comments relating to the Consent Judgment for a period of 30 days from the date of publication of this notice. Comments should be addressed to Pamela A. Moine, Assistant U.S. Attorney, Northern District of Florida, 114 East Gregory Street, Pensacola, Florida 32501, and should refer to *United States* v. *Peter R. Cimmino*, Civil Action No. 93–30568/RV (N.D.Fla.).

The Consent Judgment may be examined at the Clerk's Office, United

States District Court for the Northern District of Florida, U.S. Courthouse, 100 N. Palafox Street, Pensacola, Florida 32501.

Lois J. Schiffer,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–30391 Filed 12–13–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on November 24, 1993, a Consent Decree in *United States* v. *Coors Brewing Company, Inc.*, Civil Action No. 93–0095H, was lodged with the United States District Court for the Western District of Virginia.

Contemporaneous with the lodging of this Consent Decree, the United States, on behalf of the U.S. Environmental Protection Agency, filed a complaint against Coors Brewing Company, Inc. ("Coors") alleging a violation of the prevention of significant deterioration ("PSD") provisions of the Clean Air Act ("the Act") by commencing construction of an emissions source (a brewery) in Elkton, Virginia without a permit authorizing such construction. In the Consent Decree, Coors has agreed to pay $245,000 in a civil penalty. The Consent Decree also prohibits Coors from constructing a brewery at its facility in Elkton without a permit authorizing such construction, and requires that Coors send a letter to Virginia authorities certifying that it has abandoned plans to construct the brewery as a major source for a period of five years.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Coors Brewing Company, Inc.*, Civil Action No. 98–0095H, Ref. No. 90–5–2–1–1670. The proposed Consent Decree may be examined at the office of the United States Attorney, Western District of Virginia, room 456, Poff Federal Building, 210 Franklin Road SW., Roanoke, Virginia, 24011. Copies of the Consent Decree may also be examined and obtained by mail at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (202–624–0892). When requesting a copy of the settlement agreement by mail, please enclose a check in the amount of $6.50 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–30392 Filed 12–13–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Re-Solve, Inc., et al.*, Civil Action No. 90–10490–K, was lodged on November 29, 1993, with the United States District Court for the District of Massachusetts. The settling defendants include the alleged operator of the Re-Solve, Inc. Superfund Site in North Dartmouth, Massachusetts, and a generator that arranged to have hazardous substances sent to the site for treatment. The proposed consent decree requires the defendants to pay the United States approximately $415,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC. 20530, and should refer to *United States* v. *Re-Solve, Inc., et al.*, DOJ Ref. # 90–11–2–58A.

The proposed consent decree may be examined at the office of the United States Attorney, 1107 J.W. McCormack Building, POCH, Boston, Massachusetts; the Region I Office of the Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts; and 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, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $7.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–30500 Filed 12–13–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Proposed Termination of Final Decrees

Notice is hereby given that Eastman Kodak Company ("Kodak"), has filed a motion for Orders terminating or modifying two antitrust decrees filed by the United States District Court, Western District of New York (the Court) in 1921 and 1954. With respect to the first decree, filed on February 1, 1921, and modified thereafter by Orders filed May 17, 1926, January 10, 1929 and June 19, 1935 (the "1921 Decree"), Kodak seeks termination of the remaining provisions of the decree, or modification of the decree to conform its provisions to the current antitrust law. In connection with the second decree, filed December 21, 1954, and modified by Order filed August 15, 1961 (the "1954 Decree"), Kodak seeks termination of the decree in its entirety. Plaintiff, the United States of America (the "government"), has opposed entry of such orders of termination, but has retained the right to change its position and consent to such orders after publication of this notice. A public hearing of Kodak's motion will take place beginning on March 14, 1994.

The 1921 Decree was entered following a proceeding in which the government alleged that Kodak and four of its officials had illegally monopolized the sale of cameras and photographic film, paper, and plates. The terms of the decree prohibited further violations of the antitrust laws, required the divestiture of specific company assets, and imposed restrictions on Kodak's marketing practices.

The 1954 Decree was entered by consent between Kodak and the government after the government had filed a complaint against Kodak alleging violations of the Sherman Act. The 1954 Decree required Kodak to divest itself of certain processing facilities and license its photoprocessing technology. In addition, the 1954 Decree imposed restrictions on Kodak's marketing practices, including prohibiting the sale of film with processing costs included.

While most of the provisions of the 1921 and 1954 Decrees:

(i) Have been satisfied, (ii) cover Kodak products or brands no longer in existence, or (iii) have expired by their own terms, a number of decree provisions have continuing impact on Kodak's operations.

The 1921 Decree, as presently in effect, still enjoins Kodak from preventing dealers of its products from freely selling competitors' products, enjoins Kodak from preventing or hindering its products from being sold

by dealers, directs Kodak not to sell or promote "fighting brands," and requires products manufactured by Kodak to show clearly that they are manufactured by Kodak. The government has opposed entry of an order terminating or modifying these provisions of the 1921 Decree, as they relate to film and single-use cameras.

The 1954 Decree, as presently in effect, still enjoins Kodak from connecting in any manner the sale of its color film to processing, or processing of its color film to its sale. The government has opposed entry of an order terminating these provisions of the 1954 Decree.

Kodak and the government have each filed with the Court memoranda setting forth their positions. In addition, the government has filed with the Court its letter to David Lascell, counsel for Kodak in this matter, setting forth those modifications with which it tentatively concurs and those which it opposes. Copies of the 1921 and 1954 Decree, Kodak's motion papers, the government's opposing papers, the memoranda and all further papers filed with the Court in connection with this motion are available for inspection at the Office of the Clerk of the United States District Court for the Western District of New York, United States Courthouse, 100 State Street, Rochester, New York 14614 (tel. 716–263–6263) and at Room 3233, Antitrust Division, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (tel. 202–514–2481). Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding this matter within the sixty (60) day period established by court order. Such comments must be filed with the Office of the Clerk of the United States District Court, Western District of New York, United States Courthouse, 100 State Street, Rochester, New York 14614, with copies mailed at the time of filing to (i) David M. Lascell, Esq. on behalf of Eastman Kodak Company, Hallenbeck Lascell & Pineo, One Exchange Street, Rochester, New York 14614, and (ii) Nora W. Terres, Esq. on behalf of the government, Litigation II Section, Antitrust Division, Department of Justice, 1401 H Street, NW., Washington, DC 20530.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–30501 Filed 12–13–93; 8:45 am]

BILLING CODE 4410–01–M

Pursuant to the National Cooperative Research and Production Act of 1993—IBACoS, Inc.

Notice is hereby given that, on October 18, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), IBACoS, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership status. IBACoS added a new member. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Molex Inc. of Lisle, CT, has been admitted as a member of IBACoS.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and IBACoS intends to file written notification disclosing all changes in membership.

On April 6, 1992, IBACoS filed its original notification pursuant to section 6(a) of the Act under the name ABACoS Development, Inc. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 6, 1992, 57 FR 19442.

The last notification was filed with the Department on April 20, 1993. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 16, 1993, 58 FR 33284.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–30394 Filed 12–13–93; 8:45 am]

BILLING CODE 4410–01–M

Pursuant to the National Cooperative Research and Production Act of 1993—Financial Services Technology Consortium, Inc.

Notice is hereby given that, on October 21, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Financial Services Technology Consortium, Inc. (the "Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing: (1) The identities of the of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Citibank, N.A., New York, NY; The First National Bank of Boston, N.A., Boston, MA; The Chase Manhattan Bank, N.A., Brooklyn, NY; Bank of America National Trust and Savings Association, Concord, CA; Huntington Bancshares Incorporated, Columbus, OH; and NationsBank of North Carolina, N.A., Charlotte, NC. The parties entered into an agreement by forming a non-profit District of Columbia corporation on July 23, 1993, to undertake research development activities focusing on standardized electronic infrastructure for the transmission of financial and other data among members of the financial services industry.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–30393 Filed 12–13–93; 8:45 am]

BILLING CODE 4410–01–M

Pursuant to the National Cooperative Research and Production Act of 1993—PowerOpen Association, Inc.

Notice is hereby given that, on October 7, 1993, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), PowerOpen Association, Inc. ("PowerOpen"), has filed written notifications simultaneously with the Attorney General and Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members of PowerOpen are: Acer America, San Jose, CA; Advanced Visual Systems Inc., Waltham, MA; Afront Technologies, Inglewood, CA; Alcatel Sistemas de Informacion, Madrid, SPAIN; Altium, Burbank, CA; Applied Technologies GmbH, Berlin, GERMANY; ASEM S.p.A., Buia, Udine, ITALY; Atex Publishing Systems, Bedford, MA; Baan International B.V., Zonneoordiaan, THE NETHERLANDS; BASIS International Ltd., Albuquerque, NM; Boldon James Ltd., Stoke-on-Trent, ENGLAND; Cadre Technologies Inc., Providence, RI; Cambex Corporation, Waltham, MA; Canto Software GmbH, Berlin, GERMANY; CelsiusTech, Jarfalla, SWEDEN; Computing Options Company, Frederick, MD; Corstar Business Computing, Hawthorne, NY; Crosfield Electronics, Hemel Hempstead herts, ENGLAND; CyberSoft, Inc., Conshohocken, PA; Daewoo Telecom, Ltd, Seoul, KOREA; Dantz Development

Corporation, Orinda, CA; E.I. du Pont de Nemours, Boothwin, PA; EuroVald Ltd, Tallinn, ESTONIA; FDM, Madrid, SPAIN; Federal Computer Corp., Falls Church, VA; FileNet Corp., Costa Mesa, CA; Fisher Rosemount Systems, Austin, TX; Frame Technology Corporation, San Jose, CA; Franz Inc., Berkeley, CA; Genesys Software, Calgary, Alberta, CANADA; Great Plains Software, Fargo, ND; GuruTech, New Ipswich, NH; HAN DATAPORT, Linz, AUSTRIA, IBSI, Puteaux, FRANCE; ITESM, Monterrey, MEXICO; JUST Research, San Jose, CA; Kryptos Corporation, Mukiltep, WA; Lexmark International, Inc., Lexington, KY; Mentor Graphics Corporation, Wilsonville, OR; Methods and Services Group, Brussels, BELGIUM; MIT Lincoln Laboratory, Lexington, MA; Northern Telecom NSA, Rochester, NY; Open Designs, Inc., San Francisco, CA; Racal-Redac, Inc., Westford, MA; SAP America, Inc., Philadelphia, PA; SAS Institute, Inc., Cary, NC; Scitex Corp. Ltd., Herzlia, ISRAEL; Shared Financial Systems, Dallas, TX; Softool Corporation, Goleta, CA; Structural Dynamics Research, Milford, OH; Swanson Analysis Systems, Inc., Houston, PA; Sybase, Emeryville, CA; Systems Strategies, Inc., Melville, NY; The MacNeal-Schwendler, Los Angeles, CA; The Premisys Corporation, Chicago, IL; The University of Michigan, Ann Arbor, MI; Transarc Corporation, Pittsburgh, PA; Tristar Market Data Inc., San Francisco, CA; Uniplex Integration Systems, Inc., Irving, TX; Unix Systems Laboratories, Summit, NJ; Valley Business Systems, Inc., Bolton, UNITED KINGDOM; VERSYSS, Inc., Westwood, MA; VMARK Software, Inc., Framingham, MA; and Wang Labs, Lowell, MA.

On April 21, 1993, PowerOpen filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 22, 1993 (58 Fed. Reg. 33954).

The last notification was filed with the Department on July 12, 1993. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 18, 1993 (58 Fed. Reg. 43911).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–30395 Filed 12–13–93; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 92–20]

Carmel Ben-Eliezer, M.D.; Denial of Application

On November 21, 1991, the Deputy Administrator of the Office of Diversion Control, Drug Enforcement Administration (DEA), issued to Carmel Ben-Eliezer, M.D. (Respondent), of Glenshaw, Pennsylvania, an Order to Show Cause proposing to deny Respondent's application for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent's registration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f).

Respondent, through counsel, filed a request for a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held beginning on May 5, 1992, in Arlington, Virginia.

On June 2, 1993, Judge Bittner issued her opinion and recommended ruling, findings of fact, conclusions of law and decision, recommending that Respondent's application for a DEA Certificate of Registration be denied. Neither party filed exceptions to Judge Bittner's opinion and on July 14, 1993, Judge Bittner transmitted the entire record of the proceedings to the Administrator.

The Administrator has carefully considered the record and adopts the opinion and recommended ruling of the administrative law judge in its entirety. Pursuant to 21 CFR 1316.67, the Administrator hereby issues his final order in this matter.

Respondent previously possessed DEA Certificate of Registration, AB7911046. On February 2, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration issued an Order to Show Cause proposing to revoke that Certificate of Registration alleging that the continued registration of Respondent would be inconsistent with the public interest. Following a hearing by then-Administrative Law Judge Francis L. Young, the Administrator revoked Respondent's DEA registration effective October 18, 1988. See *Carmel Ben-Eliezer, M.D.*, 53 FR 39540 (1988). The Administrator concluded that Respondent abused his registration by issuing prescriptions for controlled substances to a female patient not for purposes of medical treatment, but for purposes of obtaining sexual favors from this patient. He also found that Respondent made fraudulent Medicaid claims, and was convicted on State charges based on these claims.

Initially, during the hearing in this matter, the administrative law judge concluded that *res judicata* did not apply but upon reconsideration, in her opinion, changed her ruling and concluded that the Administrator's previous decision is *res judicata* for purposes of this proceeding. As a result, the administrative law judge did not consider any testimony or exhibits offered by Respondent which sought to challenge the Administrator's initial findings. The administrative law judge, however, attached all such testimony and exhibits as rejected exhibits, when she transmitted the entire record to the Administrator. The Administrator's determination of the facts relating to the previous revocation of the Respondent's DEA registration is conclusive, and accordingly, the Administrator hereby adopts the above-referenced final order in its entirety.

The Government contends, *inter alia*, that Respondent has neither admitted his past violations nor been candid about the circumstances surrounding such violations and, therefore, his application should be denied. In addition to arguing that the underlying facts of the first order were not true, Respondent argues that his subsequent academic achievements and his intention to increase his vigilance in regard to prescribing controlled substances demonstrate that he may now be entrusted with a DEA registration.

The administrative law judge found that Respondent's testimony, even if admissible, was not credible. During an undercover visit by the patient to Respondent's office, Respondent admitted the illicit acts. During the hearing, however, he maintained that such admissions were out of context and untrue. Respondent's attempt to refute this recorded conversation was equivocal and disingenuous.

The Administrator may deny an application for a DEA Certificate of Registration if he determines that the registration would be inconsistent with the public interest. Pursuant to 21 U.S.C. 823(f), "(i)n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate state licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to

the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety."

In determining whether a registrant's registration would be inconsistent with the public interest, the Administrator is not required to make findings with respect to each of the factors listed above. Instead, the Administrator has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances of each case. See David E. Trawick, D.D.S., 53 FR 5326 (1988).

In this proceeding factors two, four and five apply. Respondent has had a DEA registration revoked in the past. Respondent issued controlled substance prescriptions in exchange for sexual favors and was convicted for medicaid fraud. Carmel Ben-Eliezer, 53 FR 39540, 39541 (1988). Moreover, during the hearing in the present proceeding, Respondent admitted no wrongdoing and consequently, did not express any remorse for his past actions. Although Respondent testified about the embarrassment and suffering that these proceedings have caused himself and his family and about his continuing academic achievements, such factors are not relevant to the issues of remorse for the conduct in question and whether Respondent can be entrusted with a DEA registration. Therefore, the Administrator concludes that Respondent's application for a DEA Certificate of Registration must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application executed by Carmel Ben-Eliezer, M.D., on November 16, 1990, for a DEA Certificate of Registration as a practitioner be, and it hereby is, denied. This order is effective December 14, 1993.

Dated: December 8, 1993.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 93–30445 Filed 12–13–93; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 92–28]

Kuen H. Chen, M.D.; Denial of Application for Registration

On December 13, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Kuen H. Chen, M.D., (Respondent), of West Orange, New Jersey proposing to revoke his DEA Certificate of Registration, and deny any pending applications for registration as a practitioner. The statutory basis for seeking the revocation of the registration was that Respondent's registration would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f) and 824(a)(4).

The Order to Show Cause alleged as grounds that: (1) On February 15, 1985, the State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners suspended Respondent's license to practice medicine for three years effective April 13, 1984; (2) in May 1985, since Respondent had no underlying state authority to handle controlled substances, he voluntarily agreed to surrender his DEA Certificate of Registration, AC7253622; (3) Respondent did not renew his State of New Jersey controlled dangerous substances (CDS) registration between 1983 and May 1990; (4) in September 1985, the State of New York revoked Respondent's license to practice medicine in that State; and (5) in March 1990, Respondent submitted a DEA Application for Registration as a practitioner in which he materially falsified a response to a question.

Respondent filed, pro se, a request for hearing on the issues raised by the Order to Show Cause, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was scheduled for April 23, 1992, in Arlington, Virginia. The Respondent failed to appear at the scheduled hearing and the Government presented its case. At the hearing, the Government asserted that the Respondent possessed no current DEA registration. As a result, the issue was amended to reflect that the Respondent was not currently registered with the DEA, but that his pending application for registration was at issue. Subsequently, the Respondent filed a letter requesting that the hearing be rescheduled on account of his non-receipt of the ruling scheduling the original hearing date. The hearing was reopened in Arlington, Virginia on June 15, 1992, for the purpose of taking testimony on behalf of the Respondent.

On June 17, 1993, the administrative law judge issued her opinion and recommended ruling, findings of fact, conclusions of law and decision in this matter. Judge Bittner concluded that the Respondent's registration would not be in the public interest at this time and recommended that his application for DEA registration be denied. No exceptions were filed by either party. On August 16, 1993, the administrative law judge transmitted the record to the Administrator.

The Acting Administrator has carefully considered the entire record in this matter and, pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth.

The administrative law judge found that in November 1983, the Attorney General of New Jersey filed a three count complaint against the Respondent alleging that he had been permanently excluded from Medicaid programs by the New York State Department of Social Services, had been permanently excluded from Federal Medicare programs, and had submitted numerous claims to the New Jersey Medicaid program for services he did not provide. The Attorney General of New Jersey moved the State Board of Medical Examiners (New Jersey Board) for a summary decision on the first two counts.

In April 1984, the New Jersey Board issued a Partial Summary Decision and Order, in which it found that the State of New York had determined, after a full hearing, that Respondent had on numerous occasions prescribed or ordered unnecessary or improper medication, failed to properly evaluate, monitor or examine patients, and repeatedly and consistently failed to maintain adequate patient records. The New Jersey Board also found that in a Federal Medicare proceeding, an administrative law judge found that Respondent rendered unnecessary medical services, maintained incomplete and inappropriate records, improperly managed patients, prescribed inappropriate, addictive and expensive medication, did not meet professionally recognized standards of health care, and failed substantially to comply with his obligations in a substantial number of cases.

As a result, the New Jersey Board concluded that the Respondent's conduct constituted "repeated acts of negligence" and consequently suspended Respondent's license to practice medicine. In February 1985, the New Jersey Board issued a Consent Order incorporating the prior Order and dismissed the third count upon Respondent's agreement to maintain patient records in accordance with acceptable medical standards. The New Jersey Board suspended his medical license for three years, with one year on active suspension and the last two years

on probation. Respondent's New Jersey medical license was reinstated in 1990.

The administrative law judge found that Respondent testified that he had surrendered a previous DEA registration on March 30, 1985, because he had no State medical license at that time, and that he had his medical license revoked or suspended both in New Jersey and, at some unspecified time, in New York.

The administrative law judge found that the Respondent filed an application for DEA registration in March 1990. Through an administrative error, the DEA inadvertently granted a registration. Subsequently, upon investigation of this application, the DEA determined that the Respondent was not authorized to handle controlled substances in New Jersey, the State in which he sought registration; and that the Respondent had answered "NO" in response to question 4(b) which states:

> Has the applicant ever been convicted of a crime in connection with controlled substances under State or Federal law, or ever surrendered or had a Federal controlled substance registration revoked, suspended, restricted or denied, or ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation?

In July 1990, the Respondent, upon DEA's request, surrendered his most recent registration. The DEA then resubmitted his application, which became the subject of the current Order to Show Cause.

The administrative law judge found that Respondent materially falsified his 1990 application for DEA registration by failing to disclose the surrender of his previous DEA registration and the actions of New York and New Jersey against his medical licenses. Judge Bittner rejected the Respondent's contention that his action was a simple "mistake" and concluded that Respondent's failure to disclose the truth of disciplinary proceedings against him withheld from DEA significant information germane to his fitness for the authority he sought in a DEA registration. The administrative law judge further found that his cavalier attitude toward the importance of accurately executing the application suggests a lack of concern for the responsibilities inherent in a DEA registration.

Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

The administrative law judge found that the first, second, fourth and fifth factors were relevant to this case. The first factor is relevant in light of actions by New Jersey and New York against the Respondent's medical licenses; the second is relevant in light of the findings made in Respondent's exclusion from Medicare and Medicaid programs; the fourth and fifth factors are relevant with respect to the statements made by Respondent on his DEA application; and the fifth factor is further relevant with respect to findings made in proceedings that resulted in Respondent's exclusion from Medicare and Medicaid programs.

Furthermore, in addition to the public interest factors, 21 U.S.C. 824(a) provides four other bases that the Administrator may consider when suspending or revoking a DEA registration. The Administrator may revoke or suspend a DEA Certificate of Registration under 21 U.S.C. 824(a), upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;

(2) Has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State relating to any substance defined in this subchapter as a controlled substance;

(3) Has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or has had the suspension, revocation, or denial of registration recommended by competent State authority;

(4) Has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section;

(5) Has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320A–7(a) of title 42.

The agency has consistently held that the Administrator may also apply these bases to the denial of a registration, since the law would not require an agency to indulge in the useless act of granting a license on one day only to withdraw it on the next. Serling Drug Co. and Detroit Prescription Wholesaler, Inc., 40 FR 11918 (1975).

The administrative law judge has concluded here that the reference in 21 U.S.C. 823(f)(5) to "other conduct which may threaten the public health and safety" would as a matter of statutory interpretation logically encompass the bases listed in 21 U.S.C. 824(a).

The administrative law judge further concluded that in light of the Respondent's exclusion from Medicare and Medicaid, and the falsification of his 1990 DEA application for registration that there are lawful bases for denial of his application under 21 U.S.C. 824(a)(1) and 824(a)(5).

The Acting Administrator adopts the opinion and recommended ruling, findings of fact, conclusions of law and decision of the administrative law judge in its entirety. The Acting Administrator finds that the Respondent's registration would be inconsistent with the public interest at this time, and that his pending application for registration must be denied.

Accordingly, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for a DEA Certificate of Registration of Kuen H. Chen, M.D., be, and it hereby is, denied. This order is effective December 14, 1993.

Dated: December 8, 1993.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 93–30446 Filed 12–13–93; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 93–38]

Leonard C. Harris, M.D.; Revocation of Registration

On March 18, 1993, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Leonard C. Harris, M.D., (Respondent), Roxbury Corrections Center, 18701 Roxbury Road, Hagerstown, Maryland 21746. The Order to Show Cause sought to

revoke Respondent's DEA Certificate of Registration, BH2460171, and deny any pending applications for registration pursuant to 21 U.S.C. 824(a)(3). The Order to Show Cause alleged that such action was proper in light of the fact that Respondent's medical license issued by the State of Maryland had been suspended and he therefore was no longer authorized by the State of Maryland to handle controlled substances.

On April 7, 1993, Respondent filed a request for a hearing on the matter. The matter was placed on the docket of Administrative Law Judge Mary Ellen Bittner. On May 6, 1993, the Government filed a motion for summary disposition. In support of its motion, the Government filed a copy of the Final Order of Summary Suspension issued by the State of Maryland Board of Physician Quality Assurance and dated December 29, 1992, suspending Respondent's medical license. On July 23, 1993, the administrative law judge issued an opinion and recommended decision granting the Government's motion for summary disposition and recommending that Respondent's DEA Certificate of Registration be revoked. No exceptions were filed and on August 25, 1993, the administrative law judge transmitted the record to the Administrator. The Acting Administrator has carefully considered the record and hereby enters his final order pursuant to 21 CFR 1316.67.

The Acting Administrator adopts the opinion and recommended decision of the administrative law judge in its entirety. It is well established that the Drug Enforcement Administration cannot register a practitioner who is not duly authorized to handle controlled substances in the state in which he does business. See 21 U.S.C. 823(f). The Drug Enforcement Administration has consistently held that practitioners who lack state authorization to handle controlled substances cannot be registered with the Drug Enforcement Administration. See Ramon Pla, M.D., 51 FR 41168 (1986); George S. Heath, M.D., 51 FR 26610 (1986); Dale D. Shahan, D.D.S., 51 FR 23481 (1986). Consequently, the Acting Administrator concludes that Respondent's DEA Certificate of Registration should be revoked based on lack of state authorization.

Accordingly, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, BH2460717, issued to Leonard C. Harris, M.D., be, and it hereby is, revoked, and that any pending applications for registration be, and they hereby are, denied. This order is effective December 14, 1993.

Dated: December 8, 1993.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 93–30447 Filed 12–13–93; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 92–38]

Nelson A. Smith, D.D.S.; Denial of Application

On February 3, 1992, the Deputy Assistant Administrator of the Office of Diversion Control, Drug Enforcement Administration (DEA), issued to Nelson A. Smith, D.D.S. (Respondent), of Oklahoma City, Oklahoma, an Order to Show Cause proposing to deny Respondent's application for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent's registration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f).

Respondent, through counsel, filed a request for a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held beginning on September 1, 1992, in Oklahoma City, Oklahoma.

On August 23, 1993, Judge Bittner issued her opinion and recommended ruling, findings of fact, conclusions of law and decision, recommending that Respondent's application for a DEA Certificate of Registration be denied. Respondent attempted to file exceptions pursuant to 21 CFR 1316.66, but such exceptions were untimely filed and therefore were not considered in rendering this decision. On September 24, 1993, Judge Bittner transmitted the entire record of the proceedings to the Administrator.

The Acting Administrator has carefully considered the record and adopts the opinion and recommended ruling of the administrative law judge in its entirety. Pursuant to 21 CFR 1316.67, the Acting Administrator hereby issues his final order in this matter.

The Acting Administrator finds that Respondent has been a practicing dentist since 1971. In July 1988, Respondent issued a prescription for Ionamin, a Schedule IV controlled substance, which is used primarily as a short term supplement for diet control, to his former girlfriend. Although Respondent had a dental patient chart for this person, there was nothing in the chart to justify this prescription. Although Respondent testified at the hearing that this prescription was issued because his former girlfriend was suffering from bulimia, the former girlfriend explained to DEA Investigators that she never suffered from this disorder.

Subsequently, this individual agreed to act in an undercover capacity for DEA and visited Respondent's office on February 17, 1989. During this visit Respondent issued her a prescription for Ionamin and a prescription for Halcion, a Schedule IV controlled substance. She obtained these prescriptions from Respondent by simply telling him that she wanted diet pills and that a friend of hers needed some drugs to "come off cocaine."

On February 23, 1989, an undercover state agent, posing as a friend of the Respondent's former girlfriend, visited Respondent's office and on request obtained prescriptions for Tylox, a Schedule II controlled substance, and Ionamin from Respondent. During this same visit, Respondent's former girlfriend was also present and Respondent issued her a prescription for Valium, a Schedule IV controlled substance. Respondent cautioned the undercover agent and former girlfriend to have the prescriptions filled at different pharmacies and cautioned them not to use pharmacies in the western part of the state since there were ongoing undercover investigations in that area. He also explained that he would have to create patient chart entries for these prescriptions.

On March 17, 1989, the undercover agent and former girlfriend arranged another visit with Respondent, who insisted that they not meet in his office, but at a bar. During this meeting, Respondent issued his former girlfriend prescriptions for Percocet, a Schedule II controlled substance, and Ionamin. He also wrote a prescription for Fiorinal with codeine #3, a Schedule III controlled substance, for the undercover agent. During this encounter, Respondent explained that a Schedule II prescription could be written for a maximum of 30 dosage units without "raising a red flag." He also commented that he could manipulate his former girlfriend's chart to reflect that the prescriptions were legitimate. On April 20, 1989, Respondent admitted to the undercover agent that dentists are not technically supposed to prescribe diet pills but that he had done so in the past and had not been caught.

During the hearing, Respondent admitted that some of the controlled substance prescriptions that he issued to

his former girlfriend were outside the scope of a legitimate physician/patient relationship. His motivation for such acts was to attempt to reconcile with his former girlfriend.

Based upon the issuance of these prescriptions, the Oklahoma Board of Narcotics and Dangerous Drug Control (OBNDDC) sought to revoke Respondent's state controlled substance license. After a hearing, OBNDDC ordered that Respondent's state controlled substance license be revoked. This order, however, was overturned on appeal and a new hearing was ordered. Meanwhile the Oklahoma Board of Governors of Registered Dentists (Dental Board) entered into a consent order with Respondent on February 17, 1990, based upon the issuance of these prescriptions. This order suspended Respondent's dental license for a period of 30 days as of March 1, 1990, and thereafter his license was placed on five years probation.

Based upon the remand by the appellate court and based upon the Dental Board action, OBNDDC suspended Respondent's state controlled substance license for 30 days and placed such license on five years probation. This action was predicated upon a consent order in which Respondent acknowledged the fact that he had issued controlled substance prescriptions for no legitimate medical reason. Based upon the state action, Respondent voluntarily surrendered his DEA Certificate of Registration, AS4391607, on April 6, 1990.

As a part of the OBNDDC consent order, Respondent underwent a psychological evaluation. Although Respondent did attend several psychological sessions, neither Respondent nor his psychologist attempted to explain what prompted Respondent to engage in the behavior that led to the surrender of his initial DEA registration.

The Government contends, *inter alia*, that Respondent admitted that he illegally prescribed controlled substances to DEA undercover operatives and falsified his patient charts. In addition, the Government argues that Respondent has not been candid about all of his activity nor has he demonstrated sufficient rehabilitation to be entrusted with a DEA registration. Respondent maintains that his prior surrender of a DEA registration and the fact that the prescriptions he wrote were not motivated by financial gain are mitigating circumstances which establish that he once again should be entrusted with a DEA registration.

The Administrator may deny an application for a DEA Certificate of Registration if he determines that the registration would be inconsistent with the public interest. Pursuant to 21 U.S.C. 823(f), "(i)n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety."

In determining whether a registration would be inconsistent with the public interest, the Administrator is not required to make findings with respect to each of the factors listed above. Instead, the Administrator has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances of each case. See David E. Trawick, D.D.S., 53 FR 5326 (1988).

In this proceeding factors one, two, four and five apply. Factor one is relevant based upon Respondent's 30 day suspensions and subsequent probationary terms imposed by the applicable state boards. Factors two and four apply because Respondent prescribed numerous controlled substances to two undercover operatives on a number of occasions for no legitimate medical reason. Factor five is relevant because Respondent attempted to use a number of strategies to avoid detection of his activities by law enforcement, such as falsifying patient charts and suggesting that the recipients of his illegal prescriptions go to different pharmacies and avoid certain areas where undercover operations were currently being conducted.

Since these factors establish a lawful basis to deny Respondent's application, the next issue is whether Respondent has at this time demonstrated his fitness to possess a DEA registration. Respondent asserts that his unlawful prescribing was not motivated by financial gain but rather by an attempt to reestablish his relationship with his former girlfriend; thus the likelihood of such conduct recurring is diminished. This argument fails to address the total disregard of Respondent's obligations as a physician and a DEA registrant. The fact that the alleged source of the conduct was not monetary in no way mitigates such conduct.

Respondent failed to acknowledge all of his unlawful prescriptions. Moreover, he contemplated and, indeed, took extraordinary precautions to avoid detection by law enforcement.

Respondent demonstrated little evidence of remorse or rehabilitation. His psychological treatment was negligible and certainly did not explore the underlying causes for his behavior. In addition, Respondent expressed virtually no remorse but rather expressed anger at the undercover operatives. Under these circumstances, the Acting Administrator concludes that it would not be in the public interest to grant Respondent's application. Therefore, the Acting Administrator concludes that Respondent's application for a DEA Certificate of Registration must be denied.

Accordingly, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application executed by Nelson A. Smith, D.D.S., on June 16, 1991, for a DEA Certificate of Registration as a practitioner be, and it hereby is, denied. This order is effective December 14, 1993.

Dated: December 8, 1993.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 93-30448 Filed 12-13-93; 845 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or

threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 27, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 27, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 29th day of November 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Ethicon, Inc. (Wkrs)	San Angelo, TX	11/29/93	11/12/93	29,257	Surgical Sutures.
General Electric Appliances (Wkrs)	Columbia, TN	11/29/93	11/12/93	29,258	Compressors & Rotary Compressors.
Elder Mfg. Co., Inc. (Co)	Paragould, AR	11/29/93	11/09/93	29,259	Woven & Knit Shirts.
Reltoc Manufacturing Co. (AC&TWU)	Wynne, AR	11/29/93	11/15/93	29,260	Men's Slacks.
C.P.C. International, Inc. (Wkrs)	Englewood Cliff, NJ	11/29/93	11/12/93	29,261	Pasta.
United Telecontrol Electronics, Inc. (Wkrs).	Asbury Park, NJ	11/29/93	11/19/93	29,262	Missile Launchers.
Farmland Industries Inc., Grain Div. (Wkrs).	Enid, OK	11/29/93	11/15/93	29,263	Grain.
Synektron-A TDK Group (Wkrs)	Portland, OR	11/29/93	11/16/93	29,264	Spindle Motor Assemblies.
Smith & Wesson (Wkrs)	Springfield, MA	11/29/93	11/08/93	29,265	Hand Guns.
Owens-Illinois, Inc. (Co)	Huntington, WV	11/29/93	11/18/93	29,266	Glass Containers.
Nicole Fashions, Inc. (ILGWU)	Larksville, PA	11/29/93	11/17/93	29,267	Ladies' Dresses.
Mount Olive Sportswear (Co)	Mount Olive, NC	11/29/93	11/16/93	29,268	Ladies' Skirts and Blouses.
Mennen Medical Corp. (Wkrs)	Clarence, NY	11/29/93	11/16/93	29,269	Monitoring and Catheterization Equip.
Leviton Manufacturer (Wkrs)	Brooklyn, NY	11/29/93	11/10/93	29,270	Electrical Parts.
Leeds & Northrup Co. (UAW)	North Wales, PA	11/29/93	11/15/93	29,271	Control Measuring Equipment.
JoAnn Apparel (Wkrs)	Ebensburg, PA	11/29/93	11/16/93	29,272	Jackets, Skirts & Sportswear.
Erving Health Care (Co)	New Brunswick, NJ	11/29/93	11/17/93	29,273	Paper Products for Health Care.
Wundies Enterprises, Inc. (Wkrs)	Williamsport, PA	11/29/93	11/17/93	29,274	Ladies' Underwear.
USA Mfg. (ILGWU)	Larksville, PA	11/29/93	11/17/93	29,275	Ladies' Dresses.
Worcester Knitting Co. (Co)	Worcester, MA	11/29/93	11/16/93	29,276	Infants' & Children's Knit Shirts.
Worcester Spinning & Finishing (Co)	Cherry Valley, MA	11/29/93	11/16/93	29,277	Infants' and Children's Knit Shirts.
Narragansett Knitting Mills Corp. (Co)	Woonsocket, RI	11/29/93	11/16/93	29,278	Infants' and Children's Knit Shirts.
Champion International Corp. (WCIW)	Milltown, MT	11/29/93	11/05/93	29,279	Plywood Dimensional Lumber.
Champion International Corp. (WCIW)	Bonner, MT	11/29/93	11/05/93	29,280	Plywood Dimensional Lumber.
Champion International Corp. (WCIW)	Libby, MT	11/29/93	11/05/93	29,281	Plywood Dimensional Lumber.
Champion International Corp. (WCIW)	Libby, MT	11/29/93	11/05/93	29,282	Plywood Dimensional Lumber.
Champion International Corp. (WCIW)	Missoula, MT	11/29/93	11/05/93	29,283	Plywood Dimensional Lumber.
Champion International Corp. (WCIW)	Missoula, MT	11/29/93	11/05/93	29,284	Plywood Dimensional Lumber.
U.S. Ring Binder Corp. (Co)	New Bedford, MA	11/29/93	11/16/93	29,285	Looseleaf Binder Mechanisms.
Technical Services for Electronics (Wkrs).	Jackson, MN	11/29/93	11/15/93	29,286	Specialty Computer Cables.
American Pipeline (Wkrs)	Goldsmith, TX	11/29/93	11/20/93	29,287	Natural Gas.
Chevron Information Technology Co. (Co).	San Ramon, CA	11/29/93	11/19/93	29,288	Support Services for Oil & Gas.

[FR Doc. 93–30435 Filed 12–13–93; 8:45 am]
BILLING CODE 4510–30–M

Reestablishment

Notice is hereby given that after consultation with the General Services Administration, it has been determined that the Federal Committee on Apprenticeship, whose charter expired (May 23, 1993) is hereby reestablished. This action is necessary and in the public interest.

The committee will be an effective instrument for providing assistance, advice, and counsel to the Secretary of Labor and the Assistant Secretary of Labor for the Employment and Training Administration in the development and implementation of administration policies on legislation and regulations affecting apprenticeship; determining the proper and most effective role of the apprenticeship concept of training in meeting future skilled worker training needs; carrying out of program responsibilities in the apprenticeship and journeyworker training areas; and providing recommendations on such matters as the need of employers in industries facing skilled worker shortages.

The Committee will consist of 7 representatives of employers, 7 representatives of labor, and 7 representatives of the public, including one or more educators.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter is being filed at this time in accordance with approval by the General Services Administration Secretariat pursuant to 41 CFR 101–6.1015(a)(2).

Signed at Washington, DC, this December 8, 1993.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 93–30434 Filed 12–13–93; 8:45 am]
BILLING CODE 4510–30–M

Federal Committee on Apprenticeship; Request for Membership Nominations

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice: Request for membership nominations.

SUMMARY: Notice is hereby given that under the provisions of the Federal Advisory Committee Act, the Secretary of Labor is seeking nominations to fill 21 current vacancies on the Federal Committee on Apprenticeship. The Committee was reestablished December 8, 1993.

Recommendations are being sought from these groups:

Management: Representatives of an employer or national employer association.

Labor: Representatives of employees or national employee associations.

Public: Representatives of religious, social welfare, academic, charitable organizations, community-based organizations, national women's organizations, state or local government.

Only individuals who have some knowledge or familiarity with apprenticeship and structured, workplace training programs should be recommended. Also, a description of the candidate's qualifications and the group he or she would represent must be included.

DATES: To ensure consideration, nominations should be postmarked on or before January 13, 1994.

ADDRESSES: Nominations should be submitted to Mr. Anthony Swoope, Director, Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor, Frances Perkins Building, room N–4649, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Swoope, telephone (202) 219–5921.

Signed at Washington, DC, this 9th day of December 1993.

Doug Ross,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 93–30467 Filed 12–13–93; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL INDIAN GAMING COMMISSION

Fee Rates

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted preliminarily a revised annual fee rate of .6% for calendar year 1993. This rate shall apply to all assessable gross revenues (tier 1 and tier 2) from each class II gaming operation regulated by the Commission.

FOR FURTHER INFORMATION CONTACT: Cindy Altimus or Fred W. Stuckwisch, National Indian Gaming Commission, 1850 M Street, NW., suite 250, Washington, DC 20036; telephone 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act established the National Indian Gaming Commission which is charged with, among other things, regulating class II gaming on Indian lands.

The regulations of the Commission (25 CFR part 500) provide for a system of fee assessment and payment that is self-administered by the class II gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission on a quarterly basis.

The Commission is unable (at this time) to adopt a final fee rate for calendar year 1993 because all class II gaming operations regulated by the Commission have not reported their assessable gross revenues and paid their fees for the first three quarters of 1993.

The regulations of the Commission and the rate being adopted today are effective for calendar year 1993. Therefore, all Class II gaming operations within the jurisdiction of the Commission are required to self-administer the provisions of these regulations and report and pay any fees that are due to the Commission before the end of calendar year 1993 (December 31).

Dated: December 8, 1993.

Anthony J. Hope,

Chairman, National Indian Gaming Commission.

[FR Doc. 93–30468 Filed 12–13–93; 8:45 am]

BILLING CODE 7565–01–M

Approval of Class III Tribal Gaming Ordinances

AGENCY: National Indian Gaming Commission.

ACTION: Notice of approval of class III gaming ordinances.

SUMMARY: The purpose of this notice is to inform the public of class III gaming ordinances approved by the Chairman of the National Indian Gaming Commission.

FOR FURTHER INFORMATION CONTACT: Susan Carletta at (202) 632–7003 ext. 34, or by facsimile at (202) 632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The IGRA established the National Indian Gaming Commission (the Commission). Section 2710 of the IGRA authorizes the Commission to approve class II and class III tribal gaming ordinances. Section 2710(d)(2)(B) of the IGRA as implemented by 25 CFR 522.8 (58 FR 5811 (January 22, 1993)), requires the Commission to publish, in the **Federal Register**, approved class III gaming ordinances.

The IGRA requires all tribal gaming ordinances to contain the same requirements concerning ownership of the gaming activity, use of net revenues, annual audits, health and safety, background investigations and licensing of key employees. The Commission, therefore, believes that publication of each ordinance in the **Federal Register** would be redundant and result in an unnecessary cost to the Commission. The Commission believes that publishing a notice of approval of each class III gaming ordinance is sufficient to meet the requirements of 25 U.S.C. 2710(d)(2)(B). Also, the Commission will make copies of approved class III ordinances available to the public upon request. Requests can be made in writing to: National Indian Gaming Commission, 1850 M St., NW., suite 250, Washington, DC 20036.

The Chairman has approved tribal gaming ordinances authorizing class III gaming for the following Indian tribes:

Apache Tribe of Oklahoma
Agua Caliente Band of Cahuilla Indians
Bad River Band of Lake Superior Chippewas
Bay Mills Indian Community
Chippewa Cree Tribe
Chitimacha Tribe of Louisiana
Forest County Potawatomi Community
Grand Portage Band of Chippewa Indians
Grande Ronde Indian Community
Hoopa Valley Tribe
Lower Sioux Indian Community
Mississippi Band of Choctaw Indians
Nooksack Indian Tribe
Pasqui Yaqui Tribe of Arizona
Reno-Sparks Indian Colony
Seneca-Cayuga Tribe
Shakopee Mdewakanton Sioux Community
Soboba Band of Mission Indians
Sokaogon Chippewa Community
Standing Rock Sioux Tribe
Stockbridge-Munsee Community
Swinomish Indian Reservation
Tohono O'Odham Nation

Tonto Apache Tribe
White Earth Band of Chippewa Indians
White Mountain Apache Tribe
Yavapai-Apache Nation

Anthony J. Hope,

Chairman.

[FR Doc. 93–30469 Filed 12–13–93; 8:45 am]

BILLING CODE 7565–01–M

NUCLEAR REGULATORY COMMISSION

Amendment to a License To Export a Utilization Facility

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following request to amend Export License XR69. A copy of the amendment request is on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of a request to amend a license to export a utilization facility as defined in 10 CFR part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility to be exported. The information concerning this request to amend follows:

NRC Export License Amendment

Name of applicant, date of appl., date received, license amend. No.	Description	Value	End use	Country of destination
Westinghouse Elect., 11/16/93, 11/17/93, XR69/14	One (1) reactor vessel head.	Company Proprietary .	For use in Ringhals II	Sweden.

Dated this 8th day of December 1993 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

Assistant Director for Exports, Security, and Safety Cooperation, Office of International Programs.

[FR Doc. 93–30433 Filed 12–13–93; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Final Subcontract Reporting System Test Plan and Reporting Form; Corrections

AGENCY: Executive Office of the President, Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Technical corrections to Final Subcontract Reporting System Test Plan and Reporting Form.

SUMMARY: The final Subcontract Reporting System Test Plan and Reporting Form were published in the **Federal Register** on October 27, 1993 (58 FR 57869). We are issuing technical corrections to Attachment A (Flowchart for Reporting Subcontracting Activity) as follows:

1. In the sixth bullet, second paragraph, change "Item 11" to "Item 12."

2. In the sixth bullet, the fourth paragraph is revised as follows: Contractor A is responsible for aggregating the quarterly subcontracting data from its subcontractors and reporting the information in Item 12 on Form XXX. Contractor A should include its subcontracting data in the 1st tier line, and include Contractor B's data in the 2nd tier line.

In addition, the reporting form (Form XXX—Subcontract Activity for Individual Contracts) is revised to include a new Part III title line, a renumbering of the succeeding part numbers, new blocks in Item 8 to indicate the appropriate reporting entity's tier level, and a change in the Item 12 title. The revised form is included in this notice. The technical corrections to the Form XXX instructions are as follows:

1. Change the first sentence in Item 8 to read: Check whether the reporting entity's tier level is prime or first tier.

2. Insert between Item 10 and Item 11, a new Part III title line: Part III. To be Completed by 1st Tier Subcontractors.

3. Change the original Part III to read Part IV.

4. Change the second sentence in Item 12 to read: This figure is the sum of all subcontractor dollars reported by the large business subcontractors for the quarter.

5. Change the parenthetical at the end of Item 12 to read: (For example, the Federal prime contractor shall report in the 1st tier line, its cumulative direct subcontract awards for the quarter. Under the 2nd tier line, the Federal prime contractor shall include all quarterly subcontract awards made by its 1st tier subcontractors.)

6. Change the original Part IV to read Part V.

DATES: These technical corrections are effective upon publication.

FOR FURTHER INFORMATION CONTACT: Linda G. Williams, Deputy Associate Administrator, (202) 395–3302.

List of Subjects

Government procurement, Small business procurement.

Dated: December 8, 1993.

Steven Kelman,

Administrator.

BILLING CODE 3110–01–M

SUBCONTRACT ACTIVITY FOR INDIVIDUAL CONTRACTS
SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM
(THIS FORM SHALL NOT BE COMPLETED BY SMALL BUSINESS FIRMS)

PART I. TO BE COMPLETED BY FEDERAL CONTRACTING ACTIVITY

1. PARTICIPATING AGENCY

2. CONTRACTING ACTIVITY

3. FEDERAL PRIME CONTRACT NUMBER _____

4. SIC CODE _____

PART II. TO BE COMPLETED BY FEDERAL PRIME CONTRACTORS AND/OR SUBCONTRACTORS

5. REPORTING CONTRACTOR/SUBCONTRACTOR
_____
_____
_____

6. DATE: ___/___/___

7. REPORTING ENTITY'S CONTRACT NUMBER
_____

8. REPORTING ENTITY'S TIER LEVEL
[ ] Prime [ ] 1st Tier

9. REPORTING PERIOD:
FISCAL YEAR _____
[ ] OCTOBER 1 - DECEMBER 31
[ ] JANUARY 1 - MARCH 31
[ ] APRIL 1 - JUNE 30
[ ] JULY 1 - SEPTEMBER 30

10. REPORT IS:
[ ] REGULAR
[ ] FINAL
[ ] REVISION

PART III. TO BE COMPLETED BY 1ST TIER SUBCONTRACTORS

11. SUBCONTRACT AWARDS THIS PERIOD *(ROUNDED WHOLE DOLLARS)*

	DOLLARS
(a) SMALL BUSINESS (INCLUDING SMALL DISADVANTAGED) ($ AMOUNT OF 11(c))	$_____
(b) LARGE BUSINESS ($ AMOUNT OF 11(c))	$_____
(c) TOTAL (SUM OF 11(a) and 11(b))	$_____
(d) SMALL DISADVANTAGED BUSINESS ($ AMOUNT OF 11(c))	$_____

PART IV. TO BE COMPLETED BY FEDERAL PRIME CONTRACTORS ONLY

12. CUMULATIVE SUBCONTRACT AWARDS FOR THE QUARTER (BY TIER)

TIER	(a) SMALL BUSINESS (INCL. DISADVANTAGED)	(b) LARGE BUSINESS	(c) CUMULATIVE TOTAL	(d) SMALL DISADVANTAGED BUSINESS
1st	$_____	$_____	$_____	$_____
2nd	$_____	$_____	$_____	$_____
Total	$_____	$_____	$_____	$_____

PART V. TO BE COMPLETED BY FEDERAL PRIME CONTRACTORS AND/OR SUBCONTRACTORS

13. NAME/TITLE _____ SIGNATURE _____ TELEPHONE NUMBER _____

14. REPORT APPROVED BY. _____ NAME AND TITLE _____ SIGNATURE

12/93

FORM XXX

RAILROAD RETIREMENT BOARD

1994 Railroad Experience Rating Proclamations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: The Railroad Retirement Board is required by paragraph (1) of section 8(c) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)), as amended by Public Law 100–647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The Board is further required by section 8(c)(2) of the Act to publish the amounts so determined and proclaimed. Pursuant to section 8(c)(2), the board gives notice of the following system-wide factors used in the computation of individual employer contribution rates for 1994:

(1) The balance to the credit of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 1993, is $255,918,947.08;

(2) The balance of any new loans to the Account, including accrued interest, is zero;

(3) The system compensation base is $2,732,288,039.48;

(4) The system unallocated charge balance is −$140,159,878.18;

(5) The pooled credit ratio is 0.0022;

(6) The pooled charge ratio is zero;

(7) The surcharge rate is zero.

The Railroad Retirement Board, pursuant to section 10(d) of the Act, determined that the balance to the credit of the Account was sufficient to fully repay the outstanding balance of the loan, including interest, due the Railroad Retirement (RR) Account. On June 29, 1993, the Secretary of the Treasury transferred $180,241,803.96 from the RUI Account to the RR Account, liquidating the debt due from the RUI Account to the RR Account attributable to loans made prior to October 1, 1985. The balance in notice (1) reflects this retransfer of funds.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 1993. The balance in notice (2) is based on data as of September 30, 1993. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 1994.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Gerald E. Helmling, Chief of Experience Rating, Bureau of Unemployment and Sickness Insurance, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, telephone (312) 751–4567, (FTS) 386–4567.

Dated: December 3, 1993.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 93–30396 Filed 12–13–93; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33293; International Series Release No. 620; File No. SR–Amex–93–33]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Expansion of Auto-Ex for Orders in Japan Index Options

December 6, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 4, 1993, the American Stock Exchange ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to expand its Auto-Ex System to permit the automatic execution of up to 99 contracts for market and marketable limit orders in Japan Index ("JPN") options.

The text of the proposal is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Auto-Ex is the Exchange's automatic execution system that provides for the instantaneous execution of market and marketable limit orders of up to ten contracts. Auto-Ex reports the executions back to the member firm entering the order, to the Exchange's Market Data System for dissemination to the public through the vendor system, and to the comparison as a "locked-in" trade. If the best bid or offer is on the specialist's book, the incoming order is routed to the specialist's post where it is executed against the book order, thus assuring public customers' orders on the book retain priority over orders in the crowd. If the best bid or offer is not on the specialist's book, contra side of the Auto-Ex trade is assigned on a rotation basis either to one of the Amex Registered Option Traders who have signed on the system or to the specialist.

When the Exchange began using the Auto-Ex system in December 1985, order eligibility (market and marketable limit orders) for Auto-Ex was 10 contracts and in September 1987 the Exchange received SEC approval to expand the eligible number to 20 contracts.[1] The Exchange also has received SEC approval to expand the eligible number of contracts in an Auto-Ex order to 99 contracts for the Institutional ("XII"), the Major Market ("XMI") and the MidCap 400 ("MID") Indexes.[2]

The Exchange began trading options on the JPN in 1990. Due to the steady increase in volume and liquidity in JPN options, the Exchange believes that an expansion of Auto-Ex eligible orders to 99 contracts is appropriate. According to the Amex, an increase in Auto-Ex order size for JPN options will further enhance the Exchange's order entry and execution systems and should have greater appeal to both retail and institutional users. Member firms who utilize the Auto-Ex system have expressed a great deal of satisfaction with the resulting quick and timely executions.

The Exchange believes that the proposed rule change is consistent with

[1] Securities Exchange Act Release No. 24899 (September 10, 1987), 52 FR 35012 (September 16, 1987).

[2] Securities Exchange Act Release Nos. 25950 (July 28, 1988), 53 FR 29293 (August 3, 1988), 29803 (October 10, 1991), 56 FR 52081 (October 17, 1991), 30290 (January 27, 1992), 57 FR 4072 (February 3, 1992).

section 6(b) of the Act, in general, and section 6(b)(5), in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will not impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 4, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–30450 Filed 12–13–93; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 19927; 812–8688]

Bull & Bear Financial News Composite Fund, Inc., et al.; Application

December 7, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Bull & Bear Financial News Composite Fund, Inc. ("FNCI"), Bull & Bear Funds I, Inc. ("Funds I"), and Bull & Bear Advisers, Inc. ("Advisers").

RELEVANT ACT SECTIONS: Exemption requested under section 17(b) of the Act from the provisions of section 17(a) of the Act, and pursuant to section 17(d) and rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek an order permitting Bull & Bear Quality Growth Fund ("Quality"), a series of Funds I, to acquire all of the assets of FNCI in exchange for shares of Quality.

FILING DATE: The application was filed on November 8, 1993 and amended on December 3, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 3, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 11 Hanover Square, New York, New York 10005.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Staff Attorney, at (202) 272–7027, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Funds I and FNCI each are registered open-end management investment companies organized as Maryland corporations. As of November 1, 1993, the net asset of Quality and FNCI were $579,836 and $5,912,016, respectively. Advisers is the investment adviser of Quality and FNCI and owns approximately 83% of the outstanding shares of Quality.

2. FNCI's existing investment objective is to invest in the common stocks included in the Financial News Composite Index. Publication of the index ceased as of October 18, 1993. As a result, FNCI's investment limitations require it to use its best efforts to hold a shareholder meeting to consider a proposal to use this index as constituted prior to such cessation, or to use another index selected or formulated by Advisers. FNCI's directors considered a number of alternatives, including proposing an alternative index to shareholders for their approval, but determined to reorganize FNCI by merging it with Quality.

3. Subject to and contingent upon receipt of the affirmative vote of the holders of at least a majority of the outstanding shares of common stock of FNCI, Quality proposes to acquire substantially all of the assets of FNCI in exchange for shares of Quality and the assumption by Quality of the liabilities of FNCI. Applicants seek an exemption pursuant to section 17(b) from the provisions of section 17(a), and an order pursuant to section 17(d) and rule 17d–1 to permit the transactions necessary to complete the proposed reorganization (the "Reorganization").

4. At a meeting held on November 3, 1993, the boards of directors of Funds I and FNCI, including a majority of the non-interested directors, unanimously approved the Reorganization. In approving the Reorganization, each board found that participation in the Reorganization is in the best interests of the relevant fund and that the interests of existing shareholders of the fund will not be diluted as a result of the Reorganization. Each board based its decision to approve the Reorganization on a number of factors, including: (a)

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[3] 17 CFR 200.30–3(a)(12) (1993).

The relative past growth in assets and investment performance of FNCI; (b) the future prospects of each fund, both under circumstances where they are not reorganized and if the Reorganization is effected; (c) the compatibility of the objectives, policies and restrictions of FNCI and Quality; (d) the effect of the Reorganization on the expense ratios of the funds; (e) the costs of the Reorganization to the funds; (f) whether any future cost savings could be achieved by combining the funds; (g) the tax-free nature of the Reorganization; (h) alternatives to the Reorganization; and (i) the actual and potential benefits to the funds' affiliates, including Advisers, Bull & Bear Service Center, Inc. (the "Distributor") and their parent, Bull & Bear Group, Inc.

5. Applicants contemplate that the Reorganization will be submitted for approval by the shareholders of FNCI at a meeting scheduled to be held on or about December 31, 1993. A prospectus/proxy statement comparing the two funds and describing the Reorganization and the reasons therefor soon will be sent to shareholders of FNCI. Assuming that the required shareholder vote is obtained at the shareholders meeting, the closing is expected to be held shortly thereafter (and following the issuance of the order requested hereby).

6. The number of full and fractional shares of Quality to be issued to shareholders of FNCI will be determined on the basis of net asset values, by dividing the value of FNCI's total net assets by the net asset value of a share of Quality. The Reorganization is intended to be a reorganization within the meaning of section 368(a)(1)(C) of the Internal Revenue Code under which no gain or loss would be recognized by FNCI, Quality, or their shareholders. Advisers will bear any expenses incurred in connection with the Reorganization.

7. Although the reorganization agreement provides that any of its provisions may be waived, amended, modified, or supplemented by mutual written agreement of the parties, applicants agree not to make any material changes to the agreement that affect the application without prior approval of the SEC staff. Applicants also agree not to waive, amend, or modify any provision of the reorganization agreement that is required by state or federal law to effect the Reorganization.

8. Each fund's shareholders should benefit from the reorganization because the expected increase in size of the combined fund, both immediately after the Reorganization and through improved potential for growth of Quality in the future, should assist in its ability to invest more effectively, to achieve certain economies of scale and, in turn, to potentially increase its operating efficiencies and facilitate portfolio management.

9. For its services to FNCI, Advisers receives a fee, payable monthly, based on FNCI's average daily net assets at the annual rate of .40% up to $250 million in assets, .35% from $250 million to $500 million, and .30% over $500 million. Advisers has agreed in its investment advisory agreement with FNCI that it will guarantee that the operating expenses of FNCI (including investment management fees but excluding taxes, interest, brokerage commissions, expenses incurred pursuant to a distribution plan under rule 12b–1, and extraordinary expenses), expressed as a percentage of average daily net assets, will not exceed for each fiscal year 1.5% of the FNCI's average daily net assets.

10. for its services to Quality, Advisers receives no investment management fee until Quality's net assets reach $5 million. Thereafter, Advisers receives a fee, payable monthly, based on Quality's average daily net assets at the annual rate of 1% up to $10 million in assets, .875% from $10 million to $30 million, .75% from $30 million to $150 million, .625% from $150 million to $500 million, and .50% over $500 million. It is anticipated that following the Reorganization Quality's net assets will exceed $5 million. Advisers has agreed in its investment advisory agreement with Quality that it will waive all or part of its fee or reimburse Quality or Funds I (if applicable) if and to the extent that Quality's aggregate operating expenses exceed the most restrictive limit imposed by any state in which shares of Quality are qualified for sale. Currently, the most restrictive such limit applicable to Quality is 2.5% of the first $30 million of the Quality's average daily net assets, 2% of the next $70 million of its average daily net assets, and 1.5% of its average net assets in excess of $100 million. Certain expenses, such as brokerage commission, taxes, interest, rule 12b–1 plan fees, certain expenses attributable to investing outside the United States and extraordinary items, are excluded from this limitation.

11. Neither FNCI nor Quality charge a sales load or impose a charge for exchanges between funds in the Bull & Bear family. Both Funds, however, have adopted a rule 12b–1 distribution plan. Quality pays the Distributor a distribution fee in the amount of .75% per annum of its average daily net assets and a service fee in the amount of .25% per annum of its average daily net assets. No change to Quality's plan, the surviving plan in the Reorganization, will be made in connection with the Reorganization.

12. Under FNCI's rule 12b–1 plan, FNCI may reimburse the Distributor in an amount up to .25% of its average daily net assets. The Distributor may from time to time incur expenses in distributing shares of the FNCI in excess of the amounts currently reimbursed pursuant to the plan, which expenses may be reimbursed in the future. As of June 30, 1993, the Distributor had incurred approximately $222,900 of such expenses not yet reimbursed by FNCI, amounting to 3.62% of FNCI's net assets. Neither the Distributor nor any other party will seek recovery of these expenses after the Reorganization.

13. Advisers and its affiliates may receive some benefits from the Reorganization. These include: (a) A higher effective investment management fee rate for Quality as compared to FNCI; (b) a decrease in expense reimbursements by Advisers due to the higher expense level that must be reached before reimbursement by Advisers is required; (c) the potential for the receipt of higher aggregate investment management fees if, as is hoped, the combined fund's assets grow faster than would be the case for the two funds in the absence of the reorganization; and (d) payment of higher rule 12b–1 fees to the Distributor, an affiliate of Advisers, as compensation for its distribution and service activities. Additionally, there is the possibility that economies with respect to distribution costs might be realized in a combined fund so that to the extent that expenditures by the Distributor in a given year amount to less than 1% of the combined fund's net assets, the Distributor will realize a profit. The directors of Funds I and FNCI, including the non-interested directors, have concluded that any potential benefits to Advisers as a result of the reorganization are on balance outweighed by the commitment of Advisers to bear all the expenses incurred in connection with the reorganization and the potential benefits of the reorganization to FNCI and Quality and their shareholders.

Applicants' Legal Analysis

1. Section 2(a)(3) defines the term "affiliated person of another person" to include, in relevant part, (a) any person directly or indirectly owning, controlling, or holding with the power to vote, 5% or more of the outstanding voting securities of such other person;

(b) any person directly or indirectly controlling, controlled by, or under common control with such other person; and (c) if such other person is an investment company, any investment adviser thereof. Advisers is the investment adviser to both Quality and FNCI. In addition, Advisers is an "affiliated person" of Quality within the meaning of section 2(a)(3)(B) because Advisers beneficially owns 5% or more of the shares of Quality. Because of these relationships, the Reorganization is prohibited by section 17(a).

2. Section 17(a) provides that it is unlawful for any affiliated person of a registered investment company, or an affiliated person of such affiliated person, acting as principal knowingly to sell any security or other property to such investment company or to purchase from such investment company any security or other property. Rule 17a–8 exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied. The Reorganization would be exempt from the provisions of section 17(a) by virtue of rule 17a–8 and might not be subject to rule 17d–1 but for the fact that Advisers beneficially owns more than 5% of the outstanding shares of Quality.

3. Section 17(b) provides that, notwithstanding section 17(a), any person may file an application for an order exempting a proposed transaction and the Commission shall grant such order if evidence establishes that the terms of the proposed transaction are reasonable and fair and do not involve overreaching, and that the proposed transaction is consistent with the policy of each registered investment company concerned and the general purposes of the Act.

4. Section 17(d) prohibits any affiliated person of, or principal underwriter for, a registered investment company, or an affiliated person of such a person, acting as principal from effecting any transaction in which such investment company is a joint, or joint and several, participant with such person in contravention of such rules and regulations as the Commission may prescribe. Rule 17d–1 provides that no joint transaction covered by the rule may be consummated unless the Commission grants an exemptive application after considering whether the participation of the investment company involved is consistent with the provisions, policies and purposes of the Act and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

5. The proposed sale of assets by FNCI to Quality and the related transactions involved in the Reorganization might be deemed to be a joint enterprise or other joint arrangement in which a registered investment company and affiliated person of such company are participants. Applicants seek an order to eliminate the possibility that the Reorganization would be prohibited by section 17(d) and rule 17d–1.

6. Applicants submit that the Reorganization meets the standards for relief under section 17(b) and rule 17d–1. The Reorganization is expected to benefit each fund's shareholders because the expected increase in size of the combined fund, both immediately after the Reorganization and through improved potential for growth of Quality in the future, should assist in its ability to invest more effectively, to achieve certain economies of scale and, in turn, to potentially increase its operating efficiencies and facilitate portfolio management. The Reorganization will be effected on the basis of the funds' net asset values on a tax-free basis.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–30407 Filed 12–13–93; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 19926; 811–6491]

The Integrity Portfolios, Inc.; Application for Deregistration

December 7, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Integrity Portfolios, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application on Form N–8F was filed on October 12, 1993, and amended on November 22, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 4, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 1751 Mound Street, Suite 1A, Sarasota, Florida 34236.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 504–2920, or Robert A. Robertson, Branch Chief, at (202) 272–3030 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Maryland corporation and an open-end management company. On December 11, 1991, applicant registered as an investment company under section 8(b) of the Act, and filed a registration statement on Form N–1A to register an unlimited number of shares under the Securities Act of 1933 with respect to its two portfolios, the Jordan American Value Portfolio and the Jordan Emerging America Portfolio. The initial public offering of the Portfolios' shares commenced on March 27, 1992.

2. At a meeting held on December 9, 1992, applicant's board of directors voted to approve a plan of liquidation and dissolution (the "Plan") providing for the liquidation of applicant and the distribution of applicant's assets to its shareholders. On December 11, 1992, CPN Financial Services, Inc. ("CFSI"), applicant's sole shareholder, executed a unanimous written consent approving the Plan, as required by the Plan and in accordance with applicant's articles of incorporation. CFSI is an affiliate of Equity Assets Management, Inc. ("EAM"), applicant's investment adviser.

3. As of February 4, 1993, there were 5,812 shares of Jordan American Value Portfolio outstanding, with an aggregate net asset value of $50,416, and a net asset value of per share of $8.67 per share. On that date, there were 5,000

shares of Jordan Emerging America Portfolio, with an aggregate net asset value $45,072, and a net asset value per share of $9.01.

4. On February 5, 1993, a final liquidating distribution was made to CFSI, as sole shareholder, equal to CFSI's interests in each of the Portfolios. With respect to Jordan American Value Portfolio, CFSI was paid $50,416 representing the aggregate net asset value of the Portfolio's shares, and $7,514.78 representing accounts payable to CFSI. With respect to Jordan Emerging America Portfolio, CFSI was paid $45,072 representing the aggregate net asset value of the Portfolio's shares, and $7,589.52 representing accounts payable to CFSI.

5. Each Portfolio incurred total organization costs of $57,070.50. On the date of the liquidation, the unamortized organization costs of each Portfolio were $47,916.70. CFSI assumed the financial burden of unamortized organization expenses upon liquidation to the extent that applicant had amortized such costs but never made any reimbursement. The expenses incurred in connection with applicant's liquidation, approximately $25,000, were borne of Jordan American Holdings, Inc., and its wholly-owned subsidiary, EAM.

6. At the time of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage, in, any business activities other than those necessary for the winding up of its affairs.

7. Applicant intends to file articles of dissolution with the Maryland secretary of state.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–30408 Filed 12–13–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19925; 811–6316]

Putnam Equity Income Fund; Application

December 7, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Putnam Equity Income Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on September 15, 1993, and amended on December 2, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 3, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, One Post Office Square, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Law Clerk, at (202) 272–3809, or Robert A. Robertson, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a business trust under the laws of Massachusetts. On May 24, 1991, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on August 21, 1991, and applicant's initial public offering commenced on August 27, 1991.

2. On July 9, 1993, applicant's board of trustees approved an agreement and plan of reorganization (the "Plan") whereby applicant would transfer all of its assets and liabilities to Putnam Strategic Income Trust ("Strategic Income"), a registered open-end management investment company organized under the laws of Massachusetts. In addition, the board of trustees made the findings required by rule 17a–8 under the Act.[1]

3. On or about July 15, 1993, applicant distributed proxy materials to its shareholders. At a meeting held on September 9, 1993, applicant's shareholders approved the reorganization.

4. Pursuant to the Plan, on September 13, 1993, applicant transferred all of its assets, including all portfolio securities, to Strategic Income in exchange for (i) Strategic Income Class A shares having an aggregate net asset value equal to applicant's Class A shares transferred to Strategic Income and (ii) Strategic Income Class B shares having an aggregate net asset value equal to applicant's Class B shares transferred to Strategic Income. Applicant then distributed pro rata the Strategic Income shares to its shareholders. Thereafter, Strategic Income changed its name to Putnam Equity Income Fund.

5. Applicant and Strategic Income assumed ratably the expenses applicable to the Plan, in proportion to their net assets as of September 10, 1993, except that the costs of proxy materials and proxy solicitation were borne by applicant. Such expenses included legal and accounting expenses, portfolio transfer taxes (if any), and other similar expenses. No brokerage commissions were paid in connection with the Plan.

6. At the time of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. On September 13, 1993, applicant's registration as a Massachusetts business trust was terminated by the office of the Secretary of State of Massachusetts.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 93–30409 Filed 12–13–93; 8:45 am]

BILLING CODE 8010–01–M

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[1] Rule 17a–8 provides an exemption from section 17(a) for certain reorganizations among registered investment companies that may be affiliated persons solely by reason of having a common investment adviser, common directors, and/or common officers.

SMALL BUSINESS ADMINISTRATION

AMF Financial, Inc.; Notice of License Revocation

[License No. 09/09–0302]

Notice is hereby given that License No. 09/09–0302 issued on October 26, 1982 to AMF Financial, Inc. located at 4330 La Jolla Village Drive, Suite 110, San Diego, California, 92122, is revoked.

Under the authority vested by the Act, and pursuant to the regulations promulgated thereunder, the revocation of the license was effective December 3, 1993, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 6, 1993.

Charles R. Hertzberg,

Associate Administrator for Investment.

[FR Doc. 93–30471 Filed 12–13–93; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 99000100]

Cordova Capital Partners, L.P.—Enhanced Appreciation; Notice of Filing of an Application for a License to operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1993)) by Cordova Capital Partners, L.P.—Enhanced Appreciation, 3350 Cumberland Circle, Atlanta, Georgia 30339, for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. *et. seq.*), and the Rules and Regulations promulgated thereunder. Cordova Capital Partners, L.P.—Enhanced Appreciation is a Georgia limited partnership.

Cordova Capital Partners, L.P.—Enhanced Appreciation will be managed by Cordova Capital II, Inc. located at 3350 Cumberland Circle, Atlanta, Georgia 30339. The following limited partners own 10 percent or more of the proposed SBIC:

Name	Percentage of ownership
Cordova Capital Partners, L.P., 3350 Cumberland Circle, Atlanta, Georgia 30339	62.5%
William A. Williamson, 1623 Gilmer Avenue, Montgomery, Alabama 36104	25.0
Charles E. Adair, 2431 Hermitage Drive, Montgomery, Alabama 36111	12.5

The applicant will begin operations with capitalization of approximately $4.0 million and will be a source of debt and equity financings for qualified small business concerns. The applicant will invest primarily in the states of Georgia and Alabama.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Atlanta, Georgia.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: December 6, 1993.

Charles R. Hertzberg,

Associate Administrator for Investment.

[FR Doc. 93–30472 Filed 12–13–93; 8:45 am]

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DEPARTMENT OF STATE

Bureau of Oceans and International Environmental and Scientific Affairs

[Public Notice 1916]

Conservation Measures for Antarctic Fishing Under the Auspices of the Commission for the Conservation of Antarctic Marine Living Resources

AGENCY: Bureau of Oceans and International Environmental and Scientific Affairs, State.

ACTION: Notice.

SUMMARY: At its Twelfth Annual Meeting in Hobart, Tasmania, October 25 to November 5, 1993, the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), of which the United States is a member, adopted the conservation measures and resolutions listed below, pending countries' approval, pertaining to fishing in the CCAMLR Convention Area in Antarctic waters. These were agreed upon in accordance with Article IX, paragraph 6(A) of the Convention for the Conservation of Antarctic Marine Living Resources. The measures restrict overall catches of certain species of fish, prohibit the taking of certain species of fish, list the fishing seasons, and define reporting requirements.

DATES: Persons wishing to comment on the measures or desiring more information should submit written comments on or before January 13, 1994.

FOR FURTHER INFORMATION CONTACT: Ray Arnaudo, Chief, Division of Polar Affairs, Office of Oceans Affairs (OES/OA), room 5801, Department of State, Washington, DC 20520, (202) 647–3262.

SUPPLEMENTARY INFORMATION:

Conservation Measures Adopted at the Twelfth Annual Meeting of CCAMLR

At its Twelfth Annual Meeting in Hobart, Tasmania, October 25 to November 5, 1992, the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) adopted the following conservation measures and two resolutions. The conservation measures addressing catch limitations were adopted in accordance with Conservation measure 7/V and therefore enter into force immediately.

Conservation Measures Adopted This Year

Conservation Measure 29/XII

Minimization of the Incidental Mortality of Seabirds in the Course of Longline Fishing or Longline Fishing Research in the Convention Area.

The Commission,

Noting the need to reduce the incidental mortality of seabirds during longline fishing by minimizing their attraction to the fishing vessels and by preventing them from attempting to seize baited hooks, particularly during the period when the lines are set.

Recognizing that successful techniques for reducing the mortality of albatrosses have been employed in the longline fishery for tuna immediately to the north of the Convention Area.

Agrees to the following measures to reduce the possibility of incidental mortality of seabirds during longline fishing.

1. Fishing operations shall be conducted in such a way that the baited hooks sink as soon as possible after they are put in the water. Only thawed bait shall be used.

2. During the setting of longlines at night, only the minimum ship's lights necessary for safety shall be used.

3. Trash and offal are not to be dumped while longline operations are in progress.

4. A streamer line designed to discourage birds from settling on baits during deployment of longlines shall be towed. Specification of the streamer line and its method of deployment is given in the Appendix to this Measure. Details of the construction relating to the number and placement of swivels may be varied so long as the effective sea surface covered by the streamers is no less than that covered by the currently specified design.

5. This Measure shall not apply to designated research vessels investigating better methods for reducing incidental mortality of seabirds.

Conservation Measure 51/XII

Five-day Catch and Effort Reporting System

This Conservation Measure is adopted in accordance with Conservation Measure 7/V where appropriate:

1. For the purposes of this Catch and Effort Reporting System the calendar month shall be divided into six reporting periods, viz: day 1 to day 5, day 6 to day 10, day 11 to day 15, day 16 to day 20, day 21 to day 25 and day 26 to the last day of the month. These reporting periods are hereinafter referred to as periods A, B, C, D, E and F.

2. At the end of each reporting period, each Contracting Party shall obtain from each of its vessels its total catch and total days and hours fished for that period and shall, by cable or telex, transmit the aggregated catch and days and hours fished for its vessels so as to reach the Executive Secretary not later than the end of the next reporting period. In the case of longline fisheries, the number of hooks shall also be reported.

3. A report must be submitted by every Contracting Party taking part in the fishery for each reporting period for the duration of the fishery even if no catches are taken.

4. The catch of all species, including by-catch species, must be reported.

5. Such reports shall specify the month and reporting period (A, B, C, D, E or F) to which each report refers.

6. Immediately after the deadline has passed for receipt of the reports for each period, the Executive Secretary shall notify all Contracting Parties engaged in fishing activities in the area, of the total catch taken during the reporting period, the total aggregate catch for the season to date together with an estimate of the date upon which the total allowable catch is likely to be reached for that season. The estimate shall be based on a projection forward of the trend in daily catch rates, obtained using linear regression techniques from a number of the most recent catch reports.

7. At the end of every six reporting periods, the Executive Secretary shall inform all Contracting Parties of the total catch taken during the five most recent reporting periods, the total aggregate catch for the season to date together with an estimate of the date upon which the total allowable catch is likely to be reached for that season.

8. If the estimated date of completion of the TAC is within five days of the date on which the Secretariat received the report of the catches, the Executive Secretary shall inform all Contracting Parties that the fishery will close on that estimated day or on the day on which the report was received, whichever is the later.

Conservation Measure 61/XII

Ten-day Catch and Effort Reporting System

This Conservation Measure is adopted in accordance with Conservation Measure 7/V where appropriate:

1. For the purposes of the Catch and Effort Reporting System the calendar month shall be divided into three reporting periods, viz: day 1 to day 10, day 11 to day 20, day 21 to the last day of the month. These reporting periods hereinafter referred to as periods A, B and C.

2. At the end of each reporting period, each Contracting Party shall obtain from each of its vessels its total catch and total days and hours fished for that period and shall, by cable or telex, transmit the aggregated catch and days and hours fished for its vessels so as to reach Executive Secretary not later than the end of the next reporting period. In the case of longline fisheries, the number of hooks shall also be reported.

3. A report must be submitted by every Contracting Party taking part in the fishery for each reporting period for the duration of the fishery even if no catches are taken.

4. The retained catch of all species and by-catch species, must be reported.

5. Such reports shall specify the month and reporting period (A, B and C) to which each report refers.

6. Immediately after the deadline has passed for receipt of the reports for each period, the Executive Secretary shall notify all Contracting Parties engaged in fishing activities in the area, of the total catch taken during the reporting period, the total aggregate catch for the season to date together with an estimate of the date upon which the total allowable catch is likely to be reached for that season. The estimate shall be based on a projection forward of the trend in daily catch rates, obtained using linear regression techniques from a number of the most recent catch reports.

7. At the end of every three reporting periods, the Executive Secretary shall inform all Contracting Parties of the total catch taken during the three most recent reporting periods, the total aggregate catch for the season to date together with an estimate of the date upon which the total allowable catch is likely to be reached for that season.

8. If the estimated date of completion of the TAC is within ten days of the date on which the Secretariat received the report of the catches, the Executive Secretary shall inform all Contracting Parties that the fishery will close on that estimated day or on the day on which the report was received, whichever is the later.

Conservation Measure 63/XII

Reduction in Use of Plastic Packaging Bands

The Commission,

Recollecting that for many years it has received evidence from the Scientific Committee that substantial numbers of Antarctic fur seals have been entangled and killed in plastic packaging bands in the Convention Area.

Noting that, despite the recommendations of CCAMLR and the provisions of the MARPOL Convention and its Annexes which prohibit the jettisoning of all plastics at sea, substantial entanglement of fur seals is still continuing.

Recognizing that the bait boxes used on fishing vessels in particular and other packages in general need not be secured by plastic packaging bands because suitable alternatives exist.

Agrees to adopt the following Conservation Measure, to reduce the incidental mortality of seals due to entanglement, in accordance with Article IX of the Convention.

1. As a general practice all packaging bands, once removed from packages, shall be cut, so that they do not form a continuous loop.

2. The use on fishing vessels of plastic packaging bands to secure bait boxes shall be prohibited from the 1995/96 season.

3. The use of such packaging bands for other purposes on fishing vessels which do not use on-board incinerators shall be prohibited from the 1996/97 season.

Conservation Measure 64/XII [1,2]

The Application of Conservation Measures to Scientific Research

This Conservation Measure governs the application of conservation measure to scientific research and is adopted in accordance with Article IX of the Convention.

1. General application.

(a) Catches taken by any vessel for research purposes will be considered as part of any catch limits in force for each species taken, and shall be reported to CCAMLR as part of the annual STATLANT returns.

(b) The CCAMLR within season catch and effort reporting systems shall apply whenever the catch within a specified reporting period exceeds five tonnes, unless more specific regulations apply to the particular species.

2. Application to vessels taking less than 50 tonnes of catch for any purpose.

(a) Any Member planning to use a vessel for research purposes when the estimated catch is expected to be less than a total of 50 tonnes shall notify the Secretariat of the Commission which in turn will notify all Members immediately, according to the format provided in Annex 6 of CCAMLR–XII. This notification shall be included in the Members' Activities Reports.

(b) Vessels to which the provisions of paragraph 2(a) above apply, shall be exempt from conservation measures relating to mesh size regulations, prohibition of types of gear, closed areas, fishing seasons and size limits and reporting system requirements other than those specified in paragraph 1 (a) and (b) above.

3. Application to vessel taking more than 50 tonnes of finfish.

(a) Any Member planning to use any type of vessel to conduct fishing for research purposes when the estimated catch is expected to be more than 50 tonnes, shall notify the Commission and provide the opportunity for other Members to review and comment on its research plan. The plan shall be provided to the Secretariat for distribution to Members at least six months in advance of the planned starting date for the research. In the event of any request for a review of such a plan being lodged within two months of its circulation, the Executive Secretary shall notify all Members and submit the plan to the Scientific Committee for review. Based on the submitted research plan and any advice provided by the appropriate Working Group, the Scientific Committee will provide advice to the Commission where the review process will be concluded. Until the review process is complete the planned fishing for research purposes shall not proceed.

(b) Research plans shall be reported in accordance with the standardized guidelines and formats adopted by the Scientific Committee, given in Annex 6 of CCAMLR–XII.

(c) A summary of the results of any research subject to these provisions shall be provided to the Secretariat within 180 days of the completion of the research fishing. A full report shall be provided within 12 months.

(d) Catch and effort data resulting from the research fishing in accordance with paragraph (a) above, should be reported to the Secretariat according to the haul-by-haul reporting format for research vessels (C4).

Conservation Measure 65/XII [1,2]

Exploratory Fisheries

The Commission,

Recognizing that in the past, some Antarctic fisheries had been initiated and subsequently expanded in the Convention Area before sufficient information was available upon which to base management advice, and

Agreeing that exploratory fishing should not be allowed to expand faster than the acquisition of information necessary to ensure that the fishery can and will be conducted in accordance with principles set forth in Article II, hereby adopts the following Conservation Measure in accordance with Article IX of the Convention:

1. For the purposes of this Conservation Measure, exploratory fisheries are defined as follows:

(i) An exploratory fishery shall be defined as a fishery that was previously classified as a "new fishery", as defined by Conservation Measure 31/X;

(ii) An exploratory fishery shall continue to be classified as such until sufficient information is available:

(a) To evaluate the distribution, abundance, and demography of the target species, leading to an estimate of the fishery's potential yield,

(b) To review the fishery's potential impacts on dependent and related species, and

(c) To allow the Scientific Committee to formulate and provide advice to the Commission on appropriate harvest catch levels, as well as effort level and fishing gear, where appropriate.

2. To ensure that adequate information is made available to the Scientific Committee for evaluation, during the period when a fishery is classified as exploratory:

(i) The Scientific Committee shall develop (and update annually as appropriate) a Data Collection Plan, which will identify the data needed and describe the action necessary to obtain the relevant data from the exploratory fishery;

(ii) Each Member active in the fishery shall annually (by the specified date) submit to CCAMLR the data specified by the Data Collection Plan developed by the Scientific Committee;

(iii) Each Member active in the fishery or intending to authorize a vessel to enter the fishery shall annually prepare and submit to CCAMLR by a specified date a Research and Fishery Operations Plan for review by the Scientific Committee and the Commission;

(iv) Prior to any Member authorizing its vessels to enter an exploratory fishery that is already in progress, that Member shall notify the Commission not less than three months in advance of the next regular meeting of the Commission, and the Member shall not enter the exploratory fishery until the conclusion of that meeting;

(v) If the data specified in the Data Collection Plan have not been submitted to CCAMLR for the most recent season in which fishing occurred, continued exploratory fishing by the Member which failed to report its data shall be prohibited until the relevant data have been submitted to CCAMLR and the Scientific Committee has been allowed an opportunity to review the data;

(vi) Fishing capacity and effort shall be limited by a precautionary catch limit at a level not substantially above that necessary to obtain the information specified in the Data Collection Plan and required to make the evaluations outlined in paragraph 1(ii);

(vii) The name, type, size, registration number, and radio call sign of each vessel participating in the exploratory fishery shall be registered with the CCAMLR Secretariat at least three months in advance of starting fishing each season; and

(viii) Each vessel participating in the exploratory fishery shall carry a scientific observer to ensure that data are collected in accordance with the

[1] Except for waters adjacent to the Kerguelen and Crozet Islands.

[2] Except for waters adjacent to the Prince Edward Islands.

[1] Except for water adjacent to the Kerguelen and Crozet Islands.

[2] Except for waters adjacent to the Prince Edward Islands.

agreed Data Collection Plan, and to assist in collecting biological and other relevant data.

3. The Data Collection Plan to be formulated and updated by the Scientific Committee shall include, where appropriate:

(i) A description of the catch, effort, and related biological, ecological, and environmental data required to undertake the evaluations described in paragraph 1(ii), and the date by which such data are to be reported annually to CCAMLR;

(ii) A plan for directing fishing effort during the exploratory phase to permit the acquisition of relevant data to evaluate the fishery potential and the ecological relationships among harvested, dependent, and related populations and the likelihood of adverse impacts; and

(iii) An evaluation of the time-scales involved in determining the responses of harvested, dependent and related populations to fishing activities.

4. Research and Fisheries Operations Plans to be prepared by Members participating or intending to participate in the exploratory fishery shall include as much of the following information as the Member is able to provide:

(i) A description of how the Member's activities will comply with the Data Collection Plan developed by the Scientific Committee;

(ii) The nature of the exploratory fishery, including target species, methods of fishing, proposed region and maximum catch levels proposed for the forthcoming season;

(iii) Biological information from comprehensive research/survey cruises, such as distribution, abundance, demographic data, and information on stock identity;

(iv) Details of dependent and related species and the likelihood of them being affected by the proposed fishery; and

(v) Information from other fisheries in the region or similar fisheries elsewhere that may assist in the evaluation of potential yield.

Conservation Measure 66/XII

Limitation of the Total Catch of *Champsocephalus gunnari* in Statistical Subarea 48.3 in the 1993/94 Season

Noting that a survey to assess the abundance of the stock of this species in Subarea 48.3 is to take place in January 1994.

The Commission adopted this Conservation Measure in accordance with Conservation Measure 7/V:

1. The total catch of *Champsocephalus gunnari* in the 1993/94 season, which shall commence on 1 January 1994 [1] shall not exceed 9 200 tonnes in Statistical Subarea 48.3.

2. The fishery for *Champsocephalus gunnari* in Statistical Subarea 48.3 shall close if the by-catch of any of the species listed in Conservation Measure D/XII reaches its by-catch limit or if the total catch of *Champsocephalus gunnari* reaches 9 200 tonnes, whichever comes first.

3. If, in the course of the directed fishery for *Champsocephalus gunnari*, the by-catch of any one haul of any of the species named in Conservation Measure D/XII exceeds 5%, the fishing vessel shall move to another fishing ground within the subarea.

4. The use of bottom trawls in the directed fishery for *Champsocephalus gunnari* in Statistical Subarea 48.3 is prohibited.

5. The fishery for *Champsocephalus gunnari* in Statistical Subarea 48.3 shall be closed from 1 April 1994 until the end of the Commission meeting in 1994.

6. For the purpose of implementing paragraphs 1 and 2 of this Conservation Measure:

(i) The Five-day Catch and Effort Reporting System set out in Conservation Measure 51/XII shall apply for the 1993/94 season commencing on 1 January 1994.

(ii) The Monthly Effort and Biological Reporting System set out in Conservation Measure 52/XI shall apply for *Champsocephalus gunnari* and all by-catch species listed in Conservation Measure 68/XII in the 1993/94 season, commencing on 1 January 1994.

Conservation Measure 67/XII

Precautionary TAC for *Electrona carlsbergi* in Statistical Subarea 48.3 for the 1993/94 Season

This Conservation Measure is adopted in accordance with Conservation Measure 7/V:

1. For the purposes of this Conservation Measure the fishing season for *Electrona carlsbergi* is defined as the period from 6 November 1993 to the end of the Commission meeting in 1994.

2. The total catch *Electrona carlsbergi* in the 1993/94 season shall not exceed 200,000 tonnes in Statistical Subarea 48.3.

3. In addition, the total catch of *Electrona carlsbergi* in the 1993/94 season shall not exceed 43,000 tonnes in the Shag Rocks region, defined as the area bounded by 52°30′S, 40°W; 52°30′S, 44°W; 54°30′S, 40°W and 54°30′S, 44°W.

4. In the event that the catch of *Electrona carlsbergi* is expected to exceed 20,000 tonnes in the 1993/94 season, a survey of stock biomass and age structure shall be conducted during that season by the principal fishing nations involved. A full report of this survey including data on stock biomass (specifically including area surveyed, survey design and density estimates), age structure and the biological characteristics of the by-catch shall be available for discussion at the 1994 meeting of the Working Group on Fish Stock Assessment.

5. The directed fishery for *Electrona carlsbergi* in Statistical Subarea 48.3 shall close if the by-catch of any of the species named in Conservation Measure 68/XII reaches its by-catch limit or if the total catch of *Electrona carlsbergi* reaches 200,000 tonnes, whichever comes first.

6. The directed fishery for *Electrona carlsbergi* in the Shag Rocks region shall close if the by-catch limit of any of the species named in Conservation Measure 68/XII reaches its by-catch limit or if the total catch of *Electrona carlsbergi* reaches 43,000 tonnes, whichever comes first.

7. If, in the course of the directed fishery for *Electrona carlsbergi*, the by-catch limit of any one haul of any of the species named in Conservation Measure 68/XII exceeds 5%, the fishing vessel shall move to another fishing ground within the subarea.

8. For the purpose of implementing this Conservation Measure:

(i) The Catch Reporting System set out in Conservation Measure 40/X shall apply in the 1993/94 season; and

(ii) The Data Reporting System set out in Conservation Measure 54/XI shall apply in the 1993/94 season.

Conservation Measure 68/XII

Limitation of the By-catch of *Notothenia gibberifrons, Chaenocephalus aceratus, Pseudochaenicthys georgianus, Notothenia rossii* and *Notothenia squamifrons*, in Statistical Subarea 48.3 for the 1993/94 Season

This Conservation Measure is adopted in accordance with Conservation Measure 7/V:

In any directed fishery in Statistical Subarea 48.3, during the 1993/94 season commencing 6 November 1993, the by-catch of *Notothenia gibberifrons* shall not exceed 1,470 tonnes; the by-catch of *Chaenocephalus aceratus* shall not exceed 2,200 tonnes; and the by-catch of *Pseudochaenichthys georgianus, Notothenia rossii* and *Notothenia squamifrons* shall not exceed 300 tonnes each.

[1] It was agreed that the opening of the fishery on this date was without prejudice or precedent to decision regarding the fishery in future fishing seasons.

Conservation Measure 69/XII

Limits on the fishery for *Dissostichus eleginoides* in Statistical Subarea 48.3 for the 1993/94 Season

This Conservation Measure is adopted in accordance with Conservation Measure 7/V:

1. For the purpose of the fishery directed to *Dissositichus eleginoides* during the 1993/94 season, Statistical Subarea 48.3 shall be designated as a Special Area for the Protection and Scientific Study in accordance with Article IX(2)(g) of the Convention.

2. The total catch of *Dissostichus eleginoides* in Statistical Subarea 48.3 caught during the 1993/94 season shall be limited to 1,300 tonnes.

3. For the purpose of the fishery for *Dissostichus eleginoides* in the Statistical Subarea 48.3, the 1993/94 fishing season is defined as the period from 15 December 1993 to 15 September 1994, or until the TAC is reached, whichever is the sooner.

4. The TAC for the 1993/94 fishing season shall be divided evenly into five sequential time-periods of 55 days each, with not more than one vessel at any one time fishing within each period. These periods are as follows:

15 December 1993 to 7 February 1994
8 February 1994 to 3 April 1994
4 April 1994 to 28 May 1994
29 May 1994 to 22 July 1994
23 July 1994 to 15 September 1994 [1]

5. Any Member planning to conduct fishing and scientific research activities for *Dissostichus eleginoides* in the Special Area for Protection and Scientific Study during any of the five periods shall be required to conduct fishing for scientific purposes according to a research plan and shall transmit to the Executive Secretary at least ten days before the start of the period:

(i) The research plan it intends to carry out within that period;

(ii) An indication that a Scientific Observer has been appointed in accordance with the Scheme of International Scientific Observation of CCAMLR. This Scientific Observer is required to be aboard all vessels during all fishing activities within the period; and

(iii) The name, type, size, and fish processing and storage capacity of the vessels.

6. Fishing within each of the five periods shall cease at the end of the relevant period, or when the TAC allocation of *Dissostichus eleginoides* for the period is reached, whichever is the sooner.

[1] It was agreed that this decision was without prejudice or precedent to decisions regarding this fishery in future fishing seasons

7. For the purpose of implementing this Conservation Measure:

(i) The Five-day Catch and Effort Reporting System set out in Conservation Measure 51/XII shall apply in the 1993/94 season, commencing on 15 December 1993.

(ii) The Effort and Biological Data Reporting System set out in Conservation Measure 71/XII shall apply in the 1993/94 season, commencing on 15 December 1993.

Conservation Measure 70/XII

Catch Limit on *Dissostichus eleginoides* in Statistical Subarea 48.4 for the 1993/94 Season

1. The total catch of *Dissostichus eleginoides* in Statistical Subarea 48.4 caught in the 1993/94 season shall be limited to 28 tonnes.

2. For the purposes of the fishery for *Dissostichus eleginoides* in Statistical Subarea 48.4, the 1993/94 fishing season is defined as the period from 15 December 1993, to the end of the Commission meeting in 1994, or until the TAC is reached, whichever is sooner.

3. For the purpose of implementing this Conservation Measure:

(i) The Five-day Catch and Effort Reporting System set out in Conservation Measure 52/XII shall apply in the 1993/94 season, commencing on 15 December 1993.

(ii) The Effort and Biological Data Reporting System set out in Conservation Measure 71/XII shall apply in the 1993/94 season, commencing on 15 December 1993.

Conservation Measure 71/XII

Effort and Biological Data Reporting System for *Dissostichus eleginoides* in Statistical Subareas 48.3 and 48.4 for the 1993/94 Season.

This Conservation Measure is adopted in accordance with Conservation Measure 7/V:

1. At the end of each month each Contracting Party shall obtain from each of its vessels the haul-by-haul data required to complete the CCAMLR fine-scale catch and effort data form for longline fisheries (Form C2, latest version). These data shall include numbers of seabirds or marine mammals or each species caught and released or killed. It shall transmit those data to the Executive Secretary not later than the end of the following month.

2. At the end of each month, each Contracting Party shall obtain from each of its vessels a representative sample of length composition measurements from the fishery (Form B2 latest version). It shall transmit those data to the Executive Secretary not later than the end of the following month.

3. For the purpose of implementing this Conservation Measure:

(i) Length measurements of fish should be of total length to the nearest centimeter below;

(ii) Representative samples of length composition should be taken from a single fishing ground.[1] In the event that the vessel moves from one fishing ground to another during the course of a month, then separate length compositions should be submitted for each fishing ground.

4. Failure by a Contracting Party to provide either/or both the haul-by-haul and length composition data for three consecutive months shall result in the closure of the fishery to vessels of the Contracting Party. If the Executive Secretary has not received either/or both of the haul-by-haul and length composition data for two consecutive months he shall notify the Contracting Party that the fishery will be closed to that Contracting Party unless those data (including arrears of data) are provided by the end of the month. If at the end of the next month those data have still not been provided, the Executive Secretary shall notify all Contracting Parties of the closure of the fishery to vessels of the Contracting Party which has failed to supply the data as required.

Conservation Measure 72/XII

Prohibition of Directed Fishing for Finfish in Statistical Subarea 48.1

Taking of finfish, other than for scientific research purposes, is prohibited in Statistical Subarea 48.1 from 6 November 1993 until at least such time that a survey of stock biomass is carried out, its results reported to and analyzed by the Working Group on Fish Stock Assessment and a decision that the fishery be re-opened is made by the Commission based on the advice of the Scientific Committee.

Conservation Measure 73/XII

Prohibition of Directed Fishing for Finfish in Statistical Subarea 48.2

Taking of finfish, other than for scientific research purposes, is prohibited in Statistical Subarea 48.2 from 6 November 1993 until at least such time that a survey of stock biomass is carried out, its results reported to and analyzed by the Working Group on Fish Stock Assessment and a decision that the fishery be re-opened is made by the

[1] Pending the provision of a more appropriate definition, the term fishing ground is defined here as the area within a single fine-scale grid rectangle (0.5° latitude by 1° longitude.)

Commission based on the advice of the Scientific Committee.

Conservation Measure 74/XII

Limits on the Exploratory Crab Fishery in Statistical Subarea 48.3 in the 1993/94 Season

The following Conservation Measure is adopted in accordance with Conservation Measure 7/V:

1. The crab fishery is defined as any commercial harvest activity in which the target species is any member of the crab group (Order *Decapoda*, Suborder *Reptantia*).

2. The crab fishery shall be limited to one vessel per Member.

3. The total catch of crab from Statistical Subarea 48.3 shall not exceed 1,600 tonnes during the 1993/94 fishing season.

4. Each Member intending to participate in the crab fishery shall notify the CCAMLR Secretariat at least three months in advance of the starting fishing of the name, type, size, registration number, radio call sign, and research and fishing operations plan of the vessel that the Member has authorized to participate in the crab fishery.

5. All vessels fishing for crab shall report the following data to CCAMLR by 31 August 1994 for crabs caught prior to 31 July 1994:

(i) The location, date, depth, fishing effort (number and spacing of pots and soak time), and catch (numbers and weight) of commercially sized crabs (reported on as fine a scale as possible, but no coarser than 0.5° latitude by 1° longitude) for each 10-day period;

(ii) The species, size, and sex of a representative subsample of crabs sampled according to the procedures set out in Annex 7 of CCAMLR–XII (between 35 and 50 crabs shall be sampled every day from the line hauled just prior to noon) and by-catch caught in traps; and

(iii) Other relevant data, as possible, according to the requirements set out in Annex 7 of CCAMLR–XII.

6. For the purposes of implementing this Conservation Measure, the 10-day catch and effort reporting system set out in Conservation Measure 61/XII shall apply.

7. Data on catches taken between 31 July 1994 and 31 August 1994 shall be reported to CCAMLR by 30 September 1994 so that the data will be available to the Working Group on Fish Stock Assessment.

8. Crab fishing gear shall be limited to the use of crab pots (traps). The use of all other methods of catching crabs (e.g., bottom trawls) shall be prohibited.

9. The crab fishery shall be limited to sexually mature male crabs—all female and undersized male crabs caught shall be released unharmed. In the case of *Paralomis spinosissima* and *P. formosa*, males with a minimum carapace width of 102 mm and 90 mm, respectively, may be retained in the catch.

10. Crab processed at sea shall be frozen as crab sections (minimum size of crabs can be determined using crab sections).

Conservation Measure 75/XII

Experimental Harvest Regime for the Crab Fishery in Statistical Subarea 48.3 for Seasons 1993/94 to 1995/96

The following measures apply to all crab fishing within Statistical Subarea 48.3 for the 1993/94 1994/95, and 1995/96 fishing seasons. Every vessel participating in the crab fishery in Subarea 48.3 shall conduct fishing operations in accordance with an experimental fishing regime as outlined below:

1. The experimental regime shall consist of three phases. Each vessel participating in the fishery shall complete all three phases. Phase 1 shall be conducted during the first season that a vessel participates in the experimental regime. Phase 2 and 3 shall be completed in the next season of fishing.

2. Vessels shall conduct Phase 1 of the experimental regime at the state of their first season of participation in the experimental regime. For the purposes of Phase 1, the following conditions shall apply:

(i) Phase 1 shall be defined as a vessel's first 200,000 pot hours of effort at the start of its first fishing season.

(ii) Every vessel conducting Phase 1 shall expend its first 200,000 pot hours within a total area delineated by twelve 0.5° latitude by 1° longitude blocks. For the purposes of this Conservation Measure, these blocks shall be numbered A through L. The blocks are illustrated in Figure 1, and the northeast corner of each block is listed in Table 1 of Annex 7 of CCAMLR–XII. For each string, pot hours shall be calculated by taking the total number of pots on the string and multiplying by the soak time (in hours) for that string.

(iii) Vessels shall not fish outside the area delineated by the twelve 0.5° latitude by 1° longitude blocks prior to completing Phase 1.

(iv) During Phase 1, vessels shall not expend more than 30,000 pot hours in any single 0.5° latitude by 1° longitude block.

(v) If a vessel returns to port before it has expended 200,000 pot hours in Phase 1, the balance of the remaining pot hours shall be expended before a vessel can consider Phase 1 to be completed.

(vi) After completing 200,000 pot hours of experimental fishing, vessels shall consider Phase 1 to be completed and commence fishing a normal fashion.

3. Normal fishing operations shall be conducted in accordance with the regulations set out in Conservation Measure 74/XII.

4. For the purposes of implementing normal fishing operations after Phase 1 of the experimental regime, the 10-day catch and effort reporting system set out in Conservation Measure 61/XII shall apply.

5. Vessels shall conduct Phase 2 of the experimental regime at the start of their second season of participation in the experimental regime. For the purposes of Phase 2, the following conditions shall apply:

(i) Every vessel conducting Phase 2 shall fish in three small squares measuring approximately 26 square nautical miles in area (the dimensions of these squares shall be 6° latitude by 7.5° longitude). These squares shall be subdivisions of the blocks delineated in Phase 1 of the experimental regime and numbered A1 through L40. The squares are illustrated in Figure 2 and the northeast corner of each square is listed in Table 2 of Annex 7 of CCAMLR–XII.

(ii) Vessels shall fish continuously (except in emergencies or foul weather conditions) within a single square until the average catch per pot has been reduced to 25 percent or less of its initial value and then continue fishing for an additional 7,500 pot hours. Not more than 50,000 total pot hours shall be expended in each square. For the purposes of Phase 2, the initial catch rate for a particular square shall be defined as the average catch per pot calculated from the first five sets made in that square. Soak times for these initial sets shall be at least 24 hours.

(iii) Vessels shall finish fishing in one square before starting operations in another square.

(iv) Vessels shall attempt to distribute effort throughout the entire square and not fish the gear in the same location on every set.

(v) Vessels captains shall decide which three squares will be fished, but selected squares may not be contiguous.

(vi) After completing fishing operations in the third square, fishing vessels shall consider Phase 2 to be completed and commence fishing in a normal fashion.

6. For the purposes of implementing normal fishing operations after Phase 2 of the experimental regime, the 10-day

catch and effort reporting system set out in Conservation Measure 61/XII shall apply.

7. Vessels shall conduct Phase 3 of the experimental regime at the end of their second season of participation in the experimental regime. For the purpose of Phase 3, the following conditions shall apply:

(i) A vessel shall begin conducting Phase 3 of the experimental regime approximately one week prior to the conclusion of its second fishing season. A vessel's fishing season shall be concluded if the vessel leaves the fishery voluntarily or if the fishery is closed because the TAC has been attained.

(ii) If a vessel captain voluntarily concludes fishing operations, the vessel shall begin implementing Phase 3 approximately one week prior to the conclusion of its fishing operations.

(iii) The CCAMLR Secretariat shall notify (according to the guidelines set out in Conservation Measure 61/XII) all Contracting Parties that are conducting operations in their second experimental fishing season to begin Phase 3 when approximately one week remains before the TAC is attained and the fishery is closed.

(iv) To conduct Phase 3, every vessel shall return to the three squares it depleted during Phase 2 of the experimental regime and expend between 10,000 and 15,000 pot hours of effort in each square.

8. To facilitate analysis of data collected during Phases 2 and 3, vessels shall report the number (A1 through L40) of the square where fishing occurred, date, fishing effort (number and spacing of pots and soak time), and catch (numbers and weight) for each haul.

9. Data collected during the experimental regime shall be submitted to CCAMLR by 31 August of the prevailing split-year.

10. Vessels that complete all three phases of the experimental regime shall not be required to conduct experimental fishing in future seasons. However, these vessels shall abide by the guidelines set forth in Conservation Measure 74/XII.

11. Fishing vessels shall participate in the experiment independently (e.g., vessels may not cooperate to complete phases of the experiment).

12. Crabs captured during the experimental regime shall be considered part of the prevailing TAC for the current fishing season (e.g. for 1993/94, experimental catches shall be considered part of the 1 600 tonne TAC outlined in Conservation Measure 74/XII).

13. The experimental regime shall be instituted for a period of three split-years (1993/94 to 1995/96) and the details of the regime may be revised by the Commission during this period of time. Fishing vessels that begin experimental fishing in the 1995/96 split-year must complete the regime during the 1996/97 split-year.

Resolution 10/XII

Resolution on Harvesting Stocks Occurring Both Within and Outside the Convention Area

The Commission, recalling the principles of conservation in Article II of the Convention and in particular that of the maintenance of the ecological relationships between harvested, dependent and related populations of Antarctic marine living resources,

Recalling the requirement under Article XI of the Convention for the Commission to seek to cooperate with Contracting Parties which may exercise jurisdiction in marine areas adjacent to the area to which the Convention applies in respect of the conservation of any stock or stocks or associated species which occur both within those areas and the area to which the Convention applies, with a view to harmonizing the conservation measures adopted in respect of such stocks,

Emphasizing the importance of further research on any stock or stocks of species which occur both within the area of the Convention and within adjacent areas,

Noting the concerns expressed by the Scientific Committee on the substantial exploitation of such stocks inside and outside the Convention Area,

reaffirmed that Members should ensure that their flag vessels conduct harvesting of such stock in areas adjacent to the Convention Area responsibly and with due respect for the conservation measures it has adopted under the Convention.

Resolution 11/XII

Cape Shireff CEMP Protected Area

1. The Commission noted that a program of longterm studies is being undertaken and is planned at Cape Shireff and the San Telmo Islands, Livingston Island, South Shetland Islands, as part of the CCAMLR Ecosystem Monitoring Program (CEMP). Recognizing that these studies may be vulnerable to accidental or willful interference, the Commission expressed its concern that this CEMP site, the scientific investigations, and the Antarctic marine living resources therein be protected.

2. Therefore, the Commission considers it appropriate to accord protection to Cape Shireff and the San Telmo Islands by establishing the "Cape Shireff CEMP Protected Area".

3. Members are requested to comply, on a voluntary basis, with the provisions of the management plan for the Cape Shireff CEMP Protected Area, pending the conclusion of consultations with SCAR, the Antarctic Treaty Consultative Parties and, if appropriate, the Contracting Parties to other components of the Antarctic Treaty System.

4. It was agreed that, in accordance with Article X, the Commission would draw this Resolution to the attention of any State that is not Party to the Convention and whose nationals or vessels are present in the Convention Area.

Other Conservation Measures in Force

The Commission agreed that Conservation Measures 2/III (as amended by 19/IX which came into force on 1 November 1991 except for waters adjacent to Kerguelen and Crozet Islands), 3/IV,4/V,7/V,18/IX,19/IX,30/X (which came into force on 3 May 1992, except for waters adjacent to Kerguelen and Crozet Islands), 31/X (which came into force on 3 May 1992 except for waters around Kerguelen and Crozet Islands and around the Prince Edward Islands), 40/X,48/XI,51/XI,52/XI,54/XI,59/XI,61/XI and 62/XI should remain in force as they stand.

Catch Reporting

Catches of *E. carlsbergi* shall be reported to the Secretariat at the end of each calendar month, according to the system described in Conservation Measure 40/X. In addition, biological data should be reported every month in accordance with Conservation Measure 54/XI.

Catches of *D. eleginoides* shall be reported to the Secretariat at the end of five-day intervals, according to the system described in Conservation Measure 51/XII. In addition, biological data should be reported every month in accordance with Conservation Measure 71/XII.

Catches of *C. gunnari* shall be reported to the Secretariat at the end of five-day intervals, according to the system described in Conservation Measure 51/XI. In addition, biological data should be reported every month in accordance with Conservation Measure 52/XI.

Catches of crabs shall be reported to the Secretariat at the end of ten-day intervals, according to the system described in Conservation Measure 61/

XII. In addition, data on all crabs caught prior to 31 July 1994 should be reported to CCAMLR by 31 August 1994, in accordance with Conservation Measure 74/XII.

Catches for scientific research shall be reported to the Secretariat according to the CCAMLR within season catch and effort reporting systems whenever the catch within the period exceeds five tons, unless more specific regulations apply to the particular species.

Dated: December 6, 1993.

Raymond Arnaudo,

Chief, Division of Polar Affairs, Office of Oceans Affairs.

[FR Doc. 93–30502 Filed 12–13–93; 8:45 am]

BILLING CODE 4710–09–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 93–082]

National Preparedness for Response Exercise Program (PREP) Exercise Evaluation Workshop

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The Coast Guard, in conjunction with the Environmental Protection Agency (EPA), the Research and Special Programs Administration (RSPA), and the Minerals Management Service (MMS), will conduct a workshop to solicit comments from the public and to serve as an open forum for the discussion of evaluating exercises conducted for the National Preparedness for Response Exercise Program (PREP). Members of Federal, State, and local agencies, and the public are invited to participate and provide oral or written comments on the exercise evaluation process. This notice announces the date, time, location, format and topic for the workshop.

DATES: The workshop is scheduled for January 18 and 19, 1994, in Alexandria, VA. Written comments should be submitted by February 28, 1994.

ADDRESSES: Written comments may be either mailed to COMMANDANT (G–MEP–4), room 2100, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, ATTN: LCDR Rhae Giacoma, or delivered to the moderator at the workshop.

FOR FURTHER INFORMATION CONTACT: LCDR Rhae Giacoma, Office of Marine Safety, Security and Environmental Protection (G–MEP–4), (202) 267–2616.

SUPPLEMENTARY INFORMATION:

Background Information

In accordance with the requirements of the Clean Water Act (33 U.S.C. 1321 *et seq.*), as amended by the Oil Pollution Act of 1990 (Pub. L. 101–380), Area Committees comprised of Federal, State and local government representatives have been established throughout the country and have developed Area Contingency Plans for response to oil and hazardous substance spills within their area of responsibility. Section 1321(j)(5)(c)(iv) requires responsible parties to submit spill response plans that include provisions for periodic unannounced drills. Section 1321(j)(7), as implemented by Executive Order 12777, provides for the Coast Guard (in the case of the coastal zone) and the Environmental Protection Agency (in the inland zone) to conduct periodic drills of removal activity, which may include participation by the owners of vessels and facilities in the Area, to assess the effectiveness of the plans (33 U.S.C. 1321(j)).

Also, in accordance with section 1321(j) of the Act, the Coast Guard issued regulations on February 5, 1993 (58 FR 7330, 7376) requiring owners or operators of certain vessels and marine transportation-related facilities to submit response plans to the Coast Guard for approval. The purpose of the response plans is to enhance private sector planning and response capabilities in order to minimize the environmental impacts of spilled oil. The response plans must identify a planned exercise program. The program must include announced and unannounced exercises conducted by the owner or operator of certain facilities and vessels as necessary to ensure that a response plan will function in the event of an oil discharge emergency. (33 CFR 154.1055, 155.1060; 58 FR 7363, 7438).

The Environmental Protection Agency issued a notice of proposed rulemaking on February 17, 1993, for revisions to 40 CFR part 112 (58 FR 34164) Oil Pollution Prevention Regulation, which would include requirements for response exercises to test the effectiveness of nontransportation-related onshore facility response plans for response to oil spills. The Research and Special Programs Administration Office of Pipeline Safety published an interim final rule for response plans for onshore transportation-related oil pipelines on January 5, 1993, which specified requirements for exercises to ensure response plans were adequate for oil discharges from pipelines (49 CFR part 194; 58 FR 244). The Minerals Management Service issued an interim final rule on February 8, 1993 (30 CFR part 254; 58 FR 7489), requiring that owners or operators of offshore platforms and other offshore facilities submit spill response plans including, among other things, provisions for response drills and for inspecting, testing and maintaining response equipment.

In addition to the Federal mandates, there are also State requirements for exercises. To facilitate the coordination of required exercises, the Coast Guard, EPA, RSPA, MMS and a number of the States jointly conducted a series of four workshops, announced through earlier notices in the **Federal Register**, to solicit comments from the public and to discuss the exercise requirements and a method to develop an efficient, cost effective approach for compliance. The workshops addressed such issues as exercise frequency, objectives, certification, cost, credit, and scheduling. Through discussions held, consensus was achieved on the issues and the PREP guidelines were developed. Although the PREP guidelines are not regulations and compliance with the guidelines is not mandatory, following the guidelines will aid industry in meeting the Federal requirements for pollution response exercises.

To assist the response community in developing an exercise program to comply with the PREP Guidelines, the Coast Guard developed and distributed for comment, a draft manual entitled "Developing an Oil Spill Response Exercise Program." One section of this manual addresses exercise evaluation and evaluation methodology.

The Coast Guard, EPA, RSPA and MMS will be conducting a two-day workshop to discuss the evaluation process in this manual and the overall evaluation process for the PREP exercises. The workshop will cover such issues as subjective and objective evaluations, structuring an evaluation, specific evaluation methodologies, activities of the evaluation team, and data collection for the evaluator. The evaluation methodologies covered in the workshop are intended to be utilized in the PREP Area exercises. The workshop will be used as a form to introduce other types of evaluation methodologies for discussion.

Workshop Format and Schedule

The workshop format will consist of presentations by a panel, followed by a question and answer period and open discussion of all evaluation issues. Written comments should be submitted prior to February 28, 1994 to the address

listed in **ADDRESSES**, or may be brought to the workshop. Any changes to location or dates of the workshop will be announced in the **Federal Register**.

The public workshop schedule is as follows: January 18 and 19, 1994; 9 a.m. to 4 p.m. each day; Best Western Old Colony Inn, 625 1st Street, Alexandria, Virginia.

The Coast Guard also plans to hold a workshop on January 20 and 21, 1994, to discuss Oil Spill Removal Organization (OSRO) classification. A separate notice will be published in the **Federal Register** to address the OSRO classification workshop.

Dated: December 6, 1993.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–30492 Filed 12–13–93; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Existence of Proposed Design Standards for Acceptance Under the Primary Category Rule

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments.

SUMMARY: This notice announces the existence of and request for comments on proposed design standards for acceptance under the primary category rule. The proposed airworthiness standard is Civil Aeronautics Manual 3, dated May 1962, modified to include FAR 23.2, FAR 23.1385 and FAR 23.1387 instead of CAR 3.700 and 3.701.

DATES: Comments must be received on or before January 13, 1994.

ADDRESSES: Send all comments to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE 110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jim Griswold, Aerospace Engineer, Standards Staff (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration; telephone number (816) 426–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this information by contacting the person named above under **FOR FURTHER INFORMATION CONTACT.**

Comments Invited

We invite interested parties to submit comments on the proposed design standards. Commenters must identify the design standards (CAM 3, dated May 1962) and submit comments to the address specified above. The FAA will consider all communications received on or before the closing date before issuing the final acceptance. The proposed design standards and comments received may be inspected at the Standards Office (ACE–110), suite 900, 1201 Walnut, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

Background

The Primary Category Rule was created specifically for the simple, low performance personal aircraft. Potential applicants are permitted to propose design standards considered appropriate for the intended product. Accordingly, a potential applicant and two aviation organizations on behalf of numerous potential applicants have each submitted requests to include CAM 3, dated May 1962, modified to include FAR 23.2, 23.1385 and 23.1387 into Primary Category for airplanes.

The requesters justify this request by documenting the successful history of single engine airplanes certified under CAR 3, i.e., 96% of the current active single engine fleet is certified to CAR 3 or previous standards, and 97% of the piston engine hours accumulated since 1964 have been flown by airplanes certified under CAR 3 or previous standards.

Issued in Kansas City, Missouri, December 1, 1993.

Kenneth W. Payauys,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–30067 Filed 12–13–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

Environmental Impact Statement on the Northeast Corridor Electrification From New Haven, Connecticut to Boston, Massachusetts

AGENCY: Federal Railroad Administration; Department of Transportation.

ACTION: Notice of extension of comment period on a draft environmental impact statement/report.

SUMMARY: The Federal Railroad Administration (FRA) gives notice that it is extending the comment period on its Draft Environmental Impact Statement/Report—Northeast Corridor Improvement Project Electrification-New Haven, Connecticut to Boston, Massachusetts (DEIS/R). The notice of availability of the DEIS/R was published by the Environmental Protection Agency (EPA) on October 15, 1993. The original comment period ended on December 3, 1993 for the National Environmental Policy Act (NEPA) review and on December 9, 1993 for the Massachusetts Environmental Policy Act (MEPA) review. In response to requests for additional time, FRA is extending the comment period on the DEIS/R to January 21, 1994.

DATES: Written comments on the DEIS/R should be sent by January 21, 1994.

ADDRESSES: Written comments on the DEIS/R should be sent to Mr. Glenn Goulet, DTS–72, U.S. DOT/RSPA, Volpe National Transportation Systems Center, 55 Broadway, Kendall Square, Cambridge, MA 02142. Comments pertaining to the Massachusetts Environmental Policy Act should be forwarded to: Mr. William T. Gage, Executive Office of Environmental Affairs, MEPA Unit, 100 Cambridge Street, Boston, MA 02202.

FOR FURTHER INFORMATION CONTACT: Glenn Goulet, Volpe National Transportation Systems Center, phone (617) 494–2002 or William R. Fashouer, Office of Chief Counsel, FRA, phone (202) 366–0616.

SUPPLEMENTARY INFORMATION: The DEIS/R analyzes the environmental and related impacts of extending electrification on the National Railroad Passenger Corporation's (Amtrak) Northeast Corridor from New Haven, Connecticut to Boston, Massachusetts (NEC). In order to improve rail service and increase ridership between New York and Boston, Amtrak proposes to electrify the NEC main line between New Haven and Boston using an overhead 2 × 25,000 volt-60 hertz power system. Congress has appropriated funds to the FRA for transfer to Amtrak for the purpose of undertaking this project. The DEIS/R evaluates the human and natural environmental impacts of the proposed project, including changes in the natural environment (air quality, noise & vibration, energy, electromagnetic fields, natural resources, hazardous materials and visual/aesthetics), changes in the social environment (land use, recreation, transportation and traffic), impacts on historic and archaeological sites, changes in transit service and patronage, associated changes in highway and airport congestion, capital costs, operating and maintenance costs, and financial implications. Impacts are identified both for the proposed construction period and for the long-term operation

of the alternatives. The notice of availability of the DEIS/R was published by the EPA on October 15, 1993 which triggered the start of the comment period during which time interested individuals and organizations were invited to submit comments on the issues addressed in the DEIS/R. The comment period closed for the NEPA process on December 3, 1993 and for the MEPA process on December 9, 1993. In response to requests from interested organizations and individuals for additional time in which to review and comment on the DEIS/R, FRA has decided to extend the comment period until January 21, 1994. During this time period extension, individuals and organizations are invited to submit comments on the DEIS/R. Comments received on the DEIS/R during the original and extended comment periods will be considered by FRA in preparing the final EIS/R.

Issued in Washington, DC on December 8, 1993.

James T. McQueen,

Associate Administrator for Railroad Development.

[FR Doc. 93–30479 Filed 12–13–93; 8:45 am]

BILLING CODE 4910–06–P

Office of the Secretary

[Order 93–12–9; Docket 49112]

Application of Air Wisconsin Airlines Corporation for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Air Wisconsin Airlines Corporation fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate and overseas scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than December 15, 1993.

ADDRESSES: Objections and answers to objections should be filed in Docket 49112 and addressed to the Documentary Services Division (C–55, room 4107), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P–56, room 6401), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–2340.

Dated: December 8, 1993.

Joseph F. Canny,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 93–30410 Filed 12–13–93; 8:45 am]

BILLING CODE 4910–62–P

Research and Special Programs Administration

[Docket No. P–92–2W; Notice 2]

Transportation of Hazardous Liquids by Pipeline Grant of Waiver; ARCO Oil and Gas Company

December 9, 1993.

ARCO Oil and Gas Company petitioned the Research and Special Programs Administration (RSPA) for a waiver from compliance with a pipeline safety standard regarding inspection of rights-of-way (49 CFR 195.412(a)). This standard requires inspection of surface conditions on or adjacent to each pipeline right-of-way at intervals not exceeding 3 weeks, but at least 26 times each calendar year. The petition applies to the Sheep Mountain Unit gathering system, a 6.9 mile carbon dioxide pipeline system in Colorado.

ARCO requested the waiver to avoid the risks to personnel caused by the system's location. As the petition explained, the system is in a high (8000–9200 ft) mountainous area where the right-of-way is rugged and steep. Ground surveillance has a substantial risk of vehicle turn-over and of persons tripping and falling, especially in deep snow during winter months. Aerial surveillance is frequently exposed to turbulence and down draft at the higher elevations of Sheep Mountain and surrounding mountainous terrain.

The petition further explained that the system presents little risk to the public. It is in a remote location with sparse population (only two residences within a one-mile radius of the system). Although the commodity transported has a natural odorant, drill sites are monitored for carbon dioxide, and ARCO's emergency response plan calls for evacuation of residences when a one percent carbon dioxide concentration occurs in the atmosphere. Pipeline flow rate, pressure, and temperature are monitored continuously by a computerized process control system, and personnel monitor the computer system 24 hours a day for leaks and other problems. In addition, from the lease roads, personnel observe approximately 50 percent of the right-of-way every day; and the entire system is inspected at least once a year.

After reviewing the petition, RSPA published a notice inviting interested persons to comment on whether a waiver should be granted (Notice 1) (58 FR 26381; May 3, 1993). RSPA stated it was considering granting the requested waiver because for the Sheep Mountain system, compliance with 49 CFR 195.412(a) exposes personnel to unusual risks, little of the public is exposed to the system, and ARCO uses safety monitoring techniques that exceed the requirements of 49 CFR part 195. RSPA did not receive any comments in response to the notice.

For the reasons explained above and in Notice 1, RSPA, by this order, finds that the requested waiver of 49 CFR 195.412(a) is appropriate and is not inconsistent with pipeline safety. Therefore, ARCO Oil and Gas Company's petition for waiver from compliance with 49 CFR 195.412(a) is granted, effective December 14, 1993.

Authority: 49 App. U.S.C. 2002(h) and 2015; and 49 CFR 1.53.

Issued in Washington, DC on December 9, 1993.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

[FR Doc. 93–30480 Filed 12–13–93; 8:45 am]

BILLING CODE 4910–60–P

TENNESSEE VALLEY AUTHORITY

[Docket Nos. 50–390 and 50–391]

Watts Bar Nuclear Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The Nuclear Regulatory Commission (the Commission) is considering issuance of an extension of the latest construction completion dates specified in Construction Permit Nos. CPPR–91 and CPPR–92 issued to Tennessee Valley Authority (permittee) for the Watts Bar Nuclear Plant (WBN), Units 1 and 2. The facility is located at the permittee's site on the west branch of the Tennessee River approximately 50 miles northeast of Chattanooga, Tennessee.

Environmental Assessment

Identification of Proposed Action

The proposed action would extend the latest construction completion date of Construction Permit No. CPPR–91 to December 31, 1994 and the latest construction completion date of Construction Permit No. CPPR–92 to December 31, 1999. The proposed action is in response to the permittee's request dated November 10, 1993.

The Need for the Proposed Action

The proposed action is needed because the construction and modification of the facility is not yet fully completed. The permittee requested the extension for Unit 1 because, at the time of the last extension request, only an estimate of the extra time needed to complete construction and modification was made. Furthermore, to ensure that Unit 1 has been properly constructed, the permittee is performing a comprehensive preoperational testing program, instead of relying on the preoperational testing results obtained a few years ago.

The delays associated with the above efforts to ensure that WBN meets regulatory requirements and licensing commitments make it necessary for TVA to request an extension of the expiration date for Construction Permit No. CPPR–91 until December 31, 1994.

With regard to Unit 2, TVA plans to complete Unit 2 construction only after Unit 1 has entered operation successfully. Given the activities described above and the resulting delays at WBN Unit 1, TVA requests an extension of the expiration date for Construction Permit No. CPPR–92 (Unit 2) until December 31, 1999.

Environmental Impacts of the Proposed Action

The environmental impacts associated with the construction of the facility have been previously discussed and evaluated in the staff's Final Environmental Statement (FES) issued on November 9, 1972 for the construction permit stage which covered construction of both units. The FES issued in December 1978 for the operating license stage addressed the environmental impacts of construction activities not addressed previously. The activities included: (1) Construction of the new transmission route for the Watts Bar—Volunteer 500 kV line, (2) construction of the settling pond for siltation control for construction runoff at a different location from that originally proposed in the Final Environmental Statement—Construction Permit (FES–CP), and (3) the relocation of the blowdown diffuser from the originally proposed site indicated in the FES–CP. The staff addressed the terrestrial and aquatic environmental impacts in the Final Environmental Statement—Operating License (FES–OL) and concluded that the assessment presented in the FES–CP remains valid.

The construction of Unit 1 is essentially 100 percent complete and Unit 2 is approximately 75 percent complete; therefore, most of the construction impacts discussed in the FES have already occurred. Since this action would only extend the period of construction as described in the FES, it does not involve any different impacts as described and analyzed in the original environmental impact statement. The proposed extension will not allow any work to be performed that is not already allowed by the existing construction permit. The extension will merely grant the permittee more time to complete construction and modification in accordance with the previously approved construction permit. The activities related to the various corrective activities will result in additional workforce, being primarily engineering and technical personnel rather than construction. At the present time, this workforce is basically dedicated to the completion of Unit 1. This increase will be temporary and will decline as the corrective activities are completed and Unit 1 approaches fuel loading. A large percentage of the additional workforce is contractors and consultants who do not live in the area and use only temporary quarters. While the current workforce level has caused a temporary, increased demand for services in the community and increased traffic on local roads, there are no major impacts due to the arrival of workers' families and demands for services necessary to support permanent residents (for example, housing and schools).

Based on the foregoing, the NRC staff has concluded that the proposed action would have no significant environmental impact. Since this action would only extend the period of construction activities described in the FES, it does not involve any different impacts or a significant change to those impacts described and analyzed in the original environmental impact statement. Consequently, an environmental impact statement addressing the proposed action is not required.

Alternatives Considered

A possible alternative to the proposed action would be to deny the request. Under this alternative, the permittee would not be able to complete construction of the facility. This would result in denial of the benefit of power production. This option would not eliminate the environmental impacts of construction already incurred.

If construction were halted and not completed, site redress activities would restore some small areas to their natural states. This would be a slight environmental benefit, but much outweighed by the economic losses from denial of use of a facility that is nearly completed. Therefore, this alternative is rejected.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the FES for Watts Bar.

Agencies and Persons Contacted

The NRC staff reviewed the permittee's request and applicable documents referenced therein that support this extension. The NRC did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for this action. Based upon the environmental assessment, the staff concludes that this action will not have a significant effect on the quality of the human environment.

For details with respect to this action, see the request for extension dated November 10, 1993, which is available for public inspection at the Commission Public Document Room, 2120 L Street, NW., Washington, DC and at the Local Public Document Room, Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland, this 7th day of December 1993.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II–4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–30432 Filed 12–13–93; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee (TPSC); Notice of the Effective Date, With Respect to the Republic of Tajikistan, of the Agreement on Trade Relations Between the United States of America and the Union of Soviet Socialist Republics

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of the Effective Date, with respect to the Republic of Tajikistan, of the Agreement on Trade Relations Between the United States of America and the Union of Soviet Socialist Republics.

SUMMARY: In Proclamation 6352 of October 9, 1991 (56 FR 51317), the President proclaimed that the "Agreement on Trade Relations

Between the United States of America and the Union of Soviet Socialist Republics" would enter into force and nondiscriminatory treatment would be extended to products of the U.S.S.R. in accordance with the terms of the Agreement on the date of exchange of written notices of acceptance in accordance with Article XVII of the Agreement. Subsequently, the U.S.S.R. was succeeded by twelve independent states, including the Republic of Tajikistan. An exchange of diplomatic notes with the Republic of Tajikistan in accordance with Article XVII of the Agreement, as modified by technical adjustments and retitled "Agreement on Trade Relations Between the United States of America and the Republic of Tajikistan," took place in Dushanbe, Tajikistan on November 24, 1993. Accordingly, the Agreement became effective on November 24, 1993, with respect to the Republic of Tajikistan, and nondiscriminatory treatment is extended to products of the Republic of Tajikistan as of November 24, 1993 in accordance with the Agreement and as provided for in Proclamation 6352 of October 9, 1991.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 93-30460 Filed 12-13-93; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 238
Tuesday, December 14, 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).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 12:00 noon, Monday, December 20, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 10, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–30611 Filed 12–10–93; 3:37 pm]

BILLING CODE 6210–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Subject of Meeting

The National Credit Union Administration Board determined that its business requires the deletion of the following item, which was closed to public observation, from the previously announced closed meeting (**Federal Register**, 58 FR 64796, Thursday, December 9, 1993) scheduled for December 14, 1993.

4. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (5), (7), (8), and (10).

The Board unanimously voted to delete this item from the closed agenda. Earlier announcement of this change was not possible.

The previously announced items were:

1. Approval of Minutes of Previous Closed Meeting.
2. Appeal of Determination under Part 709, NCUA's Rules and Regulations. Closed pursuant to exemptions (6) and (8).
3. Appeal of Determination under Part 745, NCUA's Rules and Regulations. Closed pursuant to exemptions (6) and (8).
5. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 93–30612 Filed 12–10–93; 3:38 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of December 13, 20, 27, 1993 and January 3, 1994.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of December 13

Tuesday, December 14

10:00 a.m.
Briefing on Results of Operator Licensing Program Recentralization Study (Public Meeting)
(Contact: Robert Gallo, 301–504–1031)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Modifications to Fitness-for-Duty Program Requirements Concerning the Random Drug Testing Rate (Tentative)
(Contact: Loren Bush, 301–504–2944)
(Postponed from December 9)

Week of December 20—Tentative

Monday, December 20

2:30 p.m.
Briefing by DOE on HLW Program (Public Meeting)
(Contact: Linda Desell, 202–586–1462)

Tuesday, December 21

10:00 a.m.
Periodic Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)
(Contact: John Larkins, 301–492–4516)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

3:00 p.m.
Briefing on Results of Fee Study (Public Meeting)
(Contact: James Holloway, 301–492–4301)

Wednesday, December 22

10:00 a.m.
Briefing on Results of License Extension Workshop and Proposed Changes to License Renewal Rule (Public Meeting)
(Contact: Scott Newberry, 301–504–1183)

Week of December 27—Tentative

There are no meetings scheduled for the Week of December 27.

Week of January 3—Tentative

There are no meetings scheduled for the Week of January 3.

ADDITIONAL INFORMATION: By a vote of 4-0 on December 9, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that affirmation of "Final Rule, 10 CFR Parts 30, 40, 50, 70, and 72, 'Self-Guarantee as an Additional Financial Assurance Mechanism'" (Public Meeting) be held on December 9, and on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: December 10, 1993.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–30598 Filed 12–10–93; 2:55 pm]

BILLING CODE 7590–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote to Close Meeting

At its meeting on December 6, 1993, the Board of Governors of the United States Postal Service vote unanimously to close to public observation its meeting scheduled for January 3, 1994, in Washington, DC. The members will consider the August 25, 1993, Postal Rate Commission Opinion and Recommended Decision in Docket No. MC93–1, Bulk Small Parcel Service, 1992.

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco,

Dyhrkopp, Mackie, Pace, Setrakian and Winters; Postmaster General Runyon, Deputy Postmaster General Coughlin, Secretary to the Board Harris, and General Counsel Elcano.

The Board determined that pursuant to section 552b(c)(3) of Title 5, United States Code, and section 7.3(c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information in connection with proceedings under Chapter 36 of Title 39, United States Code (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of Title 39, United States Code.

The Board has determined further that pursuant to section 552b(c)(10) of Title 5, United States Code, and section 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matter be open to the public.

In accordance with section 552b(f)(1) of Title 5, United States Code, and section 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in her opinion the meeting may properly be closed to public observation pursuant to section 552b(c) (3) and (10) of Title 5, United States Code; section 410(c)(4) of Title 39, United States Code; and section 7.3 (c) and (j) of Title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris at (202) 268–4800.

David F. Harris,

Secretary.

[FR Doc. 93–30560 Filed 12–10–93; 12:52 pm]

BILLING CODE 7710–12–M

federal register

Tuesday
December 14, 1993

Part II

Department of Education

Cooperative Demonstration Program—Community Education Employment Centers; Notices

DEPARTMENT OF EDUCATION

Cooperative Demonstration Program—Community Education Employment Centers

AGENCY: Department of Education.

ACTION: Notice of final priority and selection criteria for fiscal year 1994.

SUMMARY: The Secretary announces an absolute priority for awards to be made in fiscal year (FY) 1994 to establish urban and rural Model Community Education Employment Centers under the Cooperative Demonstration Program. The Secretary takes this action to improve the access of disadvantaged youth to quality vocational education programs. Community Education Employment Centers serve disadvantaged youth in both urban and rural areas by providing model high school programs that combine the best of academic, vocational, and school-to-work curricula. The Secretary also announces selection criteria to be applied in evaluating applications submitted for this competition.

EFFECTIVE DATE: This priority and these selection criteria 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 this priority and these selection criteria, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Kate Holmberg, U.S. Department of Education, 400 Maryland Avenue, SW., room 4512, Switzer Building, Washington, DC. 20202–7327. Telephone: (202) 205–5563. Individuals who are hearing impaired may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Under the Cooperative Demonstration Program, authorized by section 420A(a)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act, 20 U.S.C. 2301 *et seq.* (1990) (the Perkins Act), the Secretary provides financial assistance for, among other things, projects that support model programs that improve access for special populations to quality vocational programs.

In the Senate Report and House Conference Report accompanying the Department of Education Appropriations Act of 1993, Congress expressed the intent that a portion of the funds appropriated for demonstration projects under Title IV of the Perkins Act be used to fund "model community education employment centers" (S. Rep. No. 397, 102d Cong., 2d Sess. 226 (1992); H. Conf. Rep. No. 974, 102d Cong., 2d Sess. 38 (1992)). The Secretary agrees that these centers could be an important and effective means by which the academic, vocational, and employment needs of disadvantaged youth in urban and rural areas can be met. The Secretary also believes that Community Education Employment Centers (CEEC) can demonstrate alternative structures for secondary schooling within which the more comprehensive and explicit goals for school-to-work transition can be fully realized for disadvantaged youth. The Secretary believes that CEECs will contribute to Goals 2 and 5 of the National Goals—by increasing the high school graduation rate of disadvantaged rural and urban youth and by enabling these youth to acquire the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

For these reasons the Secretary reserves, from the FY 1993 appropriation for the Cooperative Demonstration Program, funds to conduct a competition with an absolute priority for applications proposing model community education employment centers in urban and rural areas. For this competition, the requirements for these centers are consistent with those in Title III, Part G, Subpart 1, of the Perkins Act. In addition, the Secretary, in reviewing applications under this competition, applies the selection criteria for Community Education Employment Centers contained in 34 CFR Part 408.

On August 17, 1993, the Secretary published a notice of proposed priority and proposed selection criteria for this competition in the **Federal Register** (58 FR 43742).

Note: This notice of final priority and selection criteria does *not* solicit applications. A notice inviting applications under this competition 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 priority and proposed selection criteria, 10 parties submitted comments. An analysis of the comments and of the changes in the priority since publication of the notice of proposed priority and selection criteria follows.

Issues are grouped according to subject. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Urban/Rural Distribution Factor

Comment: One commenter sought clarification on what standards the Secretary would use if the Secretary were to apply the urban/rural distribution factor.

Discussion: The Secretary has concluded from the applicable legislative history that, in appropriating funds for this competition, Congress intended that the Department test the CEEC model in both urban and rural settings. With only one competition addressing both urban and rural areas, there is a possibility that all of the top-rated applications could be located in either urban or rural areas. It is in the event that all the top-ranked applications resulting from this competition turn out to be from either urban or rural areas that the Secretary would identify the highest-ranked application or applications in the nonrepresented category. If that application (or those applications) is (or are) of high quality, the Secretary would use the "urban/rural distribution factor" to ensure that both types of areas are served.

Changes: None.

Applicant's Track Record

Comment: One commenter recommended that extra points be awarded to applicants with a validated track record for serving high-risk youth.

Discussion: The Secretary agrees with the commenter's concern that the CEECs supported by this competition have a high potential for success in assisting disadvantaged students. Accordingly, in the "Educational significance" selection criterion, the Secretary considers the extent to which the proposed project is based on proven practices. However, no extra points are given solely for a proven track record. This competition is intended for experienced grantees as well as new grantees.

Changes: None.

CEEC Model

Comments: Several commenters thought the design for a model CEEC under this priority should be revised. One commenter was concerned that placing too much emphasis on extracurricular activities, particularly sports, could be problematic since students would have to leave the CEEC school to participate in an extracurricular activity. Another commenter thought the priority should be changed to reflect the role that community-based organizations can and should play in the advisory process and as potential partners. A third commenter was concerned that it may

be difficult for rural CEECs to provide full-time certified or licensed guidance counselors. This commenter suggested that flexibility be provided for the hiring of outcome-oriented personnel rather than simply credentialed personnel.

Discussion: The Secretary believes that, in designing the CEEC program, the Congress intended that at-risk youth not be deprived of a well-rounded high school program, including access to higher-level academic course work and the same kinds of extracurricular opportunities offered all other youth in their high school years. The Secretary chooses to leave to the creativity of applicants both the location and manner in which extracurricular activities are provided. The Secretary does not agree with the commenter that students necessarily would have to leave the CEEC school if they choose to participate in extracurricular activities.

On the issue of the role of community-based organizations, the Secretary has emphasized their potential to provide support for educational activities to parents and students in paragraph (a)(9) of the priority and their expected participation on a council of advisors in paragraph (c)(5)(vi). Beyond these minimum requirements, the Secretary chooses to leave to the creativity of applicants, the manner and extent to which community-based organizations can and will contribute to the effectiveness of CEECs.

On the issue of full-time certified or licensed guidance counselors, section 367(a) of the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act) specifically requires that each eligible recipient of CEEC funds awarded under Title III, Part G of the Perkins Act "shall only employ professional staff who demonstrate the highest of academic, teaching, guidance, or administrative standards." Paragraph (d)(3) of this priority is consistent with this provision and is intended to ensure the highest quality of the professional staff employed by CEECs receiving funding under this competition.

Changes: None.

Comparability

Comment: One commenter recommended having applicants provide an assurance that the State and local educational agencies in which the project is located will provide at least the same fiscal effort for students attending CEECs that the local educational agency provides for students attending secondary schools in the local educational agency. The commenter pointed out that applications under the Community Education Employment Centers program, authorized by section 363 of the Perkins Act, must include this assurance.

Discussion: The commenter is correct in the observation that the Perkins Act includes such a provision. However, the Congress appropriated funds for CEECs in fiscal year 1993 under section 420A of the Perkins Act, Cooperative Demonstration Program, not under section 363. The Cooperative Demonstration Program does not include a "comparability" requirement, but does require the minimum of a 25 percent match from the eligible recipient. Since the legislation under which the funds were appropriated contains the 25 percent matching requirement, that is the requirement that will apply to projects funded under this competition. The notice inviting applications will include the minimum 25 percent matching requirement of the Cooperative Demonstration Program.

Changes: None.

Low-Income Preference

Comment: One commenter was concerned that because of unusual demographic conditions, some valuable projects serving high-risk youth may not be located in an urban or rural area that has a high concentration of children from low-income families and, therefore, may not be scored as highly under the "Program factors" criterion. The commenter suggested that, as an alternative, applicants should be asked to demonstrate a severe high school dropout problem. The commenter also thought the priority should include provisions or incentives for projects to perform outreach aimed at young or recent high school dropouts.

Another commenter was concerned that the proposed priority would permit the funding of projects that were not located in areas with high concentrations of children from low-income families because that factor was only one of several selection criteria. The commenter believed that this arrangement would defeat the purpose of establishing model CEECs.

Discussion: The Congress made clear both in section 362 of the Perkins Act and in legislative history (Senate Report 102–143, page 235) its intent that the CEECs funded should meet the education needs of low-income urban and rural youth. Had Congress appropriated funds under section 363 of the Perkins Act for the Community Education Employment Centers, only applicants able to serve these populations would be eligible to apply. By appropriating funds for the CEECs under section 420A of the Perkins Act, Cooperative Demonstration Program, the Congress rendered other entities eligible to apply. The Secretary believes that, for this competition, congressional intent can best be addressed by emphasizing services to urban and rural low-income youth in the selection criteria.

Changes: None.

Reporting and Recordkeeping Burden

Comment: One commenter thought that more than 90 hours would be required to prepare a viable proposal for this competition.

Discussion: The Secretary realizes that, because of the complexities involved in developing an application for a CEEC, some applicants may spend more than 90 hours preparing an application, while other applicants who have ongoing CEECs may spend less time. The estimate of 90 hours is an average of the amount of time the Secretary anticipates applicants may spend preparing applications.

Changes: None.

Selection Criteria—Evaluation Plan

Comment: One commenter thought the "Evaluation plan" criterion should include—(1) outcome measures such as obtaining and retaining employment at a specified level of wages and reduction in financial support; and (2) longitudinal measures to determine maintenance of employment and career development and continuing vocational and career education. The commenter also suggested including a requirement for a third-party evaluator.

Discussion: Paragraph (d)(1) of the "Evaluation plan" selection criterion cross-references § 408.34 of the regulations implementing the Cooperative Demonstration Program and provides for a determination by the Secretary of the extent to which a project's evaluation plan provides for meeting and reporting on the requirements in § 408.34. Section 408.34 emphasizes the evaluation of students' academic and vocational competencies, dropout rates, employment and earnings, and attendance at postsecondary institutions or enlistment into the military service. It also emphasizes parental, student, and community participation and project spread and transportability. Accordingly, the Secretary believes that due emphasis is thereby being placed in this criterion on project outcomes and successes.

On the issue of independent evaluators, § 408.34(a) requires an independent evaluator. This requirement will apply to this competition, although it has not been specifically included in this notice of

final priority. Reference to the requirement for an independent evaluator will be included in the notice inviting applications.

Changes: None.

Selection Criteria—Program Factors

Comments: Some commenters suggested that adjudicated youth, adult offenders, rural youth, and adult refugees and immigrants should be included among the participants to receive services under the priority applicable to the competition.

One commenter recommended increasing the number of points assigned to the "Program factors" criterion because that criterion includes the core components of Community Education Employment Centers.

Discussion: This priority is currently targeted toward youth in urban and rural areas that have a high concentration of low-income families. While not all adjudicated youth and potential dropouts are from low-income families, a great majority are, and thus could be served under this priority. Rural youth are already covered by the priority. Adult refugees and immigrants, as well as adult offenders, could be served under this program if their State or locality declared them eligible to participate in a CEEC project. However, the intent of this program is to improve the access of disadvantaged youth to quality vocational education programs.

With regard to the suggestion that the points assigned to the "Program factors" criterion be increased, under § 426.20 of the Cooperative Demonstration Program regulations, the Secretary may award up to 100 points to the Cooperative Demonstration selection criteria. For this competition, the Secretary has reserved 15 points under the § 426.20 authority which the Secretary plans to distribute as follows: Ten points will be added to the "Program factors" criterion for a possible total of 20 points. Five points will be added to the "Plan of operation" criterion for a possible total of 20 points.

Changes: The points assigned to the "Program factors" and "Plan of operation" selection criteria have been increased to reflect the importance of those criteria to the Secretary's application review and selection process.

Priority

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority. An application that does not meet this priority will be returned to the applicant. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

(a) An application under this competition must propose a demonstration project that would—

(1) Operate a community education employment center on an extended year and extended day basis;

(2) Establish a collegial working environment, with substantial opportunities for staff training and development and shared decisionmaking;

(3) Maintain small class sizes and, to the extent possible, maintain an average class size of 15 students or fewer;

(4) Have the option to organize community education and employment centers into one or more programs specializing in different areas of study of particular interest and employment opportunities for the student population;

(5) Offer a broad array of secondary school coursework, including, to the extent possible—

(i) English, mathematics, history, geography, biology, chemistry, physics, and computer science;

(ii) Opportunities for student participation in a wide range of extracurricular activities, including community service and exploration, sports, fine and performing arts, and tutorial study sessions;

(iii) A comprehensive vocational-technical education program that is developed through regular consultation with employer-labor panels with knowledge of relevant industries, and that offers skills in planning, management, finances, technical and production competence, underlying principles of technology, labor and community issues, economic development and health, safety, and environmental issues;

(iv) Courses in health, nutrition, and parenting;

(6) Offer students on-site opportunities for assistance with career planning, community-based career exploration, and career decisionmaking, employability, entrepreneurial skills, interpersonal communication skills, and remedial studies;

(7) Maintain an emphasis on the development of academic skills, regardless of student career objectives;

(8) Provide technical assistance and training to staff from other schools and local educational agencies within the State who wish to replicate community education employment center capabilities;

(9) Seek to use community organizations to provide support for educational activities and services to parents and students; and

(10) Offer school-to-work transition services.

(b) An application under this competition must propose a demonstration project that would establish in each community education employment center a support system to coordinate services for students, including—

(1) A comprehensive program of confidential guidance counseling, providing—

(i) Guidance for career and personal decisionmaking and postsecondary institution placement;

(ii) Mentoring and referral to appropriate social services; and

(iii) An accessible counseling service to help parents to focus on the enhancement of student education;

(2) An on-site job service office to offer students—

(i) Career guidance, development, and employment counseling that provides information about a broad range of occupations and alternative career paths;

(ii) Labor market information, job development, career testing, and occupational placement services for part-time and summer employment, internships, cooperative programs, and part-time and full-time employment opportunities upon graduation; and

(iii) Assistance in arranging part-time employment so long as this employment does not adversely affect academic performance;

(3) Assistance in arranging a summer program of work, education, or enrichment sessions;

(4) To the extent possible, providing transportation to and from the community education employment center and part-time job sites; and

(5) Access to day care services for children of participating students.

(c) An application under this competition must propose a project that would employ a parent/community coordinator to provide for the active and informed participation of parents and appropriate community representatives in each community education employment center by—

(1) Encouraging parents and students to make informed decisions in reviewing and selecting the choice of community education employment center programs;

(2) Conducting regular parent seminars to—

(i) Inform parents about community education employment center operations;

(ii) Obtain parent input; and

(iii) Disseminate information on how parents can encourage student performance;

(3) Providing the parents of each student with a regular opportunity to meet with counselors, teachers, and the student, to discuss student progress, plans, and needs;

(4) Providing for a range of roles in which parents may work with students at home, as class assistants, or as volunteer coordinators;

(5) Establishing a council of advisors consisting of one individual representing each of the following entities:

(i) The local educational agency;

(ii) The State council on vocational education, the State agency responsible for secondary vocational education, or both;

(iii) The student body;

(iv) The local teacher organization or organizations;

(v) Guidance counselors;

(vi) Community-based organizations;

(vii) Parents; and

(viii) The appropriate private industry council.

(6) The council of advisors must provide recommendations to, and work with, eligible recipients to—

(i) Establish annual community education employment center priorities, programs, and procedures;

(ii) Establish student selection criteria to ensure that all students in the school district have an equal opportunity to attend the community education employment center and that participants would be representative of the secondary school population in the school district or in the service area designated in the application;

(iii) Promote a student code of conduct developed in consultation with the students and teachers;

(iv) Assist in the selection of the community education employment center principal, administrators, department chairpersons, and teachers;

(v) Assist in the selection and application of assessment tools for continuous evaluation of student learning progress;

(vi) Make recommendations for the selection of curriculum textbooks, software, and other learning resources and equipment; and

(vii) Make recommendations regarding the coordination of activities assisted under this program with activities assisted under the Job Training Partnership Act and school-to-work transition programs in their area.

(d) An application under this competition must propose a project that would—

(1) Only employ professional staff who demonstrate the highest of academic, teaching, guidance, or administrative standards;

(2) Ensure that community education employment center teachers receive inservice training at least annually in techniques, procedures, and policies relevant to the community education employment center; and

(3) Employ a sufficient number of full-time certified or licensed guidance and career counselors to assist, enhance, and monitor student progress.

Selection Criteria for Evaluating Applications

For the FY 1994 grant competition under the Cooperative Demonstration Program—Community Education Employment Centers, the Secretary will use the following selection criteria and will assign maximum possible points to the selection criteria as indicated in parentheses:

(a) *Program factors.* (20 points) The Secretary reviews the quality of the proposed project to assess the extent to which—

(1) The center will be located in an urban or rural area that has a high concentration of children from low-income families, relative to the county and State as a whole;

(2) Activities and services will be provided to low-income urban and rural youth with education, skills, and the enrichment necessary to ensure graduation from secondary school and transition from secondary school to postsecondary school or employment;

(3) Proposed activities will be coordinated with the entities listed in § 408.10(f) to ensure that the operations of the community education employment center will help meet current and projected occupational needs in the area;

(4) In-service training will be provided for community education employment center teachers in techniques, procedures, and policies relevant to the community education employment center;

(5) Support services will be provided to meet the requirements of 34 CFR 408.30; and

(6) Parental and community participation will be provided for, as required in 34 CFR 408.31.

(b) *Educational significance.* (10 points) The Secretary reviews each application to determine the extent to which the applicant—

(1) Bases the proposed community education employment center on successful model education programs that include components similar to the components required by the Community Education Employment Center Program, as evidenced by empirical data from those programs on such factors as—

(i) Student performance, achievement, and learning gains in vocational competencies and skills;

(ii) Student performance, achievement, and learning gains in such subjects as English, mathematics, history, geography, biology, chemistry, physics, and computer science, as measured by standardized tests;

(iii) Graduation of students from high school;

(iv) Placement of students in jobs, including military service; and

(v) Successful transfer of students to a wide variety of postsecondary educational programs;

(2) Proposes project objectives that contribute to the improvement of education; and

(3) Proposes to use unique and innovative techniques to produce benefits that address educational problems and needs that are of national significance.

(c) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project, especially the establishment of measurable objectives for the project that are based on the project's overall goals;

(2) The extent to which the plan of management is effective and ensures proper and efficient administration of the project over the award period;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(5) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disability.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the project's evaluation plan, including the extent to which the plan—

(1) Is clearly explained and is appropriate to the project, including the provision for meeting and reporting on the requirements in 34 CFR 408.34;

(2) To the extent possible, is objective and will produce data that are quantifiable;

(3) Identifies expected outcomes of the services provided to participants and how those outcomes will be measured;

(4) Includes activities during the formative stages of the project to help guide and improve the project, as well as a summative evaluation that includes recommendations for replicating project activities and results;

(5) Will provide a comparison between intended and observed results, and lead to the demonstration of a clear link between the observed results and the specific treatment of project participants; and

(6) Will yield results that can be summarized and submitted to the Secretary for review by the Department's Program Effectiveness Panel.

(e) *Demonstration and dissemination.* (10 points) The Secretary reviews each application to assess the effectiveness and efficiency of the plan for demonstrating and disseminating information about the project activities and results throughout the project period, including—

(1) High quality in the design of the demonstration and dissemination plan and procedures for evaluating the effectiveness of the dissemination plan;

(2) Provisions for publicizing the project at the local, State, and national levels by conducting or delivering presentations at conferences, workshops, and other professional meetings and by preparing materials for journal articles, newsletters, and brochures;

(3) Provisions for demonstrating the methods and techniques used by the project to others interested in replicating those methods and techniques, such as by inviting them to observe project activities;

(4) A description of the types of materials the applicant plans to make available to help others replicate project activities and the methods for making the materials available; and

(5) Provisions for assisting and training others to adopt and successfully implement the project or methods and techniques used by the project.

(f) *Key personnel.* (10 points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications, in relation to project requirements, of the project director;

(ii) The qualifications, in relation to project requirements, of each of the other key personnel to be used in the project, including the parent/community coordinator and personnel who will be employed to meet the requirements in 34 CFR 408.33;

(iii) The appropriateness of the time that each person referred to in paragraphs (f)(1) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability.

(2) To determine personnel qualifications under paragraphs (f)(1) (i) and (ii) of this section, the Secretary considers—

(i) The experience and training of key personnel in project management and in fields related to the objectives of the project; and

(ii) Any other qualifications of key personnel that pertain to the quality of the project.

(g) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which the budget—

(1) Is cost effective and adequate to support the project activities;

(2) Contains costs that are reasonable and necessary in relation to the objectives of the project;

(3) Proposes using funds available from appropriate employment, training, and education agencies in the State to provide project services and activities, and using non-Federal resources of community organizations to provide the support services described in 34 CFR 408.30; and

(4) Proposes using funds or resources available from the State or local educational agency in which the center will be located or will serve to acquire community education employment center equipment and facilities in order to provide a maximum amount of resources for instructional and student services.

(h) *Adequacy of resources and commitment.* (5 points)

(1) The Secretary reviews each application to assess the adequacy of resources the applicant plans to devote to the project. The Secretary considers the extent to which—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(2) The Secretary reviews each application to determine the commitment to the project, including whether—

(i) The uses of non-Federal resources are adequate to provide project services and activities, especially resources of community organizations and State and local educational agencies; and

(ii) The applicant has the capacity to continue, expand, and build upon the project when Federal assistance under this competition ends.

Additional Factor the Secretary Considers

The Secretary may apply the following urban/rural distribution factor to applications submitted in this competition:

After evaluating each application according to the proposed selection criteria, the Secretary may select one or more applications of acceptable quality for funding, other than the most highly rated applications, if the Secretary concludes that this selection would improve the distribution of grants among applicants serving rural and urban youth.

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 parts 400 and 426.

Program Authority: 20 U.S.C. 2420a.

(Catalog of Federal Domestic Assistance Number 84.199–G Cooperative Demonstration Program)

Dated: December 3, 1993.

Augusta Souza Kappner,

Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 93–30398 Filed 12–13–93; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.199G]

Cooperative Demonstration Program—Community Education Employment Centers; Inviting Applications for New Awards for Fiscal Year (FY) 1994

Note to applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions, needed to apply for a grant under this competition.

Purpose of program: The Cooperative Demonstration Program—Community Education Employment Centers provides financial assistance for projects to improve access to quality vocational education programs for disadvantaged youth in both urban and rural areas by providing model high school programs

that combine the best of academic, vocational, and school-to-work curricula.

The Secretary wishes to highlight, for potential applicants, that this program can contribute to Goals 2 and 5 of the National Education Goals—by increasing the high school graduation rate of disadvantaged rural and urban youth and by enabling these youth to acquire the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible applicants: State and local educational agencies, postsecondary educational institutions, institutions of higher education, and other public and private agencies, organizations, and institutions.

Deadline for transmittal of applications: February 11, 1994.

Deadline for intergovernmental review: April 12, 1994.

Available funds: $2,000,000 for the first 12 months. Funding for the second and third year is subject to availability of funds and to a grantee meeting the requirements of 34 CFR 75.253.

Estimated range of awards: $400,000 to $600,000.

Estimated average size of awards: $500,000 (funding for first 12 months).

Estimated number of awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project period: Up to 36 months (3 twelve-month grant cycles).

Applicable regulations: (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).

(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 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations for this program in 34 CFR parts 400 and 426.

Priority and selection criteria: The absolute priority and selection criteria in the notice of final priority and selection criteria for this program, as published elsewhere in this issue of the **Federal Register**, apply to this competition.

Under 34 CFR 75.105(c)(3) the Secretary funds under this competition only applications that meet this absolute priority.

Invitational Priority

Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects establishing a Model Community Education Employment Center that is located in a multi-county rural area where—

(a) At least one of the area educational agencies is eligible for assistance under section 1006 (Grants for Local Educational Agencies in Counties with Especially High Concentrations of Children from Low-income Families) of the Elementary and Secondary Education Act of 1965; and

(b) At least one county has been designated a labor surplus area.

Required activity: A recipient of an award under this program shall provide not less than 25 percent of the total cost (the sum of the Federal and non-Federal shares) of the project it conducts under this program.

Intergovernmental review of federal programs. This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on September 24, 1993 (58 FR 50162–50164).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372–CFDA #84.199G, U.S. Department of Education, room 4181, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions for transmittal of applications:

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and six copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFD #84.199G), Washington, DC 20202–4725.

or

(2) Hand deliver the original and six copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.199G), room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before

relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number of the competition under which the application is being submitted.

Application instructions and forms: To apply for an award under this program competition, your application must be organized in the following order and include the following five parts:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)).

Part II: Budget Information.

Part III: Budget Narrative.

Part IV: Program Narrative.

Part V: Additional Assurances and Certification:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED Form 80–0013) and Instructions.

c. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014) and Instructions.

(**Note:** ED Form 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

d. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and Instructions, and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

All forms and instructions are included as Appendix A of this notice. Questions and answers pertaining to grant competition are included, as Appendix B, to assist potential applicants.

An applicant may submit information on a photostatic copy of the forms in Appendix A. However, each of the pertinent documents must include an original ink signature. All applicants must submit ONE original signed application, including ink signatures on all forms and assurances, and SIX copies of the application. Please mark each application as original or copy. Local or State Agencies may choose to submit two copies with the original.

No grant may be awarded unless a complete application form has been received.

FOR FURTHER INFORMATION CONTACT: Kate Holmberg, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, Room 4512–Switzer Building, 400 Maryland Avenue SW., Washington, DC 20202–7327. Telephone (202) 205–5563. Individuals who are deaf and hearing impaired may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern time, Monday through Friday.

Program Authority: 20 U.S.C. 2420a.

Dated: December 3, 1993.

Augusta Kappner,

Assistant Secretary for Vocational and Adult Education.

BILLING CODE 4000–01–P

Appendix A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address (give city, county, state, and zip code):

Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 1 9 9G

TITLE: Community Education Employment Centers

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE_____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV. 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: — "New" means a new assistance award. — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	A	B	C
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Costs/Stipends			
11. TOTAL, Federal Funds Requested (lines 8 through 10)			

SECTION B - Cost Sharing Summary (if appropriate)

	A	B	C
1. Cash Contribution			
2. In-Kind Contribution (only costs specifically for this project)			
3. TOTAL, Cost Sharing (Rate 25%)			

NOTE: For FULLY-FUNDED PROJECTS use Column A to record the first 12-month budget period; Column B to record the remaining months of the project; and Column C to record the total.

For MULTI-YEAR PROJECTS use Column A to record the first 12-month budget period; Columns B and C to indicate the estimated budget totals for years 2 and 3.

BILLING CODE 4000-01-C

Instructions for Part II—Budget Information

Section A—Budget Summary by Categories

1. *Personnel*: Show salaries to be paid to project personnel.

2. *Fringe Benefits*: Indicate the rate and amount of fringe benefits.

3. *Travel*: Indicate the amount requested for both inter- and intra-State travel of project staff. Include funds for at least one trip for two people to attend a project director's meeting in Washington, DC.

4. *Equipment*: Indicate the cost of non-expendable personal property that has a useful life of more than one year and a cost of $300 or more per unit ($5,000 or more if State, Local, or Tribal Government).

5. *Supplies*: Include the cost of consumable supplies and materials to be used during the project.

6. *Contractual*: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) subcontracts.

7. *Other*: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.

8. *Total, Direct Costs*: Show the total for lines 1 through 7.

9. *Indirect Costs*: Indicate the rate and amount of indirect costs.

10. *Training/Stipend Cost*: (if allowable)

11. *TOTAL, Federal Funds Requested*: Lines 8—10.

Section B—Cost Sharing Summary

Indicate the actual rate and amount of cost sharing. The Cooperative Demonstration Program requires that the grantee provide at least 25 percent cost sharing. The share required refers to a percentage of Total Project Cost, not of Federal funds. For example, an applicant that is required to pay 25 percent of total program costs of $100,000 would have to contribute $25,000 to match a Federal award of $75,000 ($25,000 = 25 percent of $100,000 ($25,000 plus $75,000)). All applicants must contribute at least 25 percent of total program costs under the Cooperative Demonstration Program.

Part III—Instructions for Budget Narrative

Prepare a detailed Budget Narrative for the first year of the project that justifies and clarifies the budget figures shown in section A. Explain:

1. How personnel costs are calculated—provide yearly and/or hourly rates; for other than full-time staff, provide hours per day, week, month, and year.

2. The basis used to estimate certain costs such as travel, consultants, equipment, and supplies.

3. The major cost items relate to the proposed project activities (refer to application page);

4. The cost breakdown of the project's evaluation component; and

5. What matching occurs in each budget category. Provide estimated budget totals for the second and third years of the project.

Instructions for Part IV—Program Narrative

Program Narrative will comprise the largest portion of the application. This is where you spell out the who, what, where, when, why, and how of your proposed project.

Although you will not have a form to fill out for your narrative, there is a format. This format is the Selection Criteria. Because your application will be reviewed and rated by a review panel using the selection criteria, your narrative should follow the format of the criteria.

Before preparing your application, you should read carefully the description of the program, eligibility requirements, priority language (if any), and the selection criteria for this competition.

Your program narrative should be clear, concise, and to the point. Begin the narrative with a one page abstract or summary of your proposed project. Then describe the project in detail addressing each selection criterion in order.

Limit your narrative to 35 double-spaced pages. Use standard 8½"×11"; print on one side only. Be certain to number ALL the pages in your application including appendices.

You may include supporting documentation as appendices. Be sure that this material is concise and pertinent to this program competition. Applicants are advised that:

(1) The Department considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels (EDGAR section 75.217).

(2) The technical review panel evaluates each application solely on the basis of the established technical review criteria. Letters of support contained in the application will strengthen the application only if they contain commitments that pertain to the established technical review criteria, such as commitment of resources and placement of successful completers.

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 90 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project, OMB 1830–0523, Washington, DC 20503.

(Information collection approved under OMB control number 1830–0523. Expiration date: 7/31/96.)

BILLING CODE 4000–01–P

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse. (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 —

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0346-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known:*
Congressional District, *if known:*

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
Congressional District, *if known:*

6. Federal Department/Agency:

7. Federal Program Name/Description:
CFDA Number, *if applicable:* _____

8. Federal Action Number, *if known:*

9. Award Amount, *if known:*
$

10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI):*

b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI):*

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply):*
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply):*
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply):*
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants, the Department has assembled the following most commonly asked questions.

Q. May we get an extension of the deadline?

A. No, not for an individual application. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and apply to all applications. Waivers for individual applications cannot be granted, regardless of the circumstances.

Q. We just missed the deadline for a previous Department of Education competition. May we submit the application we prepared for it under this competition?

A. Yes. However, the likelihood of success is not good. A properly prepared application must meet the specifications of the competition to which it is submitted.

Q. I'm not sure which competition is most appropriate for my project. What should I do?

A. We are happy to discuss any questions with you and provide clarification on the unique elements of the various competitions.

Q. How can I best ensure that my application is received on time and is considered under the correct competition?

A. Applicants should carefully follow the instructions for filing applications that are set forth in this notice. Be sure to clearly indicate in Block 10 of the face page of an application (Standard form 424) the CFDA #84.199G, and the title of the program—Cooperative Demonstration Program—Community Education Employment Centers representing the competition in which the application should be considered.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priority. Applicants should understand that this previous contact is not required, nor will it in any way influence the success of an application.

Q. How long should an application be?

A. The Department of Education is making a concerted effort to reduce the volume of paperwork in discretionary program applications. However, the scope and complexity of projects is too variable to establish firm limits on length. Your application should provide enough information to allow the review panel to evaluate the significance of the project against the criteria of the competition. We recommend that you address all of the selection criteria in an "Application Narrative" of no more than 35 pages in length. Supporting documentation may be included in appendices to the Application Narrative. Some examples:

(1) Staff qualifications. These should be brief. They should include the person's title and role in the proposed project and contain only information about his or her qualifications that are relevant to the proposed project. Qualifications of consultants should be provided and be similarly brief. Resumes may be included in the appendices.

(2) Copies of evaluation instruments proposed to be used in the project in instances where such instruments are not in general use.

(3) Copies (samples) of any curricula that reflect the applicant's experience and the scope and direction of any current or previous projects related to this application. Note that a Budget Narrative describing specific uses of funds requested in the budget form also is required. No applications will be funded without this material. The Budget Narrative is not included in the 35 pages recommended.

Q. How should my application be organized?

A. The Secretary strongly requests that the applications be assembled with the SF 424 on top, followed by the abstract, table of contents, SF 424A budget forms, Application Narrative, assurances and certifications, and appendices. Do not substitute your own cover for the SF 424. Please include one extra, loose copy of the SF 424 for use by the Application Control Center. Please number all pages. The Application Narrative should be organized to follow the exact sequence of the components in the selection criteria in this notice.

Q. Is travel allowable using project funds?

A. Travel associated with carrying out the project is allowed if necessary and reasonable. The Secretary anticipates that the project director will attend two meetings per year over the course of the project. Therefore, you may wish to include the costs of six trips to Washington, D.C. in the travel budget.

Q. What is meant by a required percent of non-Federal cost-sharing or matching funds?

A. In this program, the recipient of Federal funds is required to "match" the Federal grant by paying at least a minimum percentage of total program costs. Total program costs include both the Federal funds received and the non-Federal contribution. For example, a grantee required to pay 25 percent of total program costs of $100,000 would have to contribute $25,000 to match a Federal award of $75,000 ($25,000 = 25 percent of $100,000 ($25,000 plus $75,000)). All grantees must contribute at least 25 percent of total program costs under the Cooperative Demonstration Program.

Q. What costs may be included in the 25 percent match (cash or in-kind)?

A. Any cost that can be paid with Federal funds from this program is allowable as match (see Education Department General Administrative Regulations, 34 CFR 74.50–74.57 and 34 CFR 80.24).

Q. What is the Department of Education's Program Effectiveness Panel?

A. The Program Effectiveness Panel (PEP) is a mechanism the Department has developed for validating the effectiveness of educational programs developed by schools, universities, and other agencies. Regulations governing PEP are codified at 34 CFR Parts 785–789. For information about PEP, prospective applicants may wish to read *Making the Case: Evidence of Effectiveness in Schools and Classrooms*, which contains criteria and guidelines for submitting project results to PEP. This publication is available from the U.S. Department of Education's Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Washington, DC 20208–5645. Telephone: (202) 219–2134.

Q. How many copies of the application should I submit and must they be bound?

A. The original application should be bound and clearly marked as the original application bearing the original signatures. In addition, six copies should be submitted and marked as copies. Applications should not include foldouts, photographs, audio-visuals, or other materials that are hard to duplicate.

Q. When will I find out if I am going to be funded?

A. You can expect to receive notification within 6 to 7 months of the application closing date, depending on the number of applications received and the number of competitions with closing dates at about the same time.

Q. Will my application be returned?

A. We do not return original copies of applications. Thus, applicants should retain at least one copy of the application.

Q. What happens during negotiations?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during panel and staff reviews that require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because there is inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all negotiation issues have been resolved.

Q. Where can copies of the **Federal Register**, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783–3238. When requesting copies of regulations or statutes, it is helpful to use the specific name, public law number, or part number. The materials referenced in this notice should be referred to as follows:

(1) The Carl D. Perkins Vocational and Applied Technology Education Act of 1990, Public Law 101–392, title IV, part B, section 420A.

(2) The Education Department General Administrative Regulations (EDGAR) (34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86).

(3) 34 CFR parts 400, (Vocational and applied technology education programs—general provisions), 408 (Community education employment centers program), and 426 (Cooperative demonstration program).

[FR Doc. 93–30399 Filed 12–13–93; 8:45 am]

BILLING CODE 4000–01–P

federal register

Tuesday
December 14, 1993

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 310 and 358

Pediculicide Drug Products for Over-The-Counter Human Use; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 310 and 358

[Docket No. 81N-0201]

RIN 0905-AA06

Pediculicide Drug Products for Over-The-Counter Human Use; Final Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule in the form of a final monograph establishingconditions under which over-the-counter (OTC) pediculicide drug products (products used for the treatment of head, pubic (crab), and body lice) are generally recognized as safe and effective and not misbranded. FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final monograph, and all new data and information on pediculicide drug products that have come to the agency's attention. This final monograph is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Effective on June 14, 1994, for § 310.545 (21 CFR 310.545); and effective on December 14, 1994, for part 358, subpart G (21 CFR part 358, subpart G).

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-5000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 29, 1982 (47 FR 28312), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC pediculicide drug products, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products (the Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by September 27, 1982. Reply comments in response to comments filed in the initial comment period could be submitted by October 27, 1982.

In accordance with § 330.10(a)(10), the data and information considered by the Panel, after deletion of a small amount of trade secret information, were placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC pediculicide drug products was published in the **Federal Register** of April 3, 1989 (54 FR 13480). Interested persons were invited to file by June 2, 1989, written comments, objections, or requests for oral hearing on the proposed regulation before the Commissioner of Food and Drugs (the Commissioner) regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by August 1, 1989. New data could have been submitted until April 3, 1990, and comments on the new data could have been submitted until June 4, 1990. Final agency action occurs with the publication of this final monograph, which is a final rule establishing a monograph for OTC pediculicide drug products.

The OTC drug procedural regulations (§ 330.10) provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

As discussed in the proposed regulation for OTC pediculicide drug products (54 FR 13480), the agency advised that the conditions under which the drug products that are subject to this monograph will be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication in the **Federal Register**. Therefore, on or after December 14, 1994, no OTC drug product that is subject to the monograph and that contains a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In response to the proposed rule on OTC pediculicide drug products, two drug manufacturers submitted comments, one of which included a request for an oral hearing before the Commissioner on three different issues. A copy of the comments received is on public display in the Dockets Management Branch (address above). Additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

I. The Agency's Conclusions on The Comments

A. Comment on Ingredients

1. One comment requested a hearing to clarify: (1) The composition and concentration of constituents of pyrethrum extract, (2) current pyrethrum flower extraction and extract refining methods, and (3) methods and protocols for establishing appropriate standards for pyrethrum extract. The comment mentioned that the chemistry of pyrethrins and pyrethrum extracts was currently under review by the U.S. Environmental Protection Agency (EPA) as part of its reregistration procedures.

The agency denied the comment's request for a hearing on July 24, 1989 (Ref. 1). The agency stated that, at the time the hearing request was made, reasonable grounds did not exist to support granting the request, because there was insufficient information on these three subjects in the administrative record for resolution at a hearing. Information subsequently made available to FDA resolved these issues.

The agency contacted EPA to obtain information on the chemical identity of pyrethrum extract, and EPA referred FDA to two sources of information. One source (Ref. 2) stated that pyrethrum dried flowers contain 0.9 to 1.3 percent pyrethrins, but did not provide a breakdown of other components. The second source (Ref. 3) included a table of the composition of the pyrethrins in what it referred to as a typical

pyrethrum oleoresin. It grouped pyrethrins I as 14.8 percent with a breakdown of cinerin I at 2.2 percent, jasmolin I at 1.2 percent, and pyrethrin I at 11.4 percent (Ref. 3). It also grouped pyrethrins II as 15.2 percent with a breakdown of cinerin II at 3.5 percent, jasmolin II at 1.2 percent, and pyrethrin II at 10.5 percent (Ref. 3). The agency verified those amounts from another source (Ref. 4), but could not determine whether those amounts represent the composition of components in pyrethrum extract as currently obtained and could not determine what is meant by a "typical" oleoresin.

Other information on the chemical composition and concentration of pyrethrum extract constituents was subsequently provided to the agency (Ref. 5), and a monograph in the United States Pharmacopeia (U.S.P.) has now been developed for this ingredient (Ref. 6). The U.S.P. monograph identifies the ingredient as pyrethrum extract instead of pyrethrins and provides a current standard for the chemical constituency of pyrethrum extract. Both the U.S.P. and EPA (Ref. 7) agree that the ratio of Pyrethrins I to Pyrethrins II in the extract is in a range of 0.8 to 2.8, and FDA finds this range to be acceptable. Based on these subsequent events, the agency sees no need for a hearing on these issues.

References

(1) Letter from W. E. Gilbertson, FDA, to W. Gullickson, McLaughlin Gormley King Co., coded LET011, Docket No. 81N–0201, Dockets Management Branch.

(2) Farm Chemicals Handbook '92, Pesticide Dictionary, Pyrethrum, Meister Publishing Co., Willoughby, OH, p. C283.

(3) Head, S. W., "Composition of Pyrethrum Extract and Analysis of Pyrethrins," in "Pyrethrum The Natural Insecticide," edited by J. E. Casida, Academic Press, New York, p. 30, 1973.

(4) Head, S. W., "The Composition of Pyrethrum Extract," Pyrethrum Post, 10(2): 17–21, 1969.

(5) Letters from the Nonprescription Drug Manufacturers Association to The U.S. Pharmacopeial Convention, Inc., coded LET12, LET13, and LET14, Docket No. 81N–0201, Dockets Management Branch.

(6) "The United States Pharmacopeia XXII and The National Formulary XVII," 8th Supp., The U.S. Pharmacopeial Convention, Inc., Rockville, MD, p. 3300, March 1993.

(7) Letter from J. W. Akerman, EPA, to R. Engel, Chemical Specialties Manufacturers Association., OTC vol. 16KFM, Docket No. 81N–0201, Dockets Management Branch, October 1, 1986.

B. Comments on Labeling

2. One comment suggested an addition to the second sentence of the proposed warning in § 358.650(c)(2), which states: "Do not use near the eyes or permit contact with mucous membranes." The comment mentioned the possibility that, despite the warning, a physician may suggest use of the product to treat an infestation of the eyebrows and eyelashes. The comment stated that there is no explanation as to why the product should not be used near the eyes, and an explanation would be appropriate. The comment suggested the following: "Do not use near the eyes or permit contact with mucous membranes as it may cause irritation."

The agency agrees with the comment that an explanation would be beneficial to consumers. In its report on OTC pediculicide drug products, the Panel discussed a number of studies that showed pyrethrins and piperonyl butoxide are irritating to the eyes and mucous membranes (47 FR 28312 at 28316 and 28317). The American Medical Association reports that commercial formulations of pyrethrins and piperonyl butoxide are irritating to the eyes and mucous membranes and should not be used to treat infestations of the eyelashes (Ref. 1). In discussing the proper use of pyrethrins with piperonyl butoxide, USPDI (Ref. 2) instructs the user to "Keep this medicine away from the eyes and other mucous membranes, such as inside the nose, because it may cause irritation." The agency believes that the warning would be more beneficial to consumers by also specifying the location of mucous membranes near the eyes. Accordingly, the agency is revising the second sentence of the proposed warning in § 358.650(c)(2) to read "Do not use near the eyes or permit contact with mucous membranes, such as inside the nose, mouth, or vagina, as irritation may occur."

References

(1) Drug Evaluations Subscription, vol. III, Topical Drugs Used in Ear, Skin, and Mucous Membrane Infections, Pediculosis, American Medical Association, Chicago, pp. 2:31–2:35, Spring 1990.

(2) USPDI, vol. II, 13th ed., Advice for the Patient, Drug Information in Lay Language, Pyrethrins and Piperonyl Butoxide (Topical), The U.S. Pharmacopeial Convention, Inc., Rockville, MD, p. 1082, 1992.

3. One comment suggested that the directions provide for a "special lice/nit removing comb" instead of a "fine-toothed comb." The comment contended that a fine-toothed comb may not always be effective in removing nits from hair.

The agency agrees that the directions could provide for the use of a "special lice/nit removing comb," but not to the exclusion of a "fine-toothed comb." The Panel stated that "Dead and empty nits will remain attached to the hairs and be unsightly as well as confusing to those who cannot distinguish between live and dead nits; therefore, it may be desirable to remove them by combing with a fine-toothed comb," (47 FR 28312 at 28315). If a fine-toothed comb should not be effective in removing nits from hair, the consumer is alerted to the existence of the "special lice/nit removing comb," which may be used alternatively. Therefore, in this final monograph, § 358.650(d)(2) and (d)(3) are revised to mention use of either type of comb.

4. One comment requested that the "Other required statements" in § 358.650(e) regarding head, pubic (crab), and body lice, as well as other relevant patient instructions such as the proper use of a lice/nit removing comb, be allowed to appear in a package insert or booklet. The comment contended that the required statements are too verbose for inclusion on the product label or outer carton labeling.

The agency has no objection to the request. A package insert or booklet containing the "Other required statements" would be fully acceptable, provided it is referred to on the product label or outer carton labeling. The referencing statement should alert consumers to read the package insert or booklet before using the product and to save the information for future use or reference.

II. Summary of Significant Changes From The Proposed Rule

1. The active ingredient pyrethrins is now identified as pyrethrum extract. (See comment 1.) Accordingly, § 358.610 has been revised to read: "The active ingredients of the productconsist of the combination of pyrethrum extract (0.17 to 0.33 percent) with piperonyl butoxide (2 to 4 percent) in a nonaerosol dosage formulation."

The agency is aware that the U.S. Pharmacopoeial Convention, Inc., is currently developing a compendial monograph for piperonyl butoxide. Following development of that monograph, the agency will revise § 358.610 as necessary, for example, to accommodate changes in nomenclature.

2. The directions in § 358.650(d)(2) and (d)(3) have been revised to provide for the use of either a special lice/nit removing comb or a fine-toothed comb to help remove dead lice or nits from hair. (See comment 3.)

3. The agency has reviewed reports of adverse reactions for pyrethrin-containing drug products in its Spontaneous Reporting System. From 1979 through February 1993, 45 reports were received (Ref. 1). Of those 45 reports, 40 involved ocular toxicity

(including corneal lesions, keratitis, uveitis, and conjunctivitis) and 18 of these involved children under 10 years of age whose hair was washed with the medication (a shampoo formulation) by another person. Based on these reports, the agency is concerned that significant numbers of persons who apply the product on themselves or on young children do not read the label warning to avoid contact of the product with the eyes or do not exercise sufficient care to keep the product out of the eyes.

Accordingly, the agency is expanding the warning in § 358.650(c)(2) of this final monograph to include additional clarifying information as follows:

For external use only. Do not use near the eyes or permit contact with mucous membranes, such as inside the nose, mouth, or vagina, as irritation may occur. Keep out of eyes when rinsing hair. Adults and children: Close eyes tightly and do not open eyes until product is rinsed out. Also, protect children's eyes with washcloth, towel or other suitable material, or by a similar method. If product gets into the eyes, immediately flush with water.

To better bring this and other warnings to the consumer's attention, the agency is adding a new direction to state: "Important: Read warnings before using." Because of the importance of these warnings, the agency is requiring that this directions statement about reading the warnings appear in all capital letters and in boldface type. The new statement on protecting eyes and mucous membranes is being included separately in § 358.650(d)(1) of the final monograph because it applies to all products. With the addition of the new statement, proposed § § 358.650(d)(1) and (d)(2) are redesignated as § § 358.650(d)(2) and (d)(3), respectively, in this final monograph.

Reference

(1) FDA Spontaneous Reporting System, Computer Printout of Adverse Reactions Reported for Pyrethrin-Containing Drug Products, in OTC vol. 16KFM, Docket No. 81N–0201, Dockets Management Branch, February 26, 1993.

4. The warning statement "Consult a doctor if infestation of eyebrows or eyelashes occurs," previously included as part of § 358.650(c)(2) in the tentative final monograph, has been incorporated with the warning in § 350.650(c)(3) of this final monograph, to read:

If skin irritation or infection is present or develops, discontinue use and consult a doctor. Consult a doctor if infestation of eyebrows or eyelashes occurs.

III. The Agency's Final Conclusions on OTC Pediculicide Drug Products

Based on available evidence, the agency is issuing a final monongraph establishing conditions under which OTC pediculicide drug products are generally recognized as safe and effective and not misbranded. Specifically, the agency has determined that the only ingredient that meets monograph conditions is the combination of pyrethrum extract and piperonyl butoxide. All other ingredients considered in this rulemaking have been determined to be nonmonograph for use in a pediculicide drug product. These ingredients include, but are not limited to, benzocaine, benzyl alcohol, benzyl benzoate, chlorophenothane (dichlorodiphenyl trichloroethane), aqueous coconut oil soap, copper oleate, docusate sodium, formic acid, isobornyl thiocyanoacetate, picrotoxin, propylene glycol, sabadilla alkaloids, sublimed sulfur, and thiocyanoacetate.

The agency has established 21 CFR 310.545 in which are listed certain active ingredients that are not generally recognized as safe and effective for certain OTC drug uses. That final rule included in § 310.545(a)(25) the 14 nonmonograph pediculicide active ingredients listed above, with an effective date of November 10, 1993. The agency is redesignating § 310.545(a)(25) as § 310.545(a)(25)(i), and is adding § 310.545(a)(25)(ii) to include the nonmonograph pediculicide active ingredient pyrethrum extract (formerly named pyrethrins) with piperonyl butoxide in an aerosol dosage form. This entity was classified in Category III in the summary of ingredient categories in the tentative final monograph (54 FR 13480 at 13485). The effective date for § 310.545(a)(25)(ii) is on June 14, 1994.

Accordingly, any drug product labeled, represented, or promoted for use as an OTC pediculicide that contains any of the ingredients listed § 310.545(a)(25)(i) or (a)(25)(ii) or that is not in conformance with the monograph (21 CFR part 358, subpart G) may be considered a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S C. 321(p)) and misbranded under section 502 of the act (21 U.S.C. 352) and cannot be marketed for this use unless it is the subject of an approved application under section 505 of the act (21 U.S.C. 355) and part 314 of the regulations (21 CFR part 314). An appropriate citizen petition to amend the monograph may also be submitted under § 10.30 (21 CFR 10.30) in lieu of an application. Any OTC pediculicide drug product initially introduced or initially delivered for introduction into interstate commerce after the effective dates listed above that is not in compliance with the regulations is subject to regulatory action. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (54 FR 13480 at 13487). The agency has examined the economic consequences of this final rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12866, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). This rulemaking for OTC pediculicide drug products is not expected to have an impact on small businesses. This final rule may require reformulation of a few products. Products that currently contain the allowed active ingredients in nonmonograph concentrations will need to be reformulated to meet the conditions of § 358.610 of this final monograph. Manufacturers will have 1 year to implement changes in compliance with the monograph and may reformulate to monograph conditions without the cost of any clinical testing. If reformulation is necessary, the cost of doing so will vary among manufacturers based on the reformulation choice selected and the costs related to product specific stability testing and other standard manufacturing procedures. The agency believes that the majority of the OTC pediculicide drug products currently marketed already contain the combination of pyrethrum extract and piperonyl butoxide in monograph concentration ranges in a nonaerosol dosage form. These products will need some relabeling. However, the labeling in this final rule is quite similar to that proposed in the tentative final monograph. Based on information provided by a nonprescription drug manufacturers' association, the estimated average cost of a labeling revision is about $2,000 per product label. Products containing pediculicide active ingredients listed in § 310.545(a)(25)(i) have already been covered by a final rule published on May 10, 1993 (58 FR 27636). Therefore, the agency concludes that the final rule is not a major rule as defined in Executive Order 12866. Further, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities

as defined in the Regulatory Flexibility Act.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 310

Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

21 CFR Part 358

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 310 and 358 are amended as follows:

PART 310—NEW DRUGS

1. The authority citation for 21 CFR part 310 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 512–516, 520, 601(a), 701, 704, 705, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 360b–360f, 360j, 361(a), 371, 374, 375, 379e); secs. 215, 301, 302(a), 351, 354–360F of the Public Health Service Act (42 U.S.C. 216, 241, 242(a), 262, 263b–263n).

2. Section 310.545 is amended by redesignating the text of paragraph (a)(25) as paragraph (a)(25)(i), by adding new (a)(25)(i) heading and paragraphs (a)(25)(ii) and (d)(16), and by revising paragraph (d) introductory text and paragraph (d)(11) to read as follows:

§ 310.545 Drug products containing certain active ingredients offered over-the-counter (OTC) for certain uses.

(a) * * *

(25) *Pediculicide drug products*—(i) *Approved as of November 10, 1993.*

* * *

(ii) *Approved as of June 14, 1994. The combination of pyrethrum extract (formerly named pyrethrins) and piperonyl butoxide in an aerosol dosage formulation.*

* * * * *

(d) Any OTC drug product that is not in compliance withthis section is subject to regulatory action if initially introduced or initially delivered for introduction into interstate commerce after the dates specified in paragraphs (d)(1) through (d)(22) of this section.

* * * * *

(11) November 10, 1993, for products subject to paragraph (a)(8)(ii), (a)(10)(v) through (a)(10)(vii), (a)(18)(ii) through (a)(18)(vi), (a)(22)(ii), and (a)(23) through (a)(25)(i) of this section.

* * * * *

(16) June 14, 1994, for products subject to paragraph (a)(25)(ii) of this section.

Part 358—Miscellaneous External Drug Products For Over-The-Counter Human Use

3. The authority citation for 21 CFR part 358 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

4. New subpart G, consisting of §§ 358.601 through 358.650, is added to read as follows:

Subpart G—Pediculicide Drug Products

Sec.
358.601 Scope.
358.603 Definition.
358.610 Pediculicide active ingredients.
358.650 Labeling of pediculicide drug products.

Subpart G—Pediculicide Drug Products

§ 358.601 Scope.

(a) An over-the-counter pediculicide drug product in a form suitable for topical application is generally recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1 of this chapter.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to chapter I of Title 21 unless otherwise noted.

§ 358.603 Definition.

As used in this subpart:

Pediculicide drug product. A drug product for the treatment of head, pubic (crab), and body lice.

§ 358.610 Pediculicide active ingredients.

The active ingredients of the product consist of the combination of pyrethrum extract (0.17 to 0.33 percent) with piperonyl butoxide (2 to 4 percent) in a nonaerosol dosage formulation.

§ 358.650 Labeling of pediculicide drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "pediculicide (lice treatment)" or "lice treatment."

(b) *Indications.* The labeling of the product states, under the heading "Indications," the following: "For the treatment of head, pubic (crab), and body lice." Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed in paragraph (b) of this section, may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the provisions of section 502 of the Federal Food, Drug, and Cosmetic Act (the act) relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "Use with caution on persons allergic to ragweed."

(2) "For external use only. Do not use near the eyes or permit contact with mucous membranes, such as inside the nose, mouth, or vagina, as irritation may occur. Keep out of eyes when rinsing hair. Adults and children: Close eyes tightly and do not open eyes until product is rinsed out. Also, protect children's eyes with washcloth, towel or other suitable material, or by a similar method. If product gets into the eyes, immediately flush with water."

(3) "If skin irritation or infection is present or develops, discontinue use and consult a doctor. Consult a doctor if infestation of eyebrows or eyelashes occurs."

(4) The word "physician" may be substituted for the word "doctor" in any of the warning statements in this paragraph.

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *For all products.* "Important: Read warnings before using." [sentence in all capital letters and boldface type]

(2) *For nonshampoo products.* "Apply to affected area until all the hair is thoroughly wet with product. Allow product to remain on area for 10 minutes but no longer. Wash area thoroughly with warm water and soap or shampoo. A fine-toothed comb or a special lice/nit removing comb may be used to help remove dead lice or their eggs (nits) from hair. A second treatment must be done in 7 to 10 days to kill any newly hatched lice."

(3) *For products formulated for use as a shampoo.* "Apply to affected area until all the hair is thoroughly wet with product. Allow product to remain on area for 10 minutes but no longer. Add sufficient warm water to form a lather

and shampoo as usual. Rinse thoroughly. A fine-toothed comb or a special lice/nit removing comb may be used to help remove dead lice or their eggs (nits) from hair. A second treatment must be done in 7 to 10 days to kill any newly hatched lice."

(e) *Other required statements.*

(1) "*Head Lice*: Head lice live on the scalp and lay small white eggs (nits) on the hair shaft close to the scalp. The nits are most easily found on the nape of the neck or behind the ears. All personal headgear, scarfs, coats, and bed linen should be disinfected by machine washing in hot water and drying, using the hot cycle of a dryer for at least 20 minutes. Personal articles of clothing or bedding that cannot be washed may be dry-cleaned, sealed in a plastic bag for a period of about 2 weeks, or sprayed with a product specifically designed for this purpose. Personal combs and brushes may be disinfected by soaking in hot water (above 130 °F) for 5 to 10 minutes. Thorough vacuuming of rooms inhabited by infected patients is recommended."

(2) "*Pubic (Crab) Lice*: Pubic lice may be transmitted by sexual contact; therefore, sexual partners should be treated simultaneously to avoid reinfestation. The lice are very small and look almost like brown or grey dots on the skin. Pubic lice usually cause intense itching and lay small white eggs (nits) on the hair shaft generally close to the skin surface. In hairy individuals, pubic lice may be present on the short hairs of the thighs and trunk, underarms, and occasionally on the beard and mustache. Underwear should be disinfected by machine washing in hot water; then drying, using the hot cycle for at least 20 minutes."

(3) "*Body Lice*: Body lice and their eggs are generally found in the seams of clothing, particularly in the waistline and armpit area. They move to the skin to feed, then return to the seams of the clothing where they lay their eggs. Clothing worn and not laundered before treatment should be disinfected by the same procedure as described for head lice, except that sealing clothing in a plastic bag is not recommended for body lice because the nits (eggs) from these lice can remain dormant for a period of up to 30 days."

Dated: October 29, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

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Part IV

Department of Energy

10 CFR Part 835

Occupational Radiation Protection; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 835

Occupational Radiation Protection

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is promulgating primary standards for occupational radiation protection of workers at its facilities. This action is necessary to codify requirements currently contained in DOE directives. The provisions of this final rule are DOE nuclear safety requirements which, if violated, will provide the basis for the assessment of civil and criminal penalties under the Price-Anderson Amendments Act (PAAA) of 1988.

EFFECTIVE DATE: This regulation becomes effective January 13, 1993.

FOR FURTHER INFORMATION CONTACT: Joel L. Rabovsky, U.S. Department of Energy, Office of Health Physics and Industrial Hygiene Programs, EH–41, Washington, DC 20585, (301) 903–2135.

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I. Introduction

A. Purpose of the Rule

For the Department of Energy (DOE), this final rule implements the Radiation Protection Guidance to Federal Agencies for Occupational Exposure, discussed under section B, below, and other radiation protection standards. The final rule also addresses recommendations generated by authoritative organizations, e.g., the National Council on Radiation Protection and Measurements (NCRP) and International Commission on Radiological Protection (ICRP). The final rule helps to ensure that DOE facilities are operated in a manner such that occupational radiation exposure to workers is maintained within acceptable limits and as far below these limits as is reasonably achievable.

In general, this final rule codifies existing DOE radiation protection directives. This final rule provides nuclear safety requirements which, if violated, will provide a basis for the assessment of civil and criminal penalties under the Price-Anderson Amendments Act (PAAA) of 1988, Public Law 100–408, August 20, 1988.

B. Process Used To Establish Radiation Protection Standards

Government agencies such as the Department of Energy establish basic radiation protection standards that are consistent with the Radiation Protection Guidance to Federal Agencies for Occupational Workers, issued by the President on January 20, 1987.[1] This guidance, prepared by interagency committees under the leadership of the Environmental Protection Agency (EPA), is generally consistent with recommendations published by the ICRP and NCRP. In the preparation of their reports, the NCRP and ICRP scientific committees rely heavily on information published by the United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR) and the Committee on the Biological Effects of Ionizing Radiation (BEIR). The UNSCEAR and BEIR reports contain detailed radiobiological and epidemiological information acquired on a worldwide basis. Through this system, U.S. Federal agencies maintain consistency in their basic standards and promote an international consensus on radiation protection standards.

C. Background

On December 9, 1991, the DOE published a proposed rule for public comment in the **Federal Register** (56 FR 64334). The public comment period ended on March 25, 1992. The DOE received thirty-two individual comment letters. In addition, a public hearing was held on February 27, 1992, in Germantown, Maryland. Comment letters were received from private individuals, DOE contractors, other Federal agencies, attorneys representing commercial interests, and the commercial nuclear power industry. Each comment was analyzed and the results of this analysis are discussed in section V. Section V also describes how the proposed rule was changed as a result of the comments from the public.

II. Discussion

A. ICRP Methodology

This section provides a brief explanation of the ICRP methodology on which the Presidential guidance, current DOE radiation protection standards (DOE Order 5480.11, "Radiation Protection for Occupational Workers"), and this final rule are based. The ICRP methodology is outlined in ICRP Publication 26.[2] It identifies two basic types of radiation-induced health effects: Stochastic and nonstochastic.

Radiation-induced health effects which do not have threshold doses are referred to as "stochastic effects." Examples include cancer and hereditary effects. The objective of the ICRP recommendations is to limit the probability of stochastic effects to acceptable levels. For these effects, the severity is not dose dependent—that is, once caused, a malignancy from 100 rems (1 sievert) is no worse than one from 50 rems (0.5 sievert). However, the probability of occurrence does increase as the dose increases. The Department currently accepts the assumption used by authoritative national and international organizations that there are no thresholds for stochastic effects.

Nonstochastic effects can only be manifested if a threshold dose is exceeded; therefore, the objective of the ICRP recommendations is to maintain personnel exposure below the threshold doses in order to prevent these effects. The nonstochastic effects become more severe as the dose increases above threshold levels. Examples of nonstochastic effects include cataracts of the eye and decreased sperm production. More recent scientific recommendations refer to these effects

[1] Radiation Protection Guidance to the Federal Agencies for Occupational Exposure. 52 FR 2822.

[2] International Commission on Radiological Protection. Recommendations of the International Commission on Radiological Protection. ICRP Publication 26, Annals of the ICRP 1, (3). Pergamon Press, New York, 1977.

as "deterministic."[3] This convention will be followed throughout this preamble.

1. Stochastic Effects

For stochastic effects, ICRP Publication 26 adopted the level of risk associated with a dose of 5 rems (0.05 sievert) in a year, delivered uniformly over the whole body, as the basis for the occupational dose limitation system. The risk of excess fatal cancers and serious genetic effects identified in ICRP Publication 26 is 1.65×10^{-4} per person-rem (1.65×10^{-2} per person-sievert). For protection against stochastic effects from intakes, the annual limit on intake (ALI) for each radionuclide is the quantity that, if taken into the body, would cause the same stochastic risk as a uniform, whole body dose of 5 rems (0.05 sievert) in a year.

In ICRP Publication 26, the absorbed dose and dose equivalent quantities are consistent with previous ICRP publications. The new quantities and terminology used to facilitate implementation of the ICRP Publication 26 recommendations are explained in the following discussions. Although all organs and tissues receive the same dose equivalent under uniform exposure conditions, the cancer risks are often not the same. Each organ or tissue contributes its own fraction of the total risk. This fraction is the weighting factor (w_T), and the sum of the weighting factors is unity. The product of the weighting factor and the dose equivalent is referred to as the effective dose equivalent (EDE). The EDE can be applied to both external and internal irradiation. Also, EDE may be applied to either individual organs and tissues or the sum over all organs and tissues. The Department has chosen to specify the use of deep dose equivalent to account for EDE from external exposure. The units used for EDE are either the rem or sievert (Sv).

The committed dose equivalent (CDE) is the 50-year integrated dose equivalent to a specific organ or tissue resulting from the intake of a radionuclide. The committed effective dose equivalent (CEDE) is the same quantity as the CDE, with the exception that each organ or tissue CDE is multiplied by the weighting factor (w_T). If more than one organ or tissue is irradiated, the CEDE for the exposed person is the sum of the weighted CDE to the individual organs and tissues.

The sum of the EDE from external sources and CEDE for internal exposure is the total effective dose equivalent (TEDE). The occupational TEDE limit is 5 rems (0.05 Sv) in a year. The sum of the TEDE recorded for an individual for each year is the cumulative total effective dose equivalent (CTEDE). The units used for CDE, CEDE, TEDE, and CTEDE are either the rem or sievert (1 rem = 0.01 Sv).

2. Deterministic Effects

Technical justification for the ICRP position on deterministic effects is presented in ICRP Publication 41.[4] According to this position, deterministic effects, with the exception of cataracts, will not occur among adults if the combined dose from external and internal radiation to any organ or tissue is limited to or less than 50 rems (0.5 Sv) a year; the dose limit for the lens of the eye is 15 rems (0.15 Sv). (In ICRP terminology, the words "organ and tissue" are used interchangeably to designate specific parts of the entire body.) Therefore, to be consistent with ICRP recommendations, it is necessary to ensure that no organ or tissue exceeds this annual (or yearly) limit.

B. Limiting Values for Radiation Exposure

Limiting values for a variety of circumstances involving potential exposure to radiation and radioactive material are promulgated in this final rule. Under this final rule, the internal component of the DOE occupational exposure limits (see § 835.202) is based on the concept of a 50-year committed dose instead of an annual committed dose. Because of the significance of this issue of committed dose, the Department solicited input during the public comment period. The Department's analysis of the resultant public comments verified the effectiveness of both approaches for worker protection. However, as pointed out by a significant number of public comments, the use of a 50-year committed dose provides additional benefits. These benefits are:

—Consistency with the recommendations of national and international scientific committees and other Federal regulatory agencies;
—Simplification of record keeping associated with internal dose;
—Simplification of the transfer of workers between DOE and U S. Nuclear Regulatory Commission (NRC) regulated facilities; and
—Consistency between the DOE limits for occupational exposure and the limits used by DOE for protection of members of the public.

As a result of the analysis of public comments, DOE has adopted the use of a 50-year committed dose for determining compliance with the occupational limits on exposure to radiation.

The considerations discussed in the sections below were used in developing the regulatory standards presented in the final rule:

1. Protection Against Stochastic Effects (§ 835.202)

a. *Atomic bomb survivor study.* Two developments in the atomic bomb survivor study have warranted an increase in risk estimates for radiation-induced cancers over those presented in ICRP Publication 26. In 1981, a reassessment of the radiation doses received by the survivors indicated that any gamma-radiation-induced malignancies at Nagasaki had been caused by less radiation than previously believed.[5] However, the opposite effect was observed among the Hiroshima survivors. The new dose estimates include more consideration for shielding by structures and for shielding by tissues overlying the affected organs. The overall impact of the revised dosimetry was summarized by Dr. Warren Sinclair, NCRP President, as follows:

> Many of the changes made in the dosimetry tend to cancel so that the net effect of the dosimetry on the risk estimates for cancer is to increase them by a factor of between 1 and 2 depending on the location of the organ in the body.[6]

The second (and more important) consideration was the greater occurrence of deaths from solid tumors among survivors than had been predicted by the models used to determine the ICRP Publication 26 risk estimates.[7]

b. *DOE analysis of recent risk estimates.* The reassessment of the radiation doses received by the atomic bomb survivors has been analyzed in reports published by UNSCEAR in

[3] International Commission on Radiological Protection. 1990 Recommendations of the International Commission on Radiological Protection. ICRP Publication 60, Annals of the ICRP 21, (1–3). Pergamon Press, New York, 1991.

[4] International Commission on Radiological Protection. Nonstochastic Effects of Ionizing Radiation. ICRP Publication 41, Volume 14, No. 3 Pergamon Press, New York, 1983.

[5] National Research Council, Advisory Committee on the Radiation Effects Research Foundation. An Assessment of the New Dosimetry for A-Bomb Survivors. Washington, DC, National Academy Press, 1987.

[6] United States Nuclear Regulatory Commission. Workshop on Rules for Exemption from Regulatory Control, NUREG/CP–0101, 1989.

[7] Radiation Effects Research Foundation. Comparison of Risk Coefficients for Site-Specific Cancer Mortality Based on the DS86 and T65R Shielded Kerma and Organ Doses. Life Span Study Report II, Part 1, RERF TR 12–87, 1987

1988[8] and the BEIR V Committee in 1990.[9] These reports concluded that risk estimates for radiation-induced cancers are greater than previously predicted. With the publication of the BEIR V Report, DOE established two committees to review the impact of the reports; the Technical Review Committee (TRC) to perform an external and independent scientific assessment and the Internal Review Committee (IRC) to identify concerns which could affect current DOE Orders and operations. The TRC report[10] recommended no immediate change in current DOE directives. The report stated that the difference in the BEIR V cancer risk estimates, as compared to the 1980 BEIR III[11] estimates, may be reduced significantly when the BEIR V risk estimates are appropriately applied to the nuclear workforce. The IRC subsequently concluded that the increased risk cited in the BEIR V Report does not justify immediate revisions of the DOE occupational exposure limits, but did recommend that DOE increase its emphasis on implementation of the As Low As Reasonably Achievable (ALARA) concept.[12]

c. *Dose-reduction alternatives.* In light of the increased risk estimates published in the 1988 UNSCEAR and 1990 BEIR V reports, DOE has considered a number of approaches, including ALARA, to reduce the dose received by DOE employees. In evaluating each alternative, the anticipated effectiveness in reducing overall risk to DOE employees has been weighed against possible detrimental effects resulting from each approach.

(1) *Lowering the annual dose limit.* The Department considered lowering the annual dose limits to control stochastic effects but concluded that this approach would decrease operational flexibility without reducing overall radiation risk. Decreasing the dose limit to 2 or 3 rems (0.02 or 0.03 Sv) per year would have a direct effect on very few DOE workers and would not appreciably reduce the collective dose to occupationally exposed employees. Reductions in the limit to levels which would affect a majority of the DOE employees could severely limit operational flexibility while increasing the average and collective dose to workers.

(2) *Adopting the NCRP lifetime dose limit.* The Department considered adopting the suggestion in NCRP Report 91[13] that a worker's lifetime dose in rem should not exceed his or her age in years. Because lifetime doses among DOE workers are in general so far below this value, a lifetime limit would not provide significant reduction in average and collective dose to DOE workers. In addition, there is a possibility that a worker's future employment could be jeopardized if an individual receives high exposures early in his or her career.

(3) *Compromise between a lifetime limit and a lower annual limit.* The ICRP recommendations presented in its Publication 60 change their system of dose limitation. The ICRP now recommends an occupational dose limited to 10 rems (0.1 Sv) over 5 consecutive years such that no dose in a single year exceeds 5 rems (0.05 Sv). By limiting dose in this manner and providing for dose optimization, ICRP believes they obtained some of the benefits of a lifetime dose limitation system while avoiding some of the detriments of this approach. One benefit of the system is the allowance for flexibility in adjusting annual dose limits to meet operational needs. Detriments include jeopardizing a worker's future employment and logistical concerns in implementing a 5 year limit. DOE does not believe that the approach suggested in ICRP Publication 60 would appreciably reduce collective dose to occupationally exposed personnel. The ICRP recommendations are currently being reviewed by the U.S. radiation protection community and have not been incorporated into Federal Guidance. Consequently, DOE did not decide to incorporate these recommendations into the final rule at this time.

(4) *Emphasis on ALARA implementation.* Increasing emphasis on ALARA program implementation, either by itself or in conjunction with one of the three dose reduction alternatives discussed above, would be an effective method of reducing doses received by DOE employees. Coupling an increased ALARA emphasis with another dose reduction alternative, however, would carry the potential for the detrimental effects described above.

d. *Dose-reduction approach chosen by DOE.* In light of the potential detrimental effects discussed above, the DOE believes that dose reduction can best be achieved by maintaining the proposed regulatory limits and increasing emphasis on ALARA program implementation. The imposition of a lifetime cumulative dose limit was considered to be more appropriate as an administrative versus regulatory limit to control individual exposure. Maintaining the proposed regulatory limits also provides consistency with the limits contained in the Presidential guidance to Federal agencies.

Emphasis on ALARA program implementation has proven effective in maintaining the occupational doses for Departmental and contractor employees well below the current regulatory limits and those recently recommended by the ICRP. According to the most recent three years of available data,[14] total collective dose for all DOE workers from external exposure and the average DOE individual worker dose has decreased. The total collective dose for all monitored DOE workers was 3,655 person-rem (36.55 person-Sv) in 1988, 3,073 person-rem (30.73 person-Sv) in 1989, and 2,074 person-rem (20.74 person-Sv) in 1990. Average worker doses were 115 mrem (1.15 mSv) in 1988, 92 mrem (0.92 mSv) in 1989, and 71 mrem (0.71 mSv) in 1990. Over this period of time, the number of monitored workers has increased from 81,629 in 1988 to 90,882 in 1989 and to 99,443 in 1990.

During this same period, of those employees monitored receiving measurable exposure, data show that 34 workers received in excess of 2 rems (0.02 Sv) in 1988, 21 in 1989, and 7 in 1990. No individual occupational dose exceeded 3 rems (0.03 Sv) in any of these years. However, further reductions for certain employees could be achieved

[8] United Nations Scientific Committee on the Effects of Atomic Radiation. Sources, Effects and Risks of Ionizing Radiation, Report to the General Assembly with Annexes. United Nations Publications, New York, 1988

[9] National Research Council, Committee on Biological Effects of Ionizing Radiation, Health Effects of Exposure to Low Levels of Ionizing Radiation—BEIR V, Washington, DC, National Academy Press, 1990.

[10] DOE Technical Review Committee. A Technical Review and Assessment of the BEIR V Report. DOE/EH–0149T. March 1990.

[11] National Research Council, Advisory Committee on the Biological Effects of Ionizing Radiation. The Effects on Populations of Exposure to Low Levels of Ionizing Radiation. 1980 BEIR III. Washington, DC: National Academy Press, 1980.

[12] Assistant Secretary for the Environment, Safety and Health. Final Report to the Secretary of Energy, Implications of the BEIR V Report to the Department of Energy. DOE/EH–0158T. August 1990.

[13] National Council on Radiation Protection and Measurements. Recommendations on Limits for Exposure to Ionizing Radiation. Report No. 91. Bethesda, MD, 1987.

[14] Assistant Secretary for Environment, Safety and Health, Twenty-first Annual Report/Radiation Exposures for DOE and DOE Contractor Employees-1988. DOE/EH–0171P, December 1990.

Assistant Secretary for Environment, Safety and Health, Twenty-second Annual Report/Radiation Exposures for DOE and DOE Contractor Employees-1989. DOE/EH–0286P, December 1992.

Assistant Secretary for Environment, Safety and Health, Twenty-third Annual Report/Radiation Exposures for DOE and DOE Contractor Employees-1990. DOE/EH–0287P, *In Press.*

through greater emphasis on ALARA implementation.

DOE will continue to evaluate the recommendations of the ICRP and other expert bodies, and participate in the deliberations of the U.S. Committee on Interagency Radiation Research and Policy Coordination and any interagency task force convened by the EPA to consider revised Federal radiation protection guidance. Any future reductions in the dose limits by the DOE would be the subject of a future rulemaking proceeding.

e. *Basic elements of an ALARA program.* The method of implementing an ALARA program is highly dependent on facility conditions. To provide an objective basis for implementation and assessment of DOE ALARA requirements, each ALARA program is expected to address, at a minimum, the following basic elements:

—*Policy.* Establish commitment and participation of all management and workforce levels.
—*Training.* Require for managers and workers involved with any aspect of radiological operations.
—*Design.* Ensure integration of appropriate methods for maintaining occupational exposures ALARA during design.
—*Procedures.* Provide direction for maintaining occupational exposures ALARA.
—*Planning.* Integrate measures for maintaining occupational exposures ALARA for specific operations.
—*Internal audits.* Conduct comprehensive audits periodically and report results to the highest management levels.
—*Records.* Maintain documentation to demonstrate compliance.

Section 835.101 of the final rule requires that an occupational radiation protection program include the ALARA concept. ALARA records are required under § 835.704 and training requirements for workers are provided under subpart J. During the design of new facilities and for facility modifications, the use of ALARA optimization techniques is specifically required under §§ 835.1001 and 835.1002. Exposure levels in the workplace must be maintained ALARA as required under § 835.1003.

2. Protection Against Deterministic Effects (§ 835.202)

ICRP Publication 41 provides the data base supporting the position that, with the exception of the lens of the eye, deterministic effects will not be observed in organs and tissues receiving a dose less than 50 rems (0.5 Sv) in a year. The Department has not identified more recent radiobiological information indicating that this dose limit should be changed and notes that ICRP has retained this value in the recent revision of its recommendations contained in ICRP Publication 60. For these reasons, the Department establishes a limit of 50 rems (0.5 Sv) in a year from the sum of the CDE and external dose to prevent occurrence of deterministic effects to organs and tissues other than the lens of the eye. In keeping with current Federal Guidance, a limiting value of 15 rems (0.15 Sv) a year has been retained for the lens of the eye.

3. Protection of the Embryo/Fetus (§ 835.206)

The 1987 Presidential guidance to Federal agencies states:

> The dose equivalent to an unborn (embryo/fetus) as a result of occupational exposure of a woman who has declared that she is pregnant should be maintained as low as reasonably achievable, and in any case should not exceed 0.5 rem (0.005 sievert) during the entire gestation period. Efforts should be made to avoid substantial variation above the uniform monthly exposure rate that would satisfy this limiting value.

The Department has followed this guidance. The dose limit for controlling prenatal exposure to the embryo/fetus is provided in § 835.206. The 0.5 rem (0.005 sievert) limit applies only to the embryo/fetus of any woman who has voluntarily declared her pregnancy for the purpose of providing additional protection to her embryo/fetus from occupational exposure. The decision to formally declare a pregnancy for the purpose of application of the lower occupational exposure limit for the protection of the woman's embryo/fetus is left as the responsibility of the pregnant worker. The Department believes that this approach is consistent with the provisions of Title VII of the Civil Rights Act of 1964, as amended, regarding discrimination in employment practices. The recommendation to avoid non-uniform exposure rates arises from information obtained in the study of atomic bomb survivors, which revealed that an embryo/fetus irradiated at high dose rates may be particularly susceptible during sensitive periods to certain deleterious effects. For example, during the first trimester of pregnancy, significant radiation exposure could lead to severe mental retardation.

4. Planned Special Exposures (§ 835.204)

The Department provides for planned special exposures in the final rule. Certain employees have skills important to plant and public safety and, for this and other reasons, it is recognized that unusual conditions can arise in which higher-than-normal doses can be justified. Under approved, well-justified, well-planned, well-controlled, highly infrequent and unusual conditions, operating management would be permitted to allow specified individuals doses exceeding the 5 rems (0.05 Sv) per year limit. The planned special exposure provision does not apply to emergency conditions. During an emergency there may not be adequate time for the extensive planning or approvals required under § 835.204. Other provisions are made in the final rule for accidents and emergency situations (see section E below). The term "unusual conditions" is made clear in the final rule by specifying that alternatives which would preclude exposures higher than the prescribed dose limits must be either unavailable or impractical. At least one of these conditions must exist before a planned special exposure can be considered.

The total dose from planned special exposures for an employee during any given year cannot exceed 5 rems (0.05 Sv). This is in addition to the 5 rems (0.05 Sv) dose limit provided in § 835.202. Thus, apart from emergency situations, the maximum annual dose that an employee could receive would be 10 rems (0.1 Sv). An employee could receive no more than 25 rems (0.25 Sv) of planned special exposures from DOE and non-DOE operations during his/her career. Every planned special exposure must be approved in advance by the DOE and requires the informed consent of the employee involved. Documentation of each planned special exposure is required to be recorded in the employee's occupational exposure file and provided to the employee.

C. Radiation Safety Training

Two categories of employees defined in the final rule are subject to the requirements in this part for radiation safety training: general employees and radiological workers. A general employee is any individual (DOE personnel, DOE contractor, or subcontractor employee) who performs work for, or in conjunction with, the DOE, or utilizes DOE facilities. This includes individuals considered to be radiological workers. The final rule establishes training requirements for each category.

All general employees who may enter a controlled area at a DOE facility are required under § 835.901 to receive radiation safety training before any potential exposure to radiation or radioactive material at that facility. In addition, these employees must also be

retrained whenever the radiation protection policies and procedures are significantly changed. General employees are also subject to refresher training every 2 years. The level of training would be commensurate with the potential radiation protection problems encountered by the employee.

Radiological workers are required under § 835.902 to be trained to ensure familiarization with the fundamentals of radiation protection and the ALARA concept. Retraining is required every 2 years. Radiological workers must complete their training and successfully demonstrate their knowledge before performing work in a radiological area. During field training, untrained radiological workers are required to be accompanied by and under the direct supervision of a trained radiological worker. The training emphasizes procedures specific to the individual's job assignment and is commensurate with his or her work assignment.

Although not explicitly stated in the final rule, training on generic subject matter for radiological workers and radiological control technicians may be waived for individuals who pass a comprehensive examination. Individuals are still required to be trained on subject matter specific to a given facility or site.

D. Control of Exposure to Radiation and Radioactive Material

1. Introduction

The final rule incorporates a number of requirements that would: (1) Control the extent of occupational exposures to radiation and radioactive material; (2) establish controls over entry into areas in which such exposures could occur; and (3) ensure warnings to workers whenever radiation and radioactive material are present. These combined measures provide a high degree of assurance that workers would not be inadvertently or unknowingly exposed to radiation or radioactive material.

The final rule requires routine monitoring of individuals and the workplace. The measurement of individual occupational exposures is accomplished by requiring personnel radiation dosimetry devices for all employees likely to receive a prescribed fraction of the allowable annual radiation dose. In addition, possible internal exposure of an employee from the intake of radioactive material is measured using the appropriate bioassay technique, such as whole body counting or analysis of excreta. The results of air sampling data may be used to assign an internal dose if bioassay results are unavailable, or if they are inadequate, or if internal dose estimates based on representative air concentration values are demonstrated to be as accurate or more accurate than bioassay results.

Areas where radiation or radioactive material may be present must be monitored for possible airborne and surface radioactive contamination as well as for radiation. Concentrations of airborne radioactive material must be measured by analyzing samples representative of the air at work locations. Real-time releases of airborne radioactive material must be detected by stationary air monitoring instruments equipped with alarm devices.

Requirements for controlling personnel exposure to radiation, airborne radioactivity, and surface contamination are established. All personnel and equipment leaving a radiological area must be monitored for surface contamination. Limiting values for contamination are provided in appendix D. Contamination levels higher than these limiting values are not allowed outside of radiological areas except in the case of fixed contamination under prescribed conditions.

Any area where radiation and/or radioactive contamination levels are above specified values must have access controls commensurate with the level of the hazard. These controls may include barricades, control devices on entrances, locks, alarms, and direct surveillance.

In order to make employees aware of radiation and contamination conditions (surface and airborne), the final rule requires that signs be clearly posted to identify those areas that are controlled to manage potential exposures and those areas where radiation levels exceed certain values. Containers of radioactive material and radioactive items are required to be properly labeled to provide information needed for purposes of radiation protection and the prevention of inadvertent transfer to locations outside of radiological areas.

The system of control is intended to ensure: (1) That occupational exposures are maintained at ALARA levels; (2) that the Department's limiting values are not exceeded; (3) that employees are aware of and prepared to cope with emergency conditions; and (4) employees are not inadvertently exposed to radiation or radioactive material.

2. Control of External Radiation Dose

The control of occupational exposures to radiation is required to be implemented through facility design and engineering controls, together with such procedural controls as work-area monitoring and posting, control of work-area access, and individual monitoring and dose assessment. Collectively, these controls will provide assurance that exposures are maintained ALARA and within the Department's limiting values. Workplace monitoring provides a control mechanism to detect and quantify external radiation levels, enables measures to be taken to prevent unanticipated and unplanned exposures, and contributes to maintaining actual exposures ALARA.

The final rule does not prescribe specific types and frequencies of workplace monitoring. As specified in § 835.401, the monitoring must be routine and sufficient to control potential sources of radiation and demonstrate compliance with the radiation protection program and other requirements of this final rule (e.g., area posting and occupational dose limits). Determining the frequencies and locations of workplace monitoring is the responsibility of each site and must be commensurate with the actual work and exposure situations.

3. Control of Internal Radiation Dose

To the extent reasonably achievable, system and facility design and engineering controls, such as containment and ventilation systems, must be used as the primary mechanism for confining radioactive material and ensuring that radioactive material intakes (and resultant internal doses) are maintained at ALARA levels. Operational controls must also be established to minimize potential inhalation exposures.

Section 835.403 requires that measurements of radioactivity concentrations in workplace air be performed. Periodic air sampling must be performed in areas where employees are likely to exceed 2 percent or more of the ALI values discussed in the final rule. Continuous, real-time monitoring must be performed in areas where an individual could be exposed to airborne radioactivity concentrations exceeding the derived air concentration (DAC) values set forth in the final rule. Real-time monitors must have an alarm capability and have sufficient sensitivity to alert potentially exposed individuals that their immediate action is necessary to minimize or terminate an inhalation exposure. The final rule addresses requirements for bioassay measurements (measurements of radioactive material within and excreted from the body) to determine the magnitude of internal doses and includes directions regarding which employees should be included in bioassay programs. These measurements also confirm the effectiveness of the

confinement and air monitoring systems.

4. Releases of Materials and Equipment

Contamination control programs must include the establishment of limits on the amount of fixed and removable contamination that could be transferred from a radiological area to a controlled area. The regulatory framework for such controls is established in § 835.1101. The criteria for unrestricted release of property from DOE facilities are currently set forth in DOE Order 5400.5, "Radiation Protection of the Public and Environment." DOE has addressed such releases in the proposed rule, 10 CFR part 834.

The final rule specifies that material and equipment in radiological areas cannot be removed to controlled areas unless measurements are made to establish that removable contamination meets specified limits and the combination of fixed and removable contamination does not exceed other specified limits provided in appendix D. There are provisions, however, that permit conditional or controlled removal of contaminated material and equipment to controlled areas under specified conditions.

5. Records

The final rule establishes requirements for the documentation and maintenance of records of working conditions as well as for subsequent evaluations of radiation protection compliance and performance in subpart H. Records that are specifically required include those necessary to demonstrate compliance with the ALARA provisions of the final rule.

Individual occupational dose records must be maintained to provide individual external and internal dose measurement data for each worker. In addition, the data necessary to allow future verification or reassessment of the recorded doses must be recorded.

The final rule also requires that records be maintained of: (1) Radiological conditions under which individuals were exposed; (2) other facility information pertinent to exposures; (3) results of surveys for the release of material and equipment; and (4) results of surveys for radiation and radioactive material in the workplace.

Each individual's training as a general employee and as a radiological worker must be recorded. Where appropriate, demonstration and documentation of proficiency is required.

Records are to be retained until final disposition is authorized by DOE. It is the Department's intention that records be retained consistent with the principles contained in DOE Order 1324.2A, "Records Disposition."

6. Reports

On an annual basis, each DOE- or DOE contractor-operated facility must provide each individual monitored for occupational exposure a radiation dose report of their occupational exposure at that facility as required under subpart I. In addition, each individual's radiation exposure data, including any current estimate, would always be available to him or her, upon request. Certain required reports to DOE include personnel exposure data. Copies of any DOE report identifying an individual by name must be sent to that person.

E. Accidents and Emergencies

For emergency situations, general employees could be allowed to exceed the dose limits specified in §§ 835.202 and 835.205, provided that all of the conditions specified in subpart N are met. The level of exposure permitted will depend upon the severity of the emergency situation. Exposures up to 2 times the annual dose limits could be permitted to protect against property loss. Higher exposures, up to 5 times the annual dose limits or greater, could be permitted to save lives and protect public health. The Department believes that the judgments involved in lifesaving situations and the protection of public health and safety are complex and not appropriate for generic rulemaking.

The doses allowed in subpart N of the final rule are in addition to those allowed under normal operating conditions, including planned special exposures. The determination of how much exposure an employee had already received during the current year is not a prerequisite for emergency dose approval and duty assignment.

The final rule requires that the details of any exposure in excess of the annual dose limits be documented in the occupational exposure record of the affected employee. In addition, the incident must be investigated and the results reported to DOE. Departmental requirements for occurrence reporting and processing provide a mechanism for such investigations and reports. The employee must not be allowed to receive further exposure until approval is first obtained from the contractor management and responsible DOE field organization. Also, the employee must receive counseling from the appropriate health experts regarding the consequences of receiving additional occupational exposure that year and the affected employee must agree to return to radiological work. The operation that caused the exposure must cease pending a finding by DOE that the conditions that caused the exposure had been eliminated.

The final rule requires both fixed (area) and personal nuclear accident dosimeters. These dosimeters provide a method for measuring radiation doses to employees as a result of a nuclear criticality accident within a workplace.

F. DOE Guidance Documents

DOE recognizes that individuals performing DOE activities covered under the scope of this final rule have a reasonable expectation to know what the Department considers acceptable with respect to compliance. To provide this understanding, the Department has initiated a program to develop and issue regulatory guidance documents covering specific topical areas of the final rule (i.e., training, posting, internal dosimetry, etc.). Other guidance is planned that will provide information on the application of the final rule to major classes of DOE facilities and activities (i.e., uranium facilities, tritium facilities, radiation-generating devices, etc.).

Two types of regulatory guidance documents are planned: guidance for implementing the provisions of the final rule and guidance providing technical clarification. Implementation guidance is intended to identify and make available to DOE contractors basic program elements and acceptable methods for implementing specific provisions of the final rule. Technical guidance will describe and disseminate technical methods and techniques for fulfilling implementation guidance and, in turn, the requirements in the final rule.

Unlike the requirements specifically set forth in the final rule, the provisions in guidance documents are not mandatory. They are intended solely to describe the rationale for and the objectives of regulatory requirements and/or to identify acceptable methods for implementing regulatory requirements. Failure to follow a guidance document does not in itself indicate non-compliance with a specific requirement in the final rule. A finding of non-compliance must be based on a failure to satisfy the regulatory requirement. Following a guidance document, however, will ordinarily create a presumption of compliance with a related regulatory requirement.

Regulatory guidance documents on the following topics are planned for issuance soon after the final rule is published. Copies will be made available at the DOE Freedom of Information Reading Room.

—Portable Instrument Calibration;
—Radiological Posting and Labeling;
—Radiological Training Program; and
—Radiation-Generating Devices.

Other documents will cover such topics as:

—Sealed Radioactive Source Accountability;
—Internal Dosimetry Program;
—Tritium, Plutonium, Uranium Facility Radiological Control Programs;
—Contamination Control;
—Air Sampling and Monitoring;
—External Dosimetry;
—ALARA;
—Dose Reporting;
—Fetal Exposure;
—Radiological Surveys;
—Records; and
—Radiation Protection Programs.

Regulatory guidance documents are intended to be living documents and will be updated to reflect advances in a particular area, as well as comments from the users of the guidance documents. DOE intends ordinarily to issue guidance documents initially on an interim basis, while soliciting comments. This approach will expedite the availability of guidance, while facilitating the use of feedback.

In addition to the documents discussed previously, the Department has issued the Radiological Control Manual. Although not a regulatory document, the provisions in the Manual also identify acceptable approaches for meeting the requirements of this final rule. Section III.B provides additional information concerning the Manual.

G. Transition From DOE Order 5480.11 to Part 835

This final rule becomes effective 30 days after its publication in the **Federal Register**. The Department recognizes, however, that the process of identifying and implementing all the actions needed for full compliance with the requirements contained in the final rule will take longer than 30 days. Therefore, the final rule provides for the submission of a radiation protection program for each DOE activity by January 1, 1995 that sets forth the plans, schedules, and other measures for achieving compliance with the requirements of this final rule by January 1, 1996. Once approved by the Department, a radiation protection program will describe the actions that will be taken to comply with the requirements of this final rule.

Prior to the approval of the radiation protection program, a contractor may desire guidance as to what level of compliance the Department expects. The occupational radiation protection standards currently contained in DOE Order 5480.11 provide a level of protection which is largely equivalent to that provided by the final rule. Therefore, contractors meeting these standards (to the extent they are contractually obligated to do so on the effective date of the final rule) will be treated as being in compliance with part 835.

As part of the transition to a radiological protection program based on part 835, the Department intends to revise DOE Order 5480.11. Specifically, the Order will be revised to incorporate, by reference, the provisions of the final rule and to delete any corresponding existing provisions from the Order. In addition, the Department will revise the Order to make explicit that DOE Federal employees must comply with requirements of part 835.

The transition from DOE Order 5480.11 to part 835 should not result in the unnecessary repetition of work already in progress or completed in the area of radiation protection. DOE expects that many of the actions currently being taken to comply with contractual obligations can continue or be modified to achieve compliance with the requirements of part 835. In particular, DOE expects radiation protection programs to incorporate existing programs, plans, and actions to the extent practical.

H. Resource Allocation/Costs

The Department solicited comments concerning the potential costs and benefits of this regulation when the proposed rule was issued for public comment. Specifically, the Department sought information addressing the specific nature and scope of the additional cost to which contractors would be subjected as a result of implementing the final rule (i.e., the projected additional cost over the present cost for radiation protection programs). The Department requested that this information include an explanation why these costs were not already addressed in the current contractual relationship or PAAA. Several comments were provided on this subject.

1. Referencing the NRC's cost-benefit analysis result for revising 10 CFR part 20, commenters stated that the cost would outweigh the benefits. These commenters identified the cost of record keeping requirements associated with determination of annual effective dose equivalent and control of these records as the most significant cost.

2. Other commenters indicated that the costs associated with complying with the proposed DOE nuclear safety standards (i.e., parts 820, 830, and 835) would be very high and, in many cases, not commensurate with the benefits. The commenters estimated an increase in manpower of 20 to 25 percent to implement the proposed parts 820, 830, and 835.

3. Commenters stated that the successful implementation of the proposed rule is questionable without significant improvement in the existing infrastructure within the DOE complex. Comments also stated that DOE should revisit the issue of resource allocations for implementation of this final rule.

4. Commenters noted that additional capital costs would be involved in upgrading and procuring real-time air monitoring equipment. They stated that commercial equipment capable of meeting the proposed detection capability standards when applied to field conditions at remedial action sites is not currently available. Costs were estimated by two commenters to be $500,000 and $1,000,000, respectively, during the first year of implementation, with recurring annual maintenance and calibration costs estimated at $200,000 and $300,000, respectively.

In general, commenters did not provide any specific information relative to cost other than for air monitoring at remedial action sites. Since the requirements contained in the final rule appeared to a large extent in DOE Order 5480.11, issued in 1988, and have been planned or implemented throughout the complex, the Department believes that small additional costs are associated with implementing the final rule. The Department believes that essentially the same level of worker protection intended in the proposed rule can be achieved without the large increase in cost associated with the development and procurement of new technology.

In considering the comments on the ability to meet proposed detection capability standards, the final rule does not define a detection limit for continuous air monitors. This issue will be addressed in regulatory guidance in such a manner which permits continued use of most of the current technologies in use in the DOE complex.

I. Relationship Between the Proposed Requirements and Those of the NRC

When the proposed rule was promulgated for public comment, DOE requested comments concerning the differences between its proposed requirements and those of the NRC. In particular, DOE solicited comments on the relative merits of the "annual dose" method for evaluating internal exposure proposed by DOE and the "committed

dose" method for evaluating internal exposure used by NRC. Some commenters recommended that the Department unilaterally adopt the occupational radiation protection standards promulgated by the NRC in 10 CFR part 20. They argued that there was a basic need for consistency among agencies in their occupational radiation protection standards, particularly as occupational workers may move between the DOE and commercial sectors. They emphasized the importance for consistency in the method for evaluating internal exposure and that the NRC approach of using committed dose was a technically superior method.

While agreeing with the goal of consistency, the Department believes that it must promulgate its own standards because of the unique nature and diversity of radiological activities within the DOE complex compared to the commercial sector regulated by the NRC. Issuing this final rule also allows the Department to establish more rigorous requirements than those contained in 10 CFR part 20 in areas of particular concern to the DOE. Specific examples include contamination control, posting, and dosimetry.

The Department modified the final rule to make it more consistent with 10 CFR part 20. Most significantly, the DOE final rule uses the committed dose method for evaluation against the regulatory dose limits.

The following areas were also changed from the proposed rule for consistency with the revised 10 CFR part 20: Determination of prior exposure; control of access to high and very high radiation areas; posting; control of embryo/fetus dose; definition of high and very high radiation areas; provisions for planned special exposures; provisions for monitoring minors and declared pregnant workers; written dose estimates provided to terminating workers; and use of air sample results for internal dose determination. These changes are discussed in much greater detail in section V.

J. Related Areas Not Addressed in Final Rule

Commenters noted the absence of requirements related to the areas of packaging and transportation of radioactive material, respiratory protection, and transfer or discharge of radioactive waste. Although these topics are related to the general area of occupational radiation protection, DOE requirements for each of these areas are included in various DOE Orders and are consequently not duplicated in the final rule. DOE Orders 1540.1, "Materials Transportation and Traffic Management," 1540.2, "Hazardous Material Packaging for Transport—Administrative Procedures," 1540.3, "Base Technology for Radioactive Material Transportation Packaging Systems," and 5480.3, "Safety Requirements for the Packaging and Transportation of Hazardous Materials, Hazardous Substances, and Hazardous Wastes," contain requirements related to the packaging and transportation of radioactive material, including radioactive wastes. DOE Order 5480.4, "Environmental Protection, Safety, and Health Protection Standards," requires the use of American National Standards Institute (ANSI) standard Z88.2–1980 [15] on respiratory protection. DOE Order 5400.5 contains requirements related to effluent and waste discharge.

K. Support of Rulemaking

Some commenters enthusiastically supported the codification of DOE health and safety requirements. They stated that codification is desirable because it provides more vigorous external review, greater assurance that DOE facilities are operated safely, and greater assurance that radiation exposures are maintained ALARA. Commenters discussed the importance for DOE regulations to be practical, technically justified, and to afford workers the highest level of protection.

L. Naval Nuclear Propulsion Program

Executive Order 12344, statutorily prescribed by Pub. L. 98–525 (42 U.S.C. 7158, note), establishes the responsibilities and authorities of the Director, Naval Nuclear Propulsion Program (who is also the Deputy Assistant Secretary for Naval Reactors within the DOE) over all facilities and activities which comprise the Program, a joint Navy-DOE organization. This final rule is not applicable to the Naval Nuclear Propulsion Program. The Director shall maintain a program to assure compliance with the Atomic Energy Act of 1954, as amended.

III. Developments Since the Proposed Rule Was Issued

The following developments took place after the proposed rule had been issued for public comment in December, 1991. Although these developments are independent of the rulemaking, they are discussed due to their significance in the area of occupational radiation protection.

[15] American National Standards Institute. Practices for Respiratory Protection. ANSI Z88.2–1980. American National Standards Institute, New York, New York.

A. Defense Nuclear Facilities Safety Board Recommendation 91–6

On December 19, 1991, the Defense Nuclear Facilities Safety Board (Board) issued Recommendation 91–6 dealing with radiation protection concerns throughout the DOE defense nuclear facilities complex. The Board recommended several actions be taken by the Department to improve radiological protection performance. These actions included issuing a Secretarial level policy statement emphasizing the Department's commitment to improving radiological protection throughout the DOE complex. Enhancement of the radiation protection training program was identified in the Board's recommendations. The Board also recommended that DOE critically examine the existing radiation protection infrastructure within DOE, upgrade occurrence reporting, and examine DOE radiation protection standards against national and international standards and guidance.

In a letter to the Board dated January 31, 1992, as amended March 30, 1992, DOE accepted the Board's recommendations and committed to address them. An implementation plan addressing these recommendations was provided to the Board on June 21, 1993. This implementation plan was determined to be acceptable by the Board.

B. DOE Radiological Control Manual

In a January 16, 1992, memorandum to the heads of DOE Elements involved in managing radiological programs, the Secretary of Energy directed a series of initiatives to enhance the conduct of radiological operations within the Department. In this memorandum, the Assistant Secretary of Environment, Safety and Health was directed to develop a comprehensive and definitive radiological control manual. The DOE Radiological Control Manual (Manual) was approved by the Secretary and promulgated with DOE Notice 5480.6, "Radiological Control," in July, 1992.

The Manual is not regulatory in nature. Rather, it is intended to provide detailed guidance on the best practices currently available in the area of radiological control. DOE will rely on the Manual in fulfilling its managerial responsibilities for the DOE complex and will use the contracting process to make the Manual applicable to management and operating contractors. DOE believes the Manual and part 835 should be complementary and, to that end, endeavored to make the Manual consistent with decisions anticipated in

the part 835 rulemaking process. Because of this complementary relationship, a contractor may consider citing all or part of its site-specific radiological control manual to fulfill the requirements for a Radiation Protection Program (RPP) in § 835.101 where the site-specific manual and the RPP cover the same subject matter. Since compliance with the RPP is a requirement of § 835.101(a), the citing of a provision of a site-specific manual or any other document will make compliance with the cited provision a requirement.

C. Energy Policy Act of 1992

The Energy Policy Act of 1992 (Pub. L. 102–486) amended the Atomic Energy Act to create the United States Uranium Enrichment Corporation to conduct commercial enrichment activities at facilities leased from the Department. In particular, the Atomic Energy Act was amended to add section 1701 which provides for the issuance of regulations by the Nuclear Regulatory Commission to govern those facilities leased by the Corporation and for the certification by the Commission of compliance with those regulations. This certification process is in lieu of licensing by the Commission. Accordingly, the exclusion in § 835.1 has been revised in the final rule to make clear that the exclusion of activities regulated through a license by the Commission includes those enrichment activities of the Corporation which have been certified pursuant to section 1701 of the Atomic Energy Act.

IV. Issues Being Resolved Separately

A. Sealed Sources

The Department established an interim policy and guidance for sealed radioactive source accountability in DOE Notice 5400.9, "Sealed Radioactive Source Accountability." The interim policy described in this Notice applies to all Departmental Elements and to contractors performing work for the Department. The Notice was issued as a result of numerous reports of improper storage, transfers, and loss of accountability of sealed radioactive sources at several Departmental facilities. The policy contained in the Notice will be published in the **Federal Register** in a future proposed rulemaking for the benefit of public comment.

B. Tritium Release Limits

During the original proposed rulemaking on 10 CFR part 835, the Department reserved the surface radioactivity values for tritium organic compounds, surfaces contaminated by HT, HTO, and metal tritide aerosols contained in appendix D. As a result of public comments received on the proposed rule, the Department subsequently identified an appropriate value for inclusion in appendix D which will be published in the **Federal Register** in a future proposed rulemaking for additional public comment.

V. Summary of Public Comments and Changes From the Proposed Rule

The purpose of this section is to respond to specific comments concerning the proposed rule and to explain and highlight the principal changes made in the final rule. This section presents, by corresponding section of the final rule, the principal public comments, a DOE response to the comments (where appropriate), and a summary of the principal changes that were made in the final rule. The following discussion may help explain the final rule, but is not intended to create any additional requirement not already in the text of the final rule.

Subpart A—General Provisions

Section 835.1 Scope

Final rule: The statement of scope remains essentially the same as in the proposed rule except that the references to "workers and other persons" was changed to "individuals" and "facilities" was changed to "activities" in paragraph (a). These changes were made in order to help assure consistent application of the regulation. The exclusions from the requirements now include radiation doses resulting from voluntary participation in medical research programs.

Comment: Comprehensive requirements. Several commenters discussed the specificity of the language contained in the proposed rule. Some comments emphasized the need for comprehensive prescriptive requirements which are clear in language and intent. Others noted that regulations which were too prescriptive would not be beneficial, possibly inhibiting innovative approaches to achieving compliance. One commenter who preferred comprehensive requirements stated that, for example, a quantitative definition of the term "likely" would simplify the interpretation of the regulation.

Response: Because of the breadth of application, the requirements in part 835 must be general and cannot specify every circumstance at each facility. The requirements in part 835 are designed to provide the framework for all DOE contractors and to establish provisions that the DOE considers to be fundamental to basic radiation protection. Basically, the Department believes that part 835 is as prescriptive as it can be and still apply to the broad range of activities in the DOE complex. For example, the use of the term "likely" throughout the final rule allows the use of professional judgment and experience to make decisions in specific circumstances while providing the flexibility necessary to implement the final rule under a broad range of activities.

Section 835.2 Definitions

General: Commenters on this section typically requested additional clarification of proposed definitions, suggested that several undefined terms be defined, or proposed modifications to definitions for consistency with 10 CFR part 20.

Response: Several terms which commenters requested to be defined are commonly understood terms in the radiation protection field or within the DOE complex. Where it is not intended for their definition to carry any specific regulatory meaning, no definition was provided. Other terms where definitions suggested by the public comments carry a specific regulatory connotation have been added to the list of definitions. These are listed below. Terms which were deleted in the final rule are also listed below. Some definitions were modified to improve consistency between the final rule and 10 CFR part 20.

Final rule:

1. New terms. In response to public comment, the following additional terms have been defined in the final rule:

Section 835.2(a)—General terms.

a. "Airborne radioactivity area"
b. "Bioassay"
c. "Contamination area"
d. "Declared pregnant worker"
e. "Entrance or access point"
f. "High contamination area"
g. "High radiation area"
h. "Individual"
i. "Member of the public"
j. "Minor"
k. "Radiation"
l. "Radiation area"
m. "Survey"
n. "Very high radiation area"
o. "Year"

Section 835.2(b)—Radiation dose terms.

p. "External dose or exposure"
q. "Internal dose or exposure"
r. "Lifetime occupational dose"
s. "Total effective dose equivalent"
t. "Whole body"

2. *Modified definitions.* In response to public comment, the following definitions have been modified from the definitions in the proposed rule:

Section 835.2(a)—General terms.

a. "Airborne radioactive material"
b. "Annual limit on intake"
c. "Background"
d. "Calibration"
e. "Derived air concentration"
f. "DOE activities"
g. "Occupational exposure"
h. "Radiological area"

Section 835.2(b)—Radiation dose terms.

i. "Absorbed dose"
j. "Committed effective dose equivalent"
k. "Dose equivalent"
l. "Lens of the eye dose equivalent"
m. "Weighting factor"

3. *Terms and definitions deleted or replaced.* Several definitions were deleted or replaced because the terms were not used in the final rule:

a. "Occupational worker" has been replaced by "general employee."

b. "Radiation worker" has been replaced by "radiological worker."

c. "Annual dose equivalent" has been deleted.

d. "Annual effective dose equivalent" has been deleted.

e. "Collective dose equivalent and collective effective dose equivalent" have been replaced by "collective dose."

f. "Cumulative annual effective dose equivalent" has been deleted.

Comment: Radioactive material. Many commenters suggested the need for a definition for "radioactive material" due to its extensive usage in the proposed rule.

Response: DOE has elected not to provide a quantitative definition for the term "radioactive material." For those instances in which a regulatory requirement related to radioactive material is imposed, a specific quantity or measurement is given as part of the requirement.

Comment: Quality factors for neutrons. The quality factor is the conversion factor between the absorbed dose (rad) and the dose equivalent (rem). Several publications [16] have recommended changes in neutron quality factors that are a factor of 2 higher than those in the proposed part 835. These changes would raise the quality factor for fast neutrons from 10 to 20.

Response: Increases in the quality factor for neutrons are suggested by the results of some animal experimental data on the relative biological effectiveness (RBE) of neutrons. However, there appears to be considerable uncertainty as to whether the data actually demonstrate increased hazard for neutrons. Because the RBE is defined as a ratio of doses to produce equivalent biological effects, it is not clear whether the apparent increase in the neutron RBE is due to the increased effectiveness of neutrons or whether it actually results from the decreased effectiveness of the reference gamma radiation at low doses. It should be noted that the neutron quality factors contained in the recently revised 10 CFR part 20 are consistent with this part. No change is currently envisioned until a uniform Federal approach is established.

Comment: Quality factor tables. Commenters questioned the accuracy and utility of the table of neutron quality factors presented in the proposed rule. Consistency with 10 CFR part 20 was also addressed.

Response: The tables in the proposed and final rules were taken from NCRP Report No. 38 [17] and are appropriate for the neutron dose equivalent at a soft tissue depth of 1 centimeter (which is the depth specified for the determination of the deep dose equivalent). More recent tables from ICRP incorporate a factor of 2 increase in the neutron quality factor, which, as previously discussed, has not yet been accepted by Federal agencies.

Differences between this part and 10 CFR part 20 are insignificant. The table in this part shows two values for neutron quality factors based on neutron energy level (greater than 10 keV and less than 10 keV). 10 CFR part 20 only shows one quality factor for neutrons with unknown energy.

The final rule retains the two energy-dependent quality factors for neutrons. Sufficient information is typically available for activities with neutron exposure to determine whether or not neutron energies exceed 10 keV. If sufficient information is not available, then the higher quality factor should conservatively be used.

Comment: Representative. Some commenters discussed the definition of "representative" relative to activities at remedial action sites, indicating the need to identify additional parameters other than those presented in the proposed rule. Particle size distribution, lung solubility, depth of burial, and self absorption were suggested as appropriate when evaluating the representativeness of samples taken at remedial action sites.

Response: Those parameters which are necessary to make samples representative for a given activity must be determined for that activity in order to demonstrate compliance with the final rule.

Comment: Weighting factor. The absence of a weighting factor for whole body exposure in the weighting factor table was of concern to some commenters.

Response: The commenters noted that, as proposed, § 835.203(d) (§ 835.203(c) in the final rule) provided that a weighting factor equal to 1 could be used for determining external effective dose equivalent in the case of uniform irradiation of the whole body. The NRC includes this reference in their table of weighting factors presented in 10 CFR part 20.

Final rule: To assure consistent implementation of its requirements, the final rule contains a whole body weighting factor of 1 in the table of "Weighting Factors for Various Tissues." A clarifying footnote reflecting the requirements of § 835.203(c) is also provided.

Section 835.3 General Rule

Final rule: Section 835.3(a)(3) has been removed from the final rule. The proposed provision would have made it an act of non-compliance with part 835 to violate Federal regulations such as NRC or Occupational Safety and Health Administration (OSHA) occupational radiation protection regulations. Unavoidably cumbersome memoranda of understanding would be needed to coordinate enforcement of these regulations.

Comment: Reference to other proposed rules. Several commenters questioned the appropriateness of referring to other proposed nuclear safety rules.

Response and final rule: References to other DOE proposed rules have been removed from the final rule.

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[16] International Commission on Radiological Units and Measurement. The Quality Factor in Radiation Protection. ICRU Report No. 40. ICRU Publications, Bethesda, MD, 1988.

International Commission on Radiological Protection. Data for Use in Protection Against External Radiation. ICRP Publication No. 51. Pergamon Press, New York, 1988.

International Commission on Radiological Protection. Statement from the 1985 Paris Meeting of the (ICRP). British Journal of Radiology, Vol. 58, page 910: 1985: also Health Physics, 48(6): 828–829 (June 1985).

International Commission on Radiological Protection. ICRP Statement from 1987 Washington Meeting. Health Physics, 53(3): 335–342 (1987).

International Commission on Radiological Protection. The Metabolism of Plutonium and Related Elements. ICRP Publication No. 48. Pergamon Press, New York, 1986.

[17] National Council on Radiation Protection and Measurements. Protection Against Neutron Radiation. NCRP Report No. 38. Bethesda, MD, 1987.

Comment: Enforcement actions. Several comments were received regarding DOE enforcement of the provisions of the final rule. Commenters were concerned that potential penalties applicable to violations of the final rule would be extended to actions inconsistent with the requirements of programs, plans, schedules, or other processes developed to comply with the provisions of the final rule. Other commenters were concerned that the proposed rule was possibly not specific enough to fairly subject the Department's contractors to civil and criminal penalties in the event that the provisions of the final rule were not fully complied with.

Response: The Department's objective in promulgating this part is to establish standards for the protection of its workers from occupational exposure to ionizing radiation. Enforcement of the provisions of the final rule, including any required programs, plans, schedules, and other processes, is integral to the effectiveness of the final rule. Departmental enforcement activities will be commensurate with the severity of the infraction. Provisions to permit changes to programs, plans, and schedules are included under § 835.101. Relief from obsolete programs, plans, and schedules can be obtained if these provisions are met and properly justified.

Comment: Exemptions and interpretations. Commenters suggested the need for establishing a process within the final rule that allows for regulated activities to demonstrate a need for modification or exemption from the requirements of the final rule. A process for handling official interpretations of any of the final rule's requirements was also suggested.

Response: The formal processes for applying for either an exemption from or an interpretation of any nuclear safety requirement has been provided in 10 CFR part 820.

New Section 835.4 Radiological Units

Comment: Radiological units. Several commenters preferred the use of "International System of Units" (SI) in lieu of "special units" which are currently used.

Response: "Special units" and SI units appear in the text of the final rule to increase the familiarity within the DOE complex with SI units. The DOE has decided that regulatory adoption of SI units is not necessary at this time. However, as the national move to metrication continues, as anticipated in section 5164 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), at some later time there may be amendments to this part that would require the use of SI units only (becquerel, gray, and sievert).

Final rule: Section 835.4 was added to the final rule which describes the requirement to use the older radiological "special units" in records or reports.

Comment: Units of radiation dose and units of radioactivity. Several commenters suggested the need to define the units used for radiation dose and radioactivity.

Response: The definitions for terms related to radioactivity are provided in § 835.2(a). The terms related to radiation dose are provided in § 835.2(b). Included in these definitions are the applicable units. For example, the definition of "derived air concentration (DAC)" is presented in terms of activity per unit volume (e.g., μCi/ml or Bq/m^3); other portions of the final rule provide radioactivity units when providing contamination limits (e.g., dpm/100 cm^2 in appendix D). Since the terms are in conventionally used units, no additional definition was deemed necessary.

Subpart B—Radiation Protection Programs

Section 835.101 Radiation Protection Programs

Comment: Codification of the ALARA process. Commenters raised the concern that codification of the ALARA process will have serious legal implications for the DOE radiation protection community. In addition, commenters expressed a need for clarification on the DOE policy concerning the methods for and extent of implementation of the ALARA process.

Response and final rule: DOE does not intend to establish ALARA as a duty of care for purposes of tort litigation. The regulations require that the ALARA process be applied, but do not require that dose levels be ALARA.

Comment: Radiation Protection Program (RPP) updates. As stated in the proposed rule, the RPP must be updated and submitted whenever a change or addition is made and prior to the initiation of a new task. Several commenters stated that this requirement could adversely impact contractor programs. In addition, several commenters requested a clearer definition of the DOE offices, Headquarters, area office, and local offices involved in the approval and modification process of the RPP.

Response: The DOE recognizes the need to provide flexibility in allowing changes to a RPP which do not diminish the program's effectiveness. The important aspect of the RPP is to protect the safety and health of workers at DOE sites and members of the public. Where changes to the RPP do not reduce its effectiveness, prior DOE approval is not required for the change to be effective. Of course, where there is no prior approval, the contractor has the burden of demonstrating there is no reduction in the level of worker protection.

Final rule: The final rule includes provisions that permit changes, additions, or updates to be made to the RPP without Departmental approval as long as the changes do not decrease the effectiveness of the RPP and the RPP, as changed, continues to meet the requirement of subpart B. However, all changes must be submitted to DOE for review and may be modified or rescinded by DOE.

Comment: Schedule for compliance and initial submittal of RPP. A number of comments was received concerning the time allowed for initial submission of the RPP, the time permitted for compliance with the final rule, the time permitted for submitting updates to the RPP, and the time permitted for approval of any modifications to the RPP.

Response: With the exception of the time allowed for existing activities to submit the RPP to DOE for approval, the times listed in § 835.101 are considered sufficient for the actions required. In particular, a period of 2 years for implementation of the final rule is considered adequate in light of the efforts that have already been made by DOE facilities in connection with DOE Order 5480.11 and the Radiological Control Manual. However, to ameliorate the impact of changes in record keeping, reporting, and calculation of internal dose required by the final rule, the provisions should be implemented at the beginning of a calendar year. Accordingly, the actual time period permitted for implementation of the final rule may be somewhat more or less than two years, depending on the effective date of the final rule. For the initial submission of the RPP, 180 days may not provide sufficient time to prepare a RPP that meets the requirements of this subpart given the many other requirements to which the DOE radiation safety community is currently subject.

Final rule: The final rule specifies the dates for submittal of RPP and implementation of the final rule. The latest date for initial submission of the RPP is January 1, 1995 and the latest date for implementation of the final rule is January 1, 1996.

Comment: Radiological Control Manual. Comments were received concerning the relationship of the RPP

to the Radiological Control Manual and other DOE directives.

Response: The provisions in the final rule and the DOE Radiological Control Manual are intended to be consistent. The final rule provides the regulatory requirements of the DOE for the protection of individuals from radiation exposure associated with DOE activities. The Manual provides a detailed best practices approach to radiation protection which typically exceeds these requirements. To avoid unnecessary duplication of plans, one acceptable method for meeting the RPP requirements of § 835.101 will consist of development of a document that cites the applicable sections of the site-specific Radiological Control Manual.

Like the Radiological Control Manual, DOE directives do not create regulatory requirements. Many of the requirements in part 835, however, are based on provisions in DOE directives. Thus, in many instances, contractors may already be taking actions under their contracts that are now required by the final rule. Accordingly, actions already taken under DOE directives may be incorporated by the RPP if these actions duplicate a RPP requirement (i.e., reporting requirements in DOE Order 5000.3B, "Occurrence Reporting and Processing of Operations Information," dosimetry program accreditation requirements in DOE Order 5480.15, "Department of Energy Laboratory Accreditation Program for Personnel Dosimetry," and sealed source requirements detailed in DOE Notice 5400.9, "Sealed Radioactive Source Accountability").

Comment: Single site RPP. There were several concerns about development of a single RPP encompassing all activities at a site. A single RPP does not allow enough flexibility to manage operations in a cost effective manner or be tailored to site-specific parameters of a remedial action site. The extent of what encompasses a site exacerbated the concern regarding a single site RPP.

Response: The purpose of the proposed requirement for a single site RPP reflected the Department's commitment for consistency in site radiation protection programs. In light of the significant comments received and in acknowledgement of the diversity of organizations and activities at a single site, the Department has eliminated the requirement for single site RPPs. The Department remains committed to consistent site radiation protection programs and encourages the development of single RPPs encompassing all site activities wherever feasible.

Section 835.102 Internal Audits

Comment: Who performs the internal audit. The proposed rule is not clear on the internal organization that performs the audit, the required functional elements of the program, the required program content, and level of implementation, nor does the proposed rule address nonconformance.

Response: Acceptable methods for conducting the audit process will be identified in regulatory guidance.

Comment: Audit frequency. The NRC requires an annual program review, while the proposed rule requires an internal audit not less than once every three years.

Response: The internal audit is only one part of a comprehensive assessment program which also includes reviews, investigations, and self assessments. In light of the number of assessments currently required of a DOE facility, an internal audit every three years is considered sufficient to determine compliance with the final rule and confirm that optimization techniques are utilized in controlling exposure to radiation.

Subpart C—Standards for Internal and External Exposure

Comment: Compliance with 40 CFR part 190. Comments noted that 10 CFR part 20 contains provisions for compliance with 40 CFR part 190 but part 835 contains no such provisions.

Response and final rule: 40 CFR part 190 contains requirements related to doses to members of the public arising from discharges to the environment. Radiation protection standards for the public and environment are currently addressed in DOE Order 5400.5; DOE is in the process of codifying these standards in proposed rule 10 CFR part 834.

Section 835.202 Occupational Exposure Limits for General Employees

Final rule: The term "occupational worker" has been replaced with "general employee" to provide consistent use of terminology throughout DOE documents. Some editorial changes were made to accommodate changing the basis for the dose limits from "annual effective dose equivalent" (AEDE) to "committed effective dose equivalent" (CEDE). Other editorial changes were made to assure consistent application of the regulation.

Comment: Effective dose equivalent. Most of the comments regarding the issue of whether to use AEDE or CEDE for internal exposure supported adopting the CEDE methodology. Comments stated that for evaluating compliance with the annual dose limit, the AEDE is a more accurate method to use.

Response: The use of either CEDE or AEDE for evaluating internal doses affords workers adequate protection. DOE has adopted CEDE for the following reasons:

1. To provide consistency with scientific recommendations.
2. To facilitate the transfer of workers between DOE and NRC regulated facilities.
3. To simplify record keeping by recording all internal exposure in the year of intake.

Final rule: Provisions in the final rule have been modified wherever necessary to accommodate the use of CEDE.

Comment: Consideration of previous exposure. Comments stated that there is no specific provision to reduce an individual worker's exposure limit due to occupational exposure received during that calendar year from a previous employer or facility. Another commenter questioned the absence of provisions for integrating exposures acquired at other sites or facilities.

Response and final rule: Clarification has been added to the final rule to assure that previous occupational exposure is included when demonstrating compliance with the occupational exposure limits. Subpart H now contains a provision requiring documentation of all occupational exposure received by an individual during the current year. A provision for a written estimate signed by the affected individual has been included in the final rule. This provision will facilitate site access for transient workers.

Comment: Intake of soluble uranium. Commenters noted that a provision contained in 10 CFR part 20 limiting occupational exposure to soluble uranium to 10 milligrams per week due to its chemical toxicity does not appear in the proposed rule.

Response: Provisions related to the chemical toxicity of soluble uranium are addressed under DOE industrial hygiene directives.

Comment: Dosimetry monitoring devices to determine effective dose equivalent. Comments noted that existing technology does not permit the use of a single dosimeter reading for calculation of effective dose equivalent from external irradiation. Accordingly, external doses should only be expressed in terms of dose equivalent until such time as the technology exists to be able to estimate effective dose equivalent from a single personnel dosimeter measurement. Comments noted that the proposed rule provides for the special case of uniform whole body exposure

where the weighting factor is 1. According to the comments, there are many exposure situations at DOE facilities which involve non-uniform exposure to the whole body.

Response: DOE is aware that current dosimetry techniques do not allow a practical determination of EDE resulting from external exposures. There are many exposure situations at DOE facilities involving non-uniform radiation fields. Until a practical approach to determining EDE is developed, assessing external doses in non-uniform radiation fields will be considered by DOE on a case-by-case basis.

Final rule: The final rule contains provisions to allow use of external EDE. The provision to use a weighting factor of 1 for uniform external irradiation has been added to the weighting factors for various tissues table in subpart A. The final rule has also been modified to allow the deep dose equivalent to be used as effective dose equivalent for external exposures.

Comment: Extremity and skin dose limits. Comments suggested that the proposed rule be clarified to state 50 rems (0.5 Sv) as the dose limit to each extremity and to state the skin dose limit with the extremity limit, rather than stating it with the limit for organs and tissues.

Response and final rule: The final rule has been modified to state a shallow dose equivalent limit of 50 rems (0.5 Sv) to any extremity. It was also modified to state the skin and extremity dose limits together.

Section 835.203 Combining Internal and External Dose Equivalents Resulting From DOE Activities

Comment: Intake through wounds or absorption through skin. Comments noted that intake through wounds or absorption through skin is not addressed in the proposed rule.

Response: Intake, as used in the final rule, does not exclude any pathway through which radioactive material can enter the body.

Comment: Combining internal and external EDE components. Several commenters requested clarification on how to obtain the annual effective dose equivalent as stated in the proposed rule.

Response and final rule: This section has been modified to require determination of "total effective dose equivalent" instead of "annual effective dose equivalent."

Section 835.204 Planned Special Exposures

Comment: Incorporation of planned special exposures (PSEs) into the final rule. Comments suggested that personnel exposure data for more recent years do not support the need for planned special exposures. Other commenters felt that the spirit of the Secretary of Energy's "Ten Point Plan" emphasizing environment, safety, and health over production (dated June 27, 1989) was not followed by incorporating the PSE into the proposed rule. Other comments indicated that the wording in the proposed rule did not emphasize the exceptional nature of the use of PSEs.

Response: Certain workers have skills important to plant and public safety and, for this and other reasons, it is recognized that unusual conditions may arise in which higher-than-normal doses can be justified. The Federal Guidance approved by the President specifically allows for the use of PSEs in such instances. The provision for PSEs has been retained for consistency with the Federal Guidance and to provide operational flexibility. It has been emphasized in the final rule that the use of PSEs must be reserved for exceptional situations where other alternatives that might prevent a radiological worker from exceeding the usual occupational exposure limits are unavailable or impractical.

Comment: Lifetime limit for PSEs. Several commenters suggested the need to limit the total amount of "planned special exposure" an individual can receive such as with a lifetime PSE dose limit. Future PSEs for these individuals should be controlled. Additionally, implementation of the provisions of the proposed rule could eventually preclude some individuals from receiving PSEs at NRC licensees. Comments also suggested that the proposed rule did not clearly indicate whether or not PSEs were contingent on the determination of prior PSEs and lifetime dose.

Response: The specific requirement to determine the individual's dose from all previous PSEs and all other doses in excess of the occupational dose limits (e.g., overexposure) prior to requesting an individual to participate in an authorized planned special exposure has been added to the final rule. This is to assure consistent implementation when determining the individual's available PSE dose. Additionally, a 25 rem (0.25 Sv) limit on cumulative total effective dose equivalent for PSEs has been added to the final rule.

Comment: Conditions which must be met prior to a PSE. Comments noted that the PSE requirements contained in 10 CFR part 20 list conditions which must be met prior to a planned special exposure. These conditions were not listed in the proposed rule. Several commenters questioned the absence of requiring the affected individual's informed consent and appropriate training prior to the PSE. Employer involvement was also raised.

Response: DOE recognizes the importance of obtaining the consent of all individuals involved, as well as their employers, prior to a PSE. Equally important is how well the individual is informed about the PSE's purpose and potential risks. 10 CFR part 835 has been modified to address the concerns stated in a number of comments. As a part of this modification the final rule was structured similarly to 10 CFR part 20.

Final rule: 10 CFR part 835 has been modified to provide the following:

(1) A stronger statement as to when a PSE should be considered;

(2) The individual's employer must be a part of the PSE request process;

(3) Joint approval from the appropriate DOE Headquarters program office and the Assistant Secretary for Environment, Safety and Health must be received prior to the PSE;

(4) Previous PSE and emergency doses are accounted for prior to requesting an individual to participate in an authorized PSE;

(5) A limit for cumulative total effective dose equivalent;

(6) Each individual must be informed of the PSE's purpose, procedures to be used, estimated doses, potential risks, radiological conditions, and other hazards which might be involved in performing the task and instructed in the measures to keep their dose ALARA; and

(7) Records of the PSE must be maintained and a written report submitted within 30 days after the PSE.

Section 835.205 Determination of Compliance for Non-uniform Exposure of the Skin

Comment: Determining non-uniform exposure for the skin. Comments stated that the NRC addressed determination of non-uniform exposure for the skin in a generic information notice rather than in 10 CFR part 20.

Response: In light of operational conditions at DOE facilities and to assure consistent implementation throughout the DOE complex, these provisions are considered sufficiently important to be retained in the final rule.

Comment: Record keeping. Comments suggested that the proposed rule's

requirements are much more detailed than those currently in DOE Order 5480.11 and would be nearly impossible to achieve because they impose technically infeasible performance requirements on the radiation dosimetry program. Additionally, the resulting complications to the record keeping requirements are unwarranted.

Response: Although worded slightly different, the requirements in this section are identical to those in DOE Order 5480.11 and are considered appropriate for the final rule.

Section 835.206 Limits for the Embryo/Fetus

Comment: Use of the term unborn child. Commenters suggested replacing the term "unborn child" with "embryo/fetus" because this is the term used in the scientific and medical communities and has been adopted by the NRC.

Response and final rule: The term "embryo/fetus" has replaced "unborn child" throughout the final rule.

Comment: Johnson Controls Case. Commenters questioned the legality of the proposed rule under Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act in light of the Supreme Court decision in *International Union, UAW* v. *Johnson Controls,*.111 S.Ct. 1196 (1991). Additional clarification to include the phrase "and requests a dose equivalent limitation for the protection of the unborn child" after the word "pregnant" was suggested.

Response: The limits for the embryo/fetus do not violate Title VII because a separate dose limit for embryo/fetus does not apply unless a woman has voluntarily declared her pregnancy in writing to her employer for purposes of application of the lower dose limit to the embryo/fetus. The choice of protection of the embryo/fetus is for the woman to make, not the employer. The final rule states that the declaration of pregnancy can be voluntarily revoked.

Comment: Use of the term "female occupational worker." Comments stated that reference to female occupational worker is contradictory and should be female radiation worker due to the definition of radiation worker (i.e., any individual likely to receive greater than 0.1 rem (1 mSv) in a year).

Response: For consistency, the final rule should refer to the proper "class" of worker. Since the purpose of this section of the rule is protection of the embryo/fetus, the protection must begin with exposure to the mother. Due to the provisions for a uniform exposure rate over the gestation period, controls may be instituted at less than the 100 mrem (1 mSv) level which defines a radiological worker.

Final rule: The term "declared pregnant worker" has been adopted for use in the final rule to identify a woman who has voluntarily informed her employer, in writing, of her pregnancy for the purpose of exercising reduced exposure limits for protection of her embryo/fetus. Maintaining documentation of the written declaration of pregnancy has been added as a requirement in the records section of the final rule.

Comment: Dose to the embryo/fetus. Commenters stated that the proposed rule was not clear whether both external and internal doses were to be considered with respect to the embryo/fetus dose.

Response and final rule: The limit to the embryo/fetus considers both internal and external dose. Provisions have been added to the individual monitoring section of the final rule which clarify monitoring requirements for declared pregnant workers. External and internal monitoring is required when a dose equivalent to the embryo/fetus is expected to exceed 10 percent of the dose limit for the embryo/fetus of a declared pregnant worker.

Comment: Assessing fetal exposure. The methodology to calculate an internal dose component for dose to the embryo/fetus is not provided by ICRP or NCRP. No ICRP-approved biokinetic models exist to accurately determine fetal exposure. It was also noted that there were no biokinetic models available for calculating the dose equivalent contribution from maternal intake of radionuclides. ICRP Publication 60 now recommends that maternal intake be limited to 1/20 ALI during the gestation period. Guidance to comply with the proposed rule's requirements was requested.

Response: No additional provisions were made to the final rule which explicitly address assessing fetal exposure. DOE has implementation guidance under development which addresses the concerns raised regarding assessment of fetal exposure. This guide will consider all pertinent information, including ICRP Publication 60, in its development. The NRC also has plans to provide its licensees with a regulatory guide addressing this issue. When available, the regulatory guide will be reviewed to determine whether it is applicable to DOE activities.

Comment: Embryo/fetus limit compared to limits for minors and members of the public. Several comments stated that the dose equivalent limit for the embryo/fetus was five times greater than the dose limit for minors or members of the public.

Response: The Department dose limit for the embryo/fetus is consistent with the 1987 Federal Guidance approved by the President and 10 CFR part 20. This limit is based on an exposure to the embryo/fetus during the gestation period rather than the lifetime exposure assumed in the basis for the dose limits for members of the public and minors. The higher limit provides occupational flexibility for the mother.

Comment: Meeting monitoring requirements. Comments suggested that meeting the monitoring requirements for declared pregnant workers will be difficult to comply with under existing external dosimetry capabilities without concurrent time limits on the mother for access to radiation areas.

Response and final rule: Monitoring is required when it is likely that 10 percent of the dose limit will be exceeded, equating to 50 mrem (0.5 mSv). This is well above the detection limit for dosimetry systems meeting DOELAP accreditation criteria.

Comment: Frequent dose evaluations. Commenters requested clarification on the reference to "frequent dose evaluations." Of particular concern was internal dose assessments and the availability of an acceptable method.

Response: Frequent dose evaluation is no longer a requirement. Evaluation is required, through monitoring, whenever the dose is expected to exceed 10 percent of the dose limit.

Final rule: The final rule has been modified to require that substantial variation above a uniform exposure rate that would satisfy the limits of this section be avoided.

Comment: Conditions for compliance when the dose limit is exceeded prior to pregnancy declaration. Commenters expressed a concern that an employer may be in violation of the rule if the dose limits in § 835.206 were exceeded prior to pregnancy declaration.

Response and final rule: It is the employer's responsibility to limit a general employee's total effective dose equivalent to 5 rems (0.05 Sv) in a year. Only when a female worker declares her pregnancy can the employer control the dose to the embryo/fetus in order to avoid exceeding the limits provided in this section. Therefore, if the woman has exceeded the 500 mrem (5 mSv) limit prior to declaring pregnancy, the employer would violate the final rule only if the "now" declared pregnant worker was assigned to tasks where additional occupational exposure is likely during the remaining gestation period.

Section 835.207 Limits for Minors

Comment: Precluding employment of minors. Commenters suggested that this section be reworded to preclude employment of persons under 18 years of age, but allow visits in controlled areas under stipulated conditions.

Response and final rule: This comment addresses employment policy which is beyond the scope of this regulation.

Comment: Dose limit for minors. The difference between the proposed rule's limit of 100 mrem (1 mSv) per year for minors and 10 CFR part 20 limit was observed by commenters.

Response and final rule: The 100 mrem (1 mSv) limit contained in the final rule is taken from existing requirements contained in DOE Order 5480.11.

Section 835.208 Limits for Members of the Public Entering a Controlled Area

Comment: Limits for members of the public. Limits in the proposed rule imply that the public is allowed to enter areas where the potential of internal exposure exists. Visitors should not be allowed to enter Airborne Radioactivity Areas or Radiation Areas without appropriate training.

Response: The limit for members of the public entering a controlled area is consistent with existing directives and provides a mechanism to allow individuals who are not performing radiological work, such as visiting dignitaries, access to a DOE site or facility. Associated with this access may be some incidental radiation exposure. This access must be controlled commensurate with the potential hazard involved and is typically controlled through specialized training and personnel escorts. Protection of members of the public entering controlled areas is assured through compliance with the dose limits specified in this final rule. Each site or facility must institute controls sufficient to assure compliance with the final rule.

Comment: Organ and tissue limits for members of the public. The proposed rule limits members of the public entering a controlled area to an annual dose equivalent, to any organ or tissue, to 5 rems (0.05 Sv). 10 CFR part 20 limits exposure of members of the public in controlled areas to the same limits as individual members of the public (total effective dose equivalent of 0.1 rem (1 mSv)). However, 10 CFR part 20 does not discuss the annual dose equivalent to organs or tissues.

Response and final rule: The dose equivalent to any organ or tissue in an individual who receives a total effective dose equivalent of 100 mrem (1 mSv) will be less than 5 rems (0.05 Sv). Therefore, the 100 mrem (1 mSv) whole body limit is always more restrictive than the organ dose limit and a separate organ and tissue limit is not necessary.

Section 835.209 Concentrations of Radioactive Material in Air

Final rule: The title of this section was modified to reflect the deletion of requirements relative to concentrations of radioactive material in drinking water in response to public comments. DOE Order 5400.5 contains standards for concentrations of radioactive material in drinking water; DOE intends to include similar provisions in subsequent rulemaking.

Comment: DAC Values. The requirement for use of DACs should be deleted or reworded, ensuring that the reader understands that the DAC values are supplied as a means for retroactively controlling exposures from airborne radioactivity and are themselves not limits.

Response: The final rule relies on the use of DAC values for posting of airborne radioactivity areas. This is an affirmative measure to prevent workers from inadvertently being exposed to airborne radioactive material. Additionally, air sampling results are typically compared to DAC values to determine the effectiveness of engineering controls used to minimize airborne contamination and identify the need for respiratory protection for workers.

Comment: Bioassay results. Several commenters questioned the emphasis placed on the use of bioassay results in preference to using air sampling results to assign internal dose to workers. The approach discussed in the proposed rule contrasts with the revised 10 CFR part 20, which allows either method to be used. Others commented that the use of personal air samplers or breathing zone air samples would provide a more accurate indication of worker intake for difficult to detect radionuclides.

Response: Demonstrating compliance with the internal monitoring requirements of § 835.402 (c) and (d) is more difficult for certain radionuclides. Accordingly, more flexibility is needed to permit the use of air concentration values if bioassay data are either unavailable or inadequate. Additionally, provision for the adjustment of DACs based on the physical and chemical characteristics of the material are contained in appendix A. Implementation guidance for internal dosimetry is under development.

Final rule: The final rule has been modified to provide more latitude in determining dose from airborne concentration measurement.

Comment: Consumption of food or drink within an area controlled for radiological purposes. Comments stated that it is not good radiological protection practice to allow consumption of food or drink within an area controlled for radiological purposes. 10 CFR part 835 should prohibit or strongly limit consumption of food or drink in controlled areas.

Response: Eating, drinking, smoking, and chewing are typically prohibited in radiologically controlled areas. There are circumstances where water is provided for workers to prevent dehydration.

Subpart E—Monitoring in the Workplace

General: A general concern was raised with regard to the practicality of implementing the air sampling, radon monitoring, and release survey requirements at a remedial action site. The commenter suggested that remedial action sites differ from fixed sites for several reasons, including:

(1) Remedial action sites are confronted with situations that are in flux, and

(2) The activities taking place at these sites do not lend themselves to the controls and monitoring requirements that were proposed.

The Department was urged to recognize the special concerns at a remedial action site and establish provisions that ensure worker safety, but do not impede the progress of remedial actions.

Response: The Department is sensitive to the comments regarding remedial action sites. As stated throughout this preamble, the final rule is applicable to all DOE facilities conducting radiological activities as provided in subpart A. The final rule allows the flexibility necessary to accommodate the broad spectrum of applications within the DOE complex. As discussed in § 835.101(c), "the content of each RPP shall be commensurate with the nature of the activities performed . . ." Where provisions of the final rule are genuinely not feasible for a specific activity, an exemption process for nuclear safety regulations has been provided in 10 CFR part 820.

Section 835.401 General Requirements

Comment: Monitoring for changes in radiological conditions. With regard to the requirements to monitor individuals and areas to detect changes in radiological conditions (§ 835.401(a)(3)), some commenters were concerned that

the time interval required to detect changes was subject to varying interpretation.

Response and final rule: Although this concern was specific to airborne monitoring when high levels of radon are present, alarming devices are used to warn workers of changes in radiological conditions which could affect their health and safety. Smaller changes which would be detected through routine monitoring and would not affect the workers' health and safety should be used to indicate adverse trends. This allows early detection and corrective action before a problem arises.

Comment: Instrumentation selection and calibration. Several commenters suggested that specific instrumentation requirements be identified in § 835.401(c), including what constitutes an acceptable calibration program. Some commenters felt that only in-service instruments should be required to have their calibration maintained. The need to perform routine operability testing was also questioned by some commenters.

Response: The words "instruments used," as stated in the final rule, refer to instruments which are available for use to monitor the workplace. Operability checks are essential to the effective use of instrumentation.

Final rule: Incorporated into the final rule is an editorial change to § 835.401(c)(1) clarifying that maintenance is conducted on a periodic basis and calibration is conducted on an established frequency of at least once per year. The final rule sets the minimum standard for instrument calibration, but more frequent calibration may be warranted in specific situations.

Section 835.402 Individual Monitoring

General: As a result of the change from annual effective dose equivalent (AEDE) to committed effective dose equivalent (CEDE), many changes to individual monitoring requirements were necessary. These changes included removing references to annual effective dose equivalent and other annual doses which are no longer applicable. The term "year" was specifically defined to facilitate consistent understanding of the requirements related to committed effective dose equivalent.

Comment: Thresholds for individual monitoring. Several comments raised issues related to setting thresholds for individual monitoring. Specific concern was expressed with requiring individual monitoring at 2 percent of the whole body limit for occupational exposure versus a 10 percent threshold for extremity, skin, and lens of the eye. Differences between DOE and NRC monitoring thresholds were questioned. Comments also noted that the proposed rule contained no monitoring requirements for minors, members of the public, or declared pregnant workers.

Response: Due to the unique and diverse activities conducted by the DOE, the Department has chosen to require individual whole body monitoring at levels lower than those required by the NRC (i.e., at 2% rather than 10% of the limit).

Under the proposed rule, individual monitoring would not be explicitly required for minors or members of the public entering a controlled area at a DOE site since these individuals would not be permitted to exceed the individual monitoring threshold for adult workers. Declared pregnant workers would require monitoring only if their exposure was expected to exceed 0.1 rem (1 mSv) under the proposed rule.

Final rule: The Department has decided to adopt an approach similar to that used in 10 CFR part 20. The individual monitoring threshold for workers remains at 2 percent of the occupational exposure limit in the final rule. Individual monitoring is now required for minors or members of the public likely to exceed 50 percent of the occupational exposure limits identified in § 835.207 or § 835.208, respectively, from either external or internal sources. Declared pregnant workers would require individual monitoring if they were likely to exceed 10 percent of the limit in § 835.206 from external or internal sources.

Comment: Personal dosimetry. Comments questioned the application of the term "dosimetry." Other comments suggested that the proposed rule implied that an individual worker could be subject to enforcement action if his dosimetry was improperly worn.

Response: The term "dosimetry" is used to encompass the instrumentation and processes used to determine an individual's radiation exposure. Dosimetry may consist of thermoluminescent dosimeters and pocket ionization chambers to measure the level of exposure to external radiation and the calculations used to determine internal dose from bioassay measurement results. Therefore, the term "dosimetry" is properly used in the final rule.

Personnel improperly using dosimetry may be indicative of a management problem. It is therefore incumbent on management to ensure that measures are in place to assure workers are informed as to the correct procedure for use and placement of personal dosimeters. This is typically included in general employee radiological training. While individuals who willfully violate these procedures may be subject to disciplinary action from their employer, they would not typically be subject to regulatory enforcement.

Comment: Methods for monitoring external radiation exposure. Regulatory guidance describing appropriate methods for monitoring external doses to the skin, extremity, and the lens of the eye was suggested.

Response and final rule: Regulatory guidance on external dosimetry programs is planned. This guidance will include methods for monitoring external radiation exposure to workers.

Comment: Internal dose assessment. The need for regulatory guidance to provide the necessary direction for the design and conduct of a bioassay and internal dose assessment program was suggested.

Response: Regulatory guidance addressing this concern is under development.

Comment: DOELAP. Commenters were concerned with the requirement for accreditation of personnel dosimetry programs in accordance with the DOE Laboratory Accreditation Program for Personnel Dosimetry (DOELAP). Since the DOELAP reference is to be included in the final rule, the procedures for altering the technical performance specifications of the DOELAP program should also be specified in an appropriate section of the final rule. Otherwise, the technical requirements of DOELAP could be modified in a way which could cause DOE facilities to become in non-compliance with the final rule.

Response and final rule: DOE considers the requirement for DOELAP accreditation of personnel dosimetry programs to be necessary to ensure accurate and reliable measurements of personnel dose. The suggestion to include additional DOELAP procedures in the final rule is unnecessary; these procedures are contained in DOE Order 5480.15 and supporting documents which receive DOE-wide review and comment prior to all substantive revisions. Accordingly, no change in the final rule was made.

Comment: Individual monitoring in high and very high radiation areas. Comments suggested the need to require individual monitoring for personnel entering high or very high radiation areas.

Response and final rule: Section 835.402(a)(4) of the final rule requires that individuals entering a high or very high radiation area be provided and use

personnel dosimetry. This requirement has been added for two reasons: (1) To ensure worker protection in the presence of high radiation areas or fields and (2) to make the final rule consistent with the provisions in 10 CFR part 20.

Section 835.403 Area Monitoring

Comment: Air sampling. Several commenters raised concerns regarding the requirement promulgated in the proposed rule for air sampling in areas where an individual is likely to be exposed to greater than 2 percent of the ALI values. There was some concern over the detection capability of the instrumentation available to analyze air samples, units of measurement used, occupancy time, and specification of the type or method of sampling required.

Response and final rule: Two percent of an ALI is equivalent to 40 DAC-hours. This limit is appropriately independent of occupancy time and detecting this level should not be a problem with available air sampling techniques.

Comment: Representative sampling. According to some commenters, determining whether air samples are representative at remedial action project sites is difficult.

Response and final rule: The language in the final rule does not specify the need for air samples taken as part of general area monitoring to be "representative of ambient air" as originally proposed. Although this should remain the objective of such monitoring, representative sampling is more relevant to sampling used to assign internal dose. Consequently, § 835.209 of the final rule requires that all surveys be representative when used for assigning internal dose. In § 835.403(a)(1), the final rule requires that samples be taken in order to "detect and evaluate the level or concentration of airborne radioactive material at work locations."

Comment: Real-time air monitoring. Comments were received which took issue with the requirement for real-time air monitoring to be capable of measuring at least 8 DAC-hours under laboratory conditions. The commenters felt that this requirement was unreasonable and unnecessary for several reasons: (1) Real-time air monitors, such as continuous air monitors, are not used in the determination of individual exposure; (2) the 8 DAC-hour requirement does not improve worker protection and is inconsistent with other radiological programs; (3) it causes instrumentation to be out of compliance without a supportable basis; and (4) factors such as dust loading and high radon backgrounds could affect the establishment of reliable alarm set points at this level.

Response and final rule: Since 1989, the Department has recommended in DOE Order 5480.11 that air monitors be capable of measuring one DAC when averaged over 8 hours (e.g., 8 DAC-hours). Consistently since that time, certain DOE activities have indicated an inability to meet that recommendation. Accordingly, DOE has decided to delete the 8 DAC-hour requirement from the final rule.

Comment: Real-time air monitoring at 10 percent DAC. The level at which real-time air monitoring was required was questioned because the 10 percent of a DAC value appeared overly conservative. Additionally, the requirement to provide real-time air monitoring at 10 percent of the derived air concentration should be specified in terms of temporal and spatial averages instead of simply DAC because workplace airborne concentrations are extremely variable over time and space.

Response: The purpose of real-time air monitoring is to provide early warning of an immediate and significant exposure hazard. The Department recognizes that the 0.1 DAC threshold is conservative and may not be directly indicative of a significant exposure hazard. Raising this monitoring threshold is responsive to public comments while ensuring the objectives of real-time air monitoring are met.

The monitoring threshold is stated in relation to the DAC without a specific temporal averaging period which is left to site-specific considerations. The higher threshold provides the flexibility suggested in the comment.

Final rule: The Department has reconsidered the level at which real-time air monitoring is required and, accordingly, has increased this level to 1 DAC in the final rule.

Comment: Use of the term "sufficient." The use of the term "sufficient" in § 835.403(a)(3) is very broad in scope and not very definitive.

Response: The sensitivity of the real-time air monitors is dictated by site situations which include consideration for the type, quantities, and level of hazard of radioactive material present. Additional definition is inappropriate due to the wide scope of activities within the DOE complex.

Comment: Radiation monitoring. Several commenters were unclear as to how to interpret the requirements for monitoring radiation in the workplace contained in § 835.403(b) of the proposed rule. Three specific issues were identified in these comments: (1) What type of instrumentation is appropriate for stationary instruments, (2) specifying a threshold for requiring stationary monitors, and (3) the dose rate survey requirements are too vague.

Response: (1) With regard to instrumentation used for stationary (area) monitoring, the final rule specifically states that the instruments must be capable of measuring radiation dose rates for the purpose of controlling exposure. In this case, the use of passive devices, such as thermoluminescent dosimeters or film badges, would not meet the requirements of the regulation. Active monitoring, such as area radiation monitors with local alarm and remote indication or portable survey instruments, would satisfy the requirements of § 835.403(b). (2) Each facility has dose rate characteristics unique to its operation. Therefore, it would be difficult and inappropriate to provide details in the final rule as suggested by the commenters. It is not the intention of DOE to specify monitoring thresholds for use of fixed radiation monitors. The requirement in the final rule provides flexibility to allow sites to choose monitoring methods considering personnel safety and site-specific restrictions. (3) Dose rate survey types and frequencies are usually established at intervals and locations dependent on the type and level of hazards associated with the facility operation. To maintain an effective program, each facility typically establishes the appropriate criteria for performing dose rate surveys based on the actual work and exposure situations. The program requirement should be identified in the site radiation protection program and implemented by any necessary site-specific procedure.

Section 835.404 Radioactive Contamination Control and Monitoring

Final rule: The title of this section was changed to remove the emphasis on surface contamination control and monitoring since the final rule addresses contamination control, in general. The first paragraph, § 835.404(a), reflects this change, and emphasizes that instrumentation and techniques are used to "ensure" rather than "assure" compliance with the requirements of this section. Additionally, the order in which some of the paragraphs appeared in the proposed rule has been changed and presented in a more logical order in the final rule.

Comment: Volumetric contamination. Some commenters indicated that the proposed rule did not address contamination in the outdoor work environment, such as contaminated soil, or items with contamination distributed in the matrix of the material and

activated materials. Exemption from the requirements of § 835.404 in these cases was suggested.

Response and final rule: The Department has not developed generically applicable criteria for the free release of material which has been contaminated in volume (e.g., soil, smelted contaminated material, etc.). Appendix D only addresses surface contamination limits and specifically excludes soil contamination. DOE Order 5400.5 specifies surface contamination limits for release of property for unrestricted use, but specifically acknowledges that generic volumetric contamination limits are not provided.

Comment: Contamination control. The wording in § 835.404(b) was perceived as too restrictive. Comments noted that the word "preclude" means "to make impossible." The inadvertent transfer of contamination to locations outside of radiological areas cannot be precluded, but can be prevented. The commenters were concerned with the high potential for enforcement action for any failure to preclude inadvertent contamination.

Response and final rule: The paragraph was rewritten to reflect the Department's concern with regard to the spread of contamination. The emphasis in the final rule is on preventing the spread of contamination.

Comment: Ad hoc controls. Several commenters raised concerns with the intent of proposed § 835.404(c). These concerns indicated confusion regarding the actions to be taken upon discovery of contamination outside radiological areas and the limitation of the requirements of the proposed paragraph only to removable contamination on indoor surfaces.

Response and final rule: The entire section addresses the measures to be taken for controlling contamination in the workplace including: (1) Instruments and techniques used to detect contamination, (2) maintenance of appropriate controls to prevent the spread of contamination, (3) posting of contaminated areas, and (4) entry and exit controls, procedures, and monitoring. In considering the public comments on paragraph (c), the DOE staff determined that not including this paragraph in the final rule would be most responsive to the public comments. The controls described in this section are applicable whether the contamination is discovered in established radiological areas or outside of them.

Comment: Fixed contamination outside of radiological areas. Commenters suggested that the proposed § 835.404(d) be rewritten to specifically identify the requirements and protective measures to be used in controlling areas with fixed contamination outside of radiological areas. Commenters noted the proposed requirements left approval authority to the Head of the DOE Operations Office which could lead to inconsistent application of the protective measures. Commenters also indicated the subject of immobilized fixed surface contamination, such as that covered by paint or other surface covering, was not addressed.

Response: When considering the public comments, the Department was in the process of developing controls for areas where levels of fixed contamination have exceeded those specified in appendix D. These controls specifically reference treating fixed contamination with paint or other surface covering.

Final rule: Since the Department has now developed standards for these situations, they are included in the final rule. The proposed rule was modified to include the detail suggested by some commenters. DOE Operations Office approval is, therefore, no longer required. These changes are reflected in § 835.404 (d) and (e) of the final rule.

Comment: Contamination limits. Some comments indicated that this section failed to provide guidance on personnel and personal property contamination limits.

Response and final rule: As currently addressed under DOE Order 5480.11, any detectable contamination on personnel or personal property should be removed by appropriate decontamination methods before being released. The final rule addresses individual monitoring for contamination in § 835.404(f).

Comment: Monitoring personnel upon exit from contaminated areas. Some comments discussed the need to address situations where the monitoring of personnel immediately upon their exit from a contaminated area may be impractical because of high background dose rates or physical limitations. Some commenters also noted that personnel contamination monitoring is not appropriate for certain radionuclides, such as tritium.

Response and final rule: The final rule now contains wording which provides flexibility for alternate monitoring procedures when personnel monitoring immediately upon exiting a contaminated area is not practical.

Comment: Protective clothing and control techniques. Additional detail regarding the protective clothing requirements contained in the proposed rule was suggested by some commenters. Other commenters disagreed, noting that the proposed rule was inappropriately prescriptive in requiring protective clothing. Commenters noted that the control techniques required in the proposed rule were redundant to other requirements in § 835.404. The use of the term "preclude" was also discussed. Therefore, the deletion of § 835.404(g) was suggested.

Response and final rule: The Department recognized the redundancy of the requirements for control techniques and has removed them from § 835.404(g) of the final rule. The final rule retains general requirements for protective clothing.

Subpart F—Entry Control Program

Section 835.501 Radiological Areas

Comment: Use of administrative procedures. Commenters suggested that portions of § 835.501(c) and (d) dealing with the use of administrative procedures to control entry into radiological areas were redundant.

Response: The review of the proposed rule in response to public comments revealed that this section of the proposed rule contained redundant provisions concerning the use of administrative procedures in lieu of physical controls.

Final rule: Because this redundancy could lead to misinterpretation of the intention of DOE in this area, the proposed rule was modified as follows:

1. Section 835.501(c)(4): "Locked entrance ways; and" was changed to "locked entrance ways; or". This change was made to emphasize that the use of administrative controls (see following paragraph) was one acceptable approach to entry control as opposed to always being associated with other entry control methods.

2. Section 835.501(c)(5): "Administrative procedure" was changed to "Administrative controls" to differentiate between a method used to control entry (administrative control) and the procedures used to implement the methods of entry control.

3. Section 835.501(d)(1) was deleted. The administrative procedure requirements are stated in § 835.501(d).

4. Section 835.501(d)(3) was deleted. The requirements of this provision are stated in § 835.501 (c)(5) and (d).

5. The remaining provisions of § 835.501(d) were combined into one provision.

Section 835.502 High and Very High Radiation Areas

Comment: Access controls for high and very high radiation areas. A

significant number of comments were received concerning the level of entry controls associated with high and very high radiation areas and the differences between this section and the corresponding sections in 10 CFR part 20. Commenters suggested the following changes to the proposed rule: (1) Divide the section in the proposed rule on high radiation areas into separate sections on high and very high radiation areas, (2) apply the access controls for very high radiation areas to high radiation areas, (3) clarify the provisions in the proposed rule for entry control to very high radiation areas by replacing them with the provisions in 10 CFR part 20 for entry control to very high radiation areas containing irradiators, and (4) ensure that alarms used for entry control purposes warn the activity supervisor of inadvertent entries.

Response: 10 CFR part 20 defines a very high radiation area as an area where a worker could be exposed to 500 rads (5 Gy) or more in one hour. This differs significantly from the definition in the proposed rule of 5 rems (0.05 Sv) or more in one hour. Accordingly, the DOE and NRC entry control requirements for high and very high radiation areas differed significantly. However, to establish greater consistency in radiation protection standards, DOE has adopted the NRC definitions for radiation, high radiation and very high radiation areas. In light of this change, DOE has revised the provisions of the proposed rule for entry control to high and very high radiation areas along lines that are similar to 10 CFR part 20. The overall result of these changes is to increase the levels of access control for high radiation areas as suggested by the majority of the commenters. In terms of dose rates, stringent entry controls are now required for radiation fields that could result in doses greater than 1 rem (0.01 Sv) in an hour as opposed to radiation fields that could result in a dose greater than 5 rems (0.05 Sv) in an hour.

Final rule: In response to the change in definitions of radiation areas coupled with public comments, the proposed rule has been revised as follows:

1. The title to this section has been changed from "Very high radiation areas" to "High and very high radiation areas." This section has been divided into § 835 502(a) "High radiation areas" and § 835.502(b) "Very high radiation areas."

2. Six methods are presented that specify acceptable methods of entry control for high radiation areas. Note that although the definition of high radiation area applies to areas containing radiation fields that could produce doses greater than 0.1 rem (1 mSv) in an hour, the stringent entry controls to a high radiation area are not required unless the radiation field could produce a dose of 1 rem (0.01 Sv) in an hour.

3. The proposed rule was revised so that an alarm that is set off by an individual entering a high radiation area alerts the activity supervisor of the entry.

4. A provision consistent with 10 CFR part 20 has been added which allows for direct or electronic surveillance has been added.

5. A provision was added to the final rule that requires entry controls which are more restrictive than those required for high radiation areas be applied to very high radiation areas. Unlike the NRC, there are not significant numbers of DOE facilities that are similar to each other. Accordingly, it was not considered necessary to provide additional requirements on entry controls for specific types of facilities or activities, as the NRC did for irradiators.

Comment: Access controls for field radiography. It was pointed out that posting and other controls were not specified for field radiography.

Response. The posting requirements of the proposed rule are considered appropriate for field radiography. Although the general provisions of § 835.501(a) apply to field radiography, the proposed rule did not impose specific requirements applicable to field radiography, on entry controls to high and very high radiation areas. Field radiography was explicitly exempted from the access control provisions for high radiation areas.

Final rule: To clarify the DOE position on entry controls for field radiography, the statement exempting field radiography from the provisions of § 835.502 was deleted. A new provision was added to the final rule to provide a method of entry control that is compatible with field radiography operations.

Comment: Exits from radiological areas. Comments suggested that the rule incorporate the applicable OSHA regulations dealing with exits from potentially hazardous areas.

Response: The provisions of the proposed rule, § 835.501(e), stated that no control(s) shall be installed in any radiological area that would prevent rapid evacuation of personnel under emergency conditions. This provision is considered sufficient to provide the necessary guidance needed to ensure the rapid and safe evacuation of personnel.

Final rule: To clarify the DOE position, the wording in § 835.502(c) and § 835.501(e) were made consistent.

Comment: Therapy patients and radioactive packages. Commenters pointed out that the proposed rule does not address access control to areas with patients receiving radioactive therapy and areas where radioactive packages are stored.

Response: DOE has minimal involvement with administration of radionuclides to radioactive therapy patients. Consequently, separate provisions for these situations are not included in the final rule. The limits and controls in the final rule pertain to all DOE activities conducting radiological operations, including radiation therapy.

Comment: Specificity of access control. Comments suggested that the level of access control for each radiological area (i.e., high radiation, airborne radioactivity, and contamination areas) be specified.

Response The access control requirements specific to high and very high radiation areas have been clarified. Because of the potential for immediate danger resulting from entry into other radiological areas is not as great as for high and very high radiation areas, the general provisions of § 835.501 are considered appropriate for areas not controlled as high and very high radiation areas. However, specific requirements for monitoring equipment and protective clothing are associated with entry into some of these areas. These requirements are specified in subpart E.

Subpart G—Posting and Labeling

Section 835 601 General Requirements

Comment. Comparison to 10 CFR part 20. Several comments were received which noted that the provisions for posting and labeling contained in 10 CFR part 20 should be considered in part 835. To ensure reasonable and adequate control of radioactive material in containers, more specific requirements and reasonable exceptions for the posting and labeling of containers should be incorporated from 10 CFR part 20. Nothing was stated in the proposed rule regarding posting areas where radioactive material is stored. DOE should require the same posting as required by 10 CFR part 20 to alert personnel in the vicinity of the presence of radioactive material.

Response: The requirements in the final rule do not apply to activities or licensed material that are regulated by the NRC (see § 835.1(b)(1) of the final rule). Section 835 601(a) specifies the

labeling of containers of radioactive material if adequate warning is not provided by control measures and required posting. Rulemaking on sealed radioactive source accountability control which will address accountability, labeling, storage, inventory, integrity testing, and control of radioactive sources is planned.

Comment: Standard for signs. The standard for signs (including the standard radiation symbol) should be included in the rule. Guidance must be provided on obtaining "approved" signs and identification of the approving organization within DOE. ANSI trefoil design should be acceptable to comply with the regulation. Requirements for the color of the text should be specified.

Response Guidance for DOE approved signs will be provided in the regulatory guidance on posting and labeling. This will include information on the symbol and acceptable color of the text. The Department prefers to cite industry standards, such as ANSI, in regulatory guidance rather than codification through regulation.

Comment: Radiation symbol. Typical radiation warning symbols are magenta (or purple) with a yellow background. General safety postings use yellow and black. The use of yellow and magenta (or purple) would be more informative and act as a better warning than yellow and black.

Response: Although the "magenta on yellow" color scheme has provided a unique warning of possible radiation hazards, the use of "black on yellow" is also acceptable and consistent with 10 CFR part 20. The fading of the magenta color in sunlight may reduce the visibility of the sign in time thereby diminishing the warning's effectiveness.

Section 835.602 Controlled Areas

Comment: Posting of controlled areas. Comments suggested that the reason for the area being controlled should be specified on the posting. Posting of areas should not be needed when contamination levels and dose rates pose essentially no potential exposure.

Response. Posting of controlled areas warns workers that they will be entering an area where they might encounter radioactive material and therefore must be more vigilant. However, it is not the Department's intention that controlled areas be posted when radiation fields and radioactive material in these areas do not require additional posting under the provisions of § 835.603. Specifying the reason for posting a controlled area is inconsistent with the philosophy of providing more definitive posting closer to the actual hazard (e.g., radiation, contamination, or airborne).

Comment: Approval of signs. Comments suggested that the requirement for approval of signs used to post controlled areas by DOE seemed to be unnecessary. Suggestions to provide guidance specifying the content required on these signs including the standard radiation symbol were offered.

Response and final rule: The final rule has been modified to no longer require signs used to post controlled areas be approved by the Head of the appropriate DOE field organization. Selection and approval remains the responsibility of the contractor to avoid conflict with local security requirements for posting controlled areas.

Section 835.603 Radiological Areas

General: The proposed rule defined radiation area, high radiation area, very high radiation area, and airborne radioactivity area in conjunction with the posting requirements for these areas. These definitions are now included in § 835.2(a).

Comment· Definition of area postings. The terms "radiation area," "high radiation area," and "very high radiation area" should be defined in § 835.2 and only describe specific wording on signs required for posting in § 835.603.

Response and final rule: The definitions for the terms "radiation area," "high radiation area," and "very high radiation area" have been included in § 835.2(a).

Comment: Postings. Comments suggested that, for consistency with 10 CFR part 20, the sign for a radiation area should read, "CAUTION, RADIATION AREA." The sign for a high radiation area should read, "DANGER, HIGH RADIATION AREA." The sign for a very high radiation area should read, "DANGER, VERY HIGH RADIATION AREA."

Response and final rule: The requirements for the wording on the signs have been modified to add the words "CAUTION" for radiation areas, "DANGER" for high radiation areas, and "GRAVE DANGER" for very high radiation areas.

Comment: Very high radiation area dose rate. The dose rate specifications for very high radiation areas differ from 10 CFR part 20, 5 rems (0 05 Sv) or greater in 1 hour at 30 cm from the radiation source versus 500 rads (5 Gy) in 1 hour at 1 meter from a radiation source. These limits should be the same due to the transient nature of radiological workers.

Response and final rule: The dose rate specification for a very high radiation area has been changed to an absorbed dose in excess of 500 rads (5 Gy) in one hour at one meter from a radiation source.

Comment: Posting of dose rate. Clarification on whether the dose rate reported on the posting should be based on a contact reading or a reading 30 cm from the source was suggested. Compliance with the proposed § 835.603(c) would mandate changes to the posting required for identification of radiation areas. In contrast to listing the dose rate range on a sign, an effective entry control program provides radiological information at normal access points or at specific job sites. Comments suggested that § 835.603 specify the implementation of an entry control program through which personnel entry will be managed.

Response and final rule: The detailed information regarding the reporting of specific dose rate information on required postings has been determined to be too detailed to be contained in the final rule. Consequently, the proposed requirement to post dose rate information on or in conjunction with each required sign has not been included in the final rule.

With regard to the alternative of implementing an entry control program, § 835.501(d) specifies that administrative procedures for activities in radiological areas be developed which "require authorizations (to perform work within the area) that include work-specific radiation protection measures specific for the authorized work."

Comment: Posting airborne radioactivity areas. Several commenters discussed concerns regarding posting of airborne radioactivity areas at 10 percent DAC. Some stated concern that the use of instantaneous concentration values would present economic difficulties. The comments also stated that DOE should employ the standard practice currently utilized by contractors of averaging concentration over an 8 hour work shift. Other comments stated that DOE and NRC definitions for "airborne radioactivity areas" should be coordinated to minimize confusion between similar work groups. 10 CFR part 20 defines airborne radioactivity areas as areas either exceeding the DAC values or an area in which an individual with no respiratory protection could receive more than 0.6 ALI or 12 DAC-hours (during the hours they are present during the week).

Response: The reliance on intake or exposure determined over a period of time, such as NRC's 12 DAC-hours during a week, has caused implementation concerns. NRC licensees must now consider how many

hours in a week a worker could be exposed to airborne radioactive material. Licensees need this information to calculate at what percent of DAC an area will be posted. Many NRC licensees will be posting at nearly 30 percent of the DAC values (12 DAC-hours/40 hours=0.3 DAC).

The use of standard air sampling techniques inherently provides an average concentration of airborne radioactivity over the sampling period (typically per shift or per day). Rather than specify an averaging time period, and potentially require modification of facility sampling times, the original value of 10 percent DAC is retained. This does not preclude the use of averaging when determining the need to post airborne radioactivity areas.

Comment. Alternate wording. Allowing the DOE field organization to determine alternative wording for radiological signs does not promote standardization throughout the DOE complex. To keep from confusing radiological workers working at different DOE sites, or even different facilities within a site, standardization for posting and labeling is essential.

Response and final rule: The statements that allowed alternative wording for signs posted to delineate radiological areas have been deleted.

Comment: Posting for areas with surface contamination. The proposed rule requires posting of surface contamination areas whereas 10 CFR part 20 does not address this subject.

Response: DOE considers that the posting requirements for surface contamination areas are essential for protection of its workers from surface contamination.

Comment: Distinguishing between "surface contamination areas" and "high surface contamination areas." The need to distinguish between "surface contamination areas" and "high surface contamination areas" was questioned. Entry requirements will be the same in most cases. However, if not, entry requirements and contamination levels can be clearly stated on the posting. The separate posting could be confusing.

Response: Separate posting for surface and high surface contamination areas is consistent with the graded approach for radiation areas. As contamination levels increase, the level of protective clothing and other requirements increase. High surface contamination areas require a buffer zone between the exit from the higher level contamination area and any cleaner area (e.g., exit from a high surface contamination area to a surface contamination area or from a surface contamination area to a clean area). Separate postings should increase the employees' awareness of the level of radiological hazard associated with the posted area and would not be confusing.

Comment: Posting of "high surface contamination areas." As proposed, § 835.603(e) indicated that a high surface contamination area was to be posted when the contamination levels exactly equal the values listed in appendix D

Response and final rule: The final rule (§ 835.603(f)) has been modified to read "greater than 100 times the value listed in appendix D of this part."

Subpart H—Records

General: Demonstration of compliance with the provisions of the rule requires that certain documentation and records be maintained. The absence of detailed requirements in the proposed rule resulted in several comments requesting clarification for records required by the rule. The final rule contains detailed provisions for records, where appropriate. This detail will facilitate consistent implementation of the final rule throughout the DOE complex.

Final rule: This subpart was restructured to better organize the requirements into appropriate sections for general provisions, individual monitoring records, monitoring and workplace records, and administrative records.

Section 835.701 General Provisions (Proposed § 835.701 Documentation Requirements)

Comment. Records retention. The periods for retention of records required in the proposed rule was not specified. Comments suggested that periods of retention be addressed.

Response and final rule. The final rule has been clarified by adding a new paragraph requiring that records be retained until final disposition is authorized by DOE. Other records retention provisions are set forth in DOE Order 1324.2A. It is the Department's intention that records be retained consistent with the principles contained in DOE Order 1324.2A.

Section 835.702 Individual Monitoring Records (Proposed 835 701 Documentation Requirements)

Final rule: Numerous changes to the proposed individual monitoring requirements were made to reflect the change from using an AEDE to a CEDE dose limitation system. Section 835.701(c) and (e) of the proposed rule were consolidated into § 835.702(a) of the final rule. Section 835.702(c) of the final rule reflects numerous editorial modifications to the provisions originally proposed in § 835.701(g).

Comment· Clarification of documentation requirements. Several commenters noted the need for clarifications in the proposed records requirements for internal dose determination, dose to the embryo/fetus, and data for verification or recalculation of historical doses.

Response and final rule: The final rule now contains provisions for records of estimated intake and radionuclide identity (§ 835.702(c)(4)(iii)) and dose equivalent to the embryo/fetus of a declared pregnant worker (§ 835.702(c)(6)). Clarification of the provision in § 835.701(j) of the proposed rule for records of data necessary to validate or reassess recorded doses was included in § 835.702(g) of the final rule.

Comment. Prior occupational exposure Several commenters noted that the proposed rule did not explicitly require the accounting for occupational exposure from non-DOE activities. This could allow individuals to exceed the annual limit recommendations contained in the Federal Guidance approved by the President in 1987.

Response: The Department does not want any individual to exceed the annual occupational exposure limit. Emphasis must be placed on the need to determine prior occupational exposure during the year and maintain records of this exposure for each affected individual. Therefore, the final rule (§ 835.702(d)) requires that documentation of all prior occupational exposure an individual received during the current year be obtained. This information will be used to demonstrate compliance with the provisions of § 835.202 for limiting annual occupational exposure.

Comment. Lens of the eye Comments noted that the annual dose equivalent to the lens of the eye is not typically assessed at some facilities.

Response: Assessments are made as applicable for the radiological hazards encountered. More specifically, records need to be maintained only if monitoring was required under § 835.402. Therefore, if the lens of the eye dose equivalent is not required to be monitored, then records for such monitoring are not required.

Section 835.703 Monitoring and Workplace Records (Proposed Section 835 702 Monitoring and Area Control Records)

Final rule: Section 835.703(a) in the final rule consolidates the records required regarding the results of radiological surveys which were

contained in three different paragraphs in the proposed rule. Records for the results of surveys, measurements, and calculations used to determine individual occupational exposure from internal and external sources are discussed in § 835.703(b) of the final rule which replaced two paragraphs in the proposed rule. Section 835 703(d) was added to identify the records required as a result of the provisions for maintenance and calibration of survey instrumentation and explicitly state the requirement implied in § 835.703(a) of the proposed rule.

Comment· Records of the surveys for the release of personal property. Commenters stated that it would be impractical to document results of surveys for the release of personal property. Comments indicated that all items should be surveyed prior to release from a controlled area to an uncontrolled area, but that only the results of surveys of equipment and material be documented.

Response and final rule: Upon consideration of the public comments, the Department has removed the requirements for maintaining records of surveys of the release of personal property. It was the Department's original intent not to overburden DOE contractors with excessive record keeping requirements. Accordingly, the final rule addresses records of surveys for the release of material and equipment. Records explicitly related to release requirements of material and equipment are contained in § 835.1101(d) of the final rule. The conditions for permitting release from radiological areas are specified in § 835 1101 (c) and (d).

Section 835.704 Administrative Records

General: This section contains the records requirements for administrative provisions in the rule. These include training and ALARA records, for example.

Comment ALARA program documentation. A number of commenters indicated that the requirement to have a formal ALARA program and maintain the volume of associated individual and survey records would result in substantial increased costs due to the manpower necessary to support additional record keeping and procedural requirements. Several comments were made about the lack of guidance on the retention of records.

Response: Similar provisions for records to those proposed in the rule already appear in DOE Order 5480 11. The final rule provides more details than the existing Orders and defines the records required to be maintained and retained to demonstrate compliance with the final rule.

Final rule: The Department has included records requirements in the final rule which are necessary to document compliance with the provisions of the rule. The final rule requires records of ALARA actions for the radiation protection program and facility design activities.

Two paragraphs regarding records requirements which were not addressed in the proposed rule were added. These clarify documentation requirements for provisions contained in the final rule. Paragraph (c) of this section provides for documentation of the results of internal audits. Paragraph (d) of this section requires that written declarations of pregnancy of individuals be maintained

An editorial clarification to § 835.703(b) of the proposed rule is now reflected in § 835.704(e) of the final rule.

Subpart I—Reports to Individuals

Section 835.801 Reports to Individuals

Final rule: The final rule contains provisions to report radiation exposure data to individuals following termination of employment at a DOE facility and to all DOE workers on an annual basis. The information requirements for these reports are shown in § 835.702(c). Although the final rule specifically requires an annual report for each DOE worker, duplicate information need not be provided when a complete record has been provided following termination.

Comment: Clarification of the terms "workers" and "employees." The use of the terms "worker(s)" and "employee(s)" interchangeably in this paragraph was confusing and should be clarified.

Response: A review of the proposed rule indicates that the interchangeable use of the terms "worker(s)" and "employee(s)" detracts from the clarity of the rule. This source of confusion could prevent some individuals who should receive reports under the provisions of the rule from receiving these reports.

Final rule: The terms "worker(s)" and "employee(s)" have been replaced by the term "individual(s)" throughout the final rule.

Comment· Termination reports. Several comments were received concerning termination reports. Specific comments were: (1) Allowing a maximum of 90 days after termination before a termination report must be provided to an individual is too short to permit proper evaluation of internal doses in some cases, (2) there are no provisions for providing an individual with a written estimate of current year dose at the time of termination, and (3) for the case of subcontractor personnel employed on a temporary basis, does DOE expect a termination report to be issued after each termination in the calendar quarter?

Response: It is the Department's position that the 90 day period after termination allowed for responding to a request for a termination report is sufficient to allow determination of internal dose in most cases. Where a reliable determination of the internal dose is not available, a statement should be included in the report to that effect.

The Department agrees with the need to provide written dose estimates to individuals terminating employment. Adopting such a provision will facilitate the transfer of workers between DOE facilities and NRC licensed facilities.

For the case of employees hired on a temporary basis several times during a calendar quarter, a termination report is not required each time the individual's period of employment ends unless requested by the employee. However, even if a termination report is requested each time an individual's period of employment ends, the 90 day period permitted before the report is provided to the individual could allow several terminations to be included in one termination report. This concern reinforces the DOE position that a provision permitting written dose estimates be included in the final rule.

Final rule: Section 835.801(b) requires that a written dose estimate be provided upon request to an employee at the time of termination.

Comment· Annual report to individuals. Comments on the annual report to individuals dealt with questions concerning the specific types of information to be included in this report, how far back in time cumulative dose should be assessed from, and who is responsible for providing these reports to subcontractor employees.

Response: The categories of dose information required to be recorded in § 835.702(c) of the final rule are required to be included in the annual report. Cumulative dose is to be recorded from January 1, 1989. The final rule clearly identifies the contractor as being responsible for ensuring that annual occupational exposure information is provided to individuals employed at a facility or site.

Final rule: Section 835.801(a) was revised to provide specific information on the content of dose reports provided by DOE facilities and activities to monitored individuals. The data

recorded under § 835.702(c) are specifically required to be reported.

Comment: Occurrence reporting. Comments questioned whether individuals identified in reports required by proposed § 830.350 must receive copies of such reports each time one is transmitted to DOE or do these individuals need only receive a copy of the final report.

Response: Copies of reports containing individual dose information required under Departmental requirements for occurrence reporting and processing must be sent to individuals identified in these reports.

Comment. Planned special exposure. Comments recommended providing an exposure report to individuals no later than 30 days after a planned special exposure.

Response: Section 835.204(e) of the final rule requires that reports of doses received during the planned special exposure be submitted to DOE. Accordingly, a copy of this report should be provided to the exposed individual.

Final rule: Section 835.801(e) has been modified to require that reports of doses received during planned special exposures be transmitted to the exposed individual at a time no later than the time this information is transmitted to DOE.

Subpart J—Radiation Safety Training

Comment: Training content. Comments noted that this subpart provides a welcome feature in that it clearly allows for the training content to be specifically tailored to the activities conducted at a given facility.

Comment: Comparison to 10 CFR part 20 Comments noted that 10 CFR part 20 does not discuss radiation safety training requirements.

Response: NRC requires radiation safety training in 10 CFR part 19 DOE considers the training program requirements as an essential provision in the rule.

Section 835 901 General Employees

Comment. Minimum generic subject matter. DOE Order 5480.11 provides minimum generic subject matter standards while the proposed rule did not. Identifying required subject matter for occupational worker training will help standardize such training across the DOE complex.

Response: Providing the generic subject matter requirements is considered too detailed for the rule. Specific training subject matter is presented in the DOE standardized core training.

Comment: Prenatal exposure risk information. Comments suggested that this section contained detail which was more appropriate for a "lower tier document" and was inconsistent with the level of detail contained in this subpart. References to providing prenatal exposure risk information was also viewed as possibly discriminatory since radiation safety orientation should provide information regarding risks to all occupational workers, not just women.

Response and final rule: The final rule has been modified to omit reference to specific subject matter requirements. The DOE standardized core training provides the subject matter requirements to be used throughout the DOE complex. This standardized core training for radiological workers includes material on prenatal exposure risks, the applicable exposure limit, and DOE policies related to the voluntary declaration of pregnancy.

Comment: Training to enter a controlled area. Commenters noted that when a controlled area encompasses a very large area, such as the Idaho Chemical Processing Plant or the Oak Ridge K–25 site, that a facility for training would have to be set up outside the controlled area since occupational workers would be required to be trained to gain access to the controlled area. It was suggested that untrained occupational workers be allowed to be escorted by trained individuals. Commenters also suggested modifying the language in the proposed rule such as requiring the radiation safety orientation "prior to potential exposure to radiation" rather than "admission to controlled areas" or training be given to "all occupational workers who may be granted unescorted access to a controlled area." Other comments suggested that the possibility of entry into a controlled area, rather than simply the admission to a controlled area, should be used as a criterion for requiring the orientation training for occupational workers.

Response A Departmental objective is that appropriate protection be provided to its workers. This includes provisions for training prior to performing radiological work or receiving radiological exposure. For consistency, the final rule no longer refers to orientation, but provides training requirements for general employees, radiological workers, and radiological control technicians. As presented, the final rule allows access to controlled areas prior to training if the individual will not receive occupational exposure. Appropriate controls, however, must be in place to ensure that these personnel receive no occupational exposure.

Final rule: The final rule has been modified to require that radiation safety training be given to general employees prior to receiving occupational exposure during access to controlled areas.

Comment: Examinations. Several commenters questioned the need for occupational workers entering a controlled area who receive radiation safety orientation to demonstrate their understanding of that material by passing an examination.

Response: Many standard training practices, especially those in the commercial nuclear industry, include requirements for individuals to demonstrate knowledge through successful completion of an examination. This serves to document that personnel granted unescorted access understand where access is permitted and which areas to avoid. The purpose of the examination is not to inconvenience individuals, but to assure a minimal level of knowledge which assures the individual's radiation safety.

Comment: Training at other sites or facilities. Comments suggested deletion of the reference to "at that facility" in the requirements for radiation safety orientation discussed in the first sentence of § 835.901(a) of the proposed rule. In a similar vein, other comments questioned if it is required for employees with certified training from other sites be examined for knowledge or radiation safety and suggested that the reference to training from another facility is more appropriate for regulatory guidance.

Response and final rule: Permission to accept generic training provided by other sites or facilities is an important concept and is appropriate for inclusion in the rule. An individual who has received the generic training at another site or facility would only need to be trained and examined on the site-specific information. The proposed rule was modified to accommodate the transfer of generic radiation safety training between sites.

Comment: Retraining. Retraining frequency and clarification as to what constitutes significant change were questioned by some commenters. A suggestion to incorporate retraining frequency into regulatory guidance was offered.

Response: Stating the interval at which retraining is to be provided is considered essential to this subpart. Retraining is to be provided to all general employees who received the initial training and whose assignment would require them to enter controlled areas where they may receive

occupational exposure. Discretion is purposely left to the site to evaluate the significance of changes to radiation protection policies and procedures.

Section 835.902 Radiological Workers

Comment: Radiological worker's level of training. Comments questioned the discussion in the introductory remarks of the proposed rule with regard to the Department's policy of making safety a line management responsibility. The commenter suggested that in order to achieve this goal, additional training of radiation workers may be required.

Response: A radiological worker who is informed, alert, and aware of the radiological conditions and hazards in the work area will be able to minimize exposure while performing work tasks. Standardized DOE training materials emphasize the importance of the worker's role in maintaining radiation safety.

Comment: Training preceding assignment. Commenters noted that the statement that "training shall precede assignment as a radiation worker, or it may be concurrent with assignment as a radiation worker if the worker is accompanied by and under the direct supervision of a trained radiation worker" is contradictory.

Response and final rule The language in the final rule was changed to clarify the requirement.

Comment. Level of detail related to subject matter. Comments indicated a need to develop more comprehensive radiation worker training for their activity. Other comments suggested the need for additional specificity of subject matter to clarify the requirements of the proposed rule. Additional clarification was requested regarding what is to be demonstrated as part of the examination (i.e., general radiation safety concepts or specific tasks, such as self-monitoring for contamination). Commenters felt the need to "demonstrate" (i.e., encompassing practical factors) should be determined by a job/task analysis and was inappropriate to be included in the proposed rule. Clarification regarding what constitutes "demonstration" was requested.

Response: The standardized core training currently provides the subject matter requirements for radiological worker training to be used throughout the DOE complex. Most site-specific training includes a demonstration (e.g., donning and removing protective clothing and equipment) to verify the individual's knowledge and capability to function safely in radiological areas.

Final rule: The final rule does not require the "demonstration prior to an unsupervised assignment."

Comment: Testing radiological workers. Comments suggested that the proposed rule leaves several important issues related to testing radiological workers unresolved; such as what to do with employees failing the exam and whether or not retraining also includes re-testing.

Response: The level of detail requested with regard to administering and evaluating examinations is provided in DOE's standardized core training documents.

Comment: Retraining. Comments suggested deleting the reference to a retraining frequency of every 2 years and including it in guidance.

Response: Stating the interval at which retraining is to be provided is considered essential to this subpart. The final rule provides the maximum allowable time before an individual must be retrained.

Section 835.903 Radiological Control Technicians

Comment: Details on methods. Comments suggested that the proposed rule was too specific regarding "details on methods" and recommended this level of detail be addressed in implementation guidance.

Response: The specifics of the training are included in standardized DOE core training materials. Requiring classroom and applied training is considered essential to assure consistent application of the final rule.

Comment: Training preceding performance of tasks. Comments noted that the statement "training shall precede performance of tasks assigned to radiation protection technicians, or if the individual is accompanied by and under the direct supervision of a trained person, it may be concurrent with such task assignments" is contradictory.

Response and final rule: The language in the final rule was changed to clarify the requirement.

Subpart K—Design and Control

Section 835.1001 Design and Control

Comment: Terminology. Commenters felt that this section could be improved by eliminating the word "workplace" from the term "controlled workplace areas," and requiring that equipment design as well as facility design be used as a method to maintain radiation exposures as low as reasonably achievable

Response: The clarification obtained by accepting the suggested changes will strengthen this section and reduce implementation difficulties within the DOE complex. In addition, the introductory sentence of this section has been edited in light of DOE intention to codify the ALARA process based primarily on the methods used to achieve ALARA objectives.

Final rule: Section 835.1001 of the proposed rule was revised in accordance with the considerations discussed above. Because a new provision to the rule has been added in response to the following comment, this section has been listed as § 835.1001(a) in the final rule.

Comment: Applicability at remediation sites. Comments strongly suggested that the primary methods for workplace controls described in the proposed rule will not work at remediation sites. These sites can only use administrative controls to regulate radiation exposure in the workplace. DOE needs to state that administrative controls may be used as a primary control method if physical design controls are not practical.

Response: Physical design controls for radiation exposure are intended primarily for use in workplaces that are located within structures providing a foundation for the installation of these features. The types of activities occurring at remediation sites are not performed within structures. Thus, physical design controls may be impractical and administrative controls will be required to control radiation exposure. In addition, it is likely portions of the decontamination and decommissioning efforts facing DOE in the near future will be performed at locations in which utilization of physical controls is impractical. To provide the flexibility necessary to address these types of activities, DOE agrees that the proposed rule should be modified to allow the use of administrative controls under certain conditions.

Final rule: Section 835.1001(b) has been added to the final rule to explicitly permit the use of administrative controls for specific activities where the use of physical design features are demonstrated impractical.

Section 835.1002 Facility Design and Modifications

Comment: Design objectives for controlling personnel exposure. A number of comments were received concerning the design objectives for controlling personnel exposure. Specific comments were as follows: (1) The time period over which the design objective for average exposure levels during continuous occupancy is to be maintained should be specified, (2) the design objective for continuous exposure should be set at 0.1 rem (1 mSv) from external sources, (3) the

design objective should be changed to a design requirement, and (4) an allowance for evaluation of the cost benefit should be added to the expectation of limiting a radiation worker's exposure in areas where exposure is generally not continuous.

Response: (1) The Department agrees that for clarity in implementing the provisions of this section, the time period over which the average exposure levels to be maintained should be specified.

(2) A design objective of 0.1 rem (1 mSv) in one year for continuous exposure is not considered necessary to ensure that DOE workers are properly protected. The current design goal of 1 rem (0.01 Sv) in a year for continuous exposure is one fifth of the occupational dose limit in § 835.202. Average yearly dose to individuals exposed at DOE facilities is only a fraction of this level as discussed in section II.B.1.c. The costs associated with modifying facility design to reduce exposure rates by 90 percent, when the anticipated dose to DOE employees could not be greatly reduced, is not considered necessary when comparing costs and resulting benefits.

(3) Changing the design objective to a design requirement will force all activities to meet the specific dose levels specified in the final rule regardless of any extenuating circumstances. The requirements in the proposed rule provide the flexibility to encompass situations where it is impractical to meet design goals either because of excessive costs (cost benefit considerations) or other extenuating circumstances.

(4) As previously stated, using the term "design objective" instead of "design requirement" provides allowance for evaluation of the cost versus benefit in the application of design features to limit worker exposure.

Final rule: Section 835.1002(b) was modified to specify that the design objective for continuous occupancy is based upon 2000 hours per year.

Comment: Dose reduction objectives. The design objective which states, "under normal conditions to avoid releases to the workplace atmosphere," is intended to prevent internal exposure. ALARA activities are expected to optimize AEDE (TEDE in the final rule). The two objectives, preventing internal exposure and optimizing TEDE, are not always compatible.

Response: The two objectives, preventing internal exposure and optimizing TEDE, are not incompatible. The requirement to avoid releases of radioactive material to the workplace is the basic approach to maintaining control of the workplace and reducing the probability of internal exposure. This requirement is intended to reduce the possibility of a situation occurring in which an individual could be internally exposed. However, in cases where a release of material has occurred, the objective is to reduce the total dose received by an individual from internal and external sources to as low as reasonably achievable.

Section 835.1003 Control Procedures

Comment: Redundant requirements. All of the requirements in this section appear elsewhere in the proposed rule. If this paragraph is retained, and a DOE contractor were to violate one of its requirements, the contractor would also violate another requirement and thus be in double jeopardy.

Response: The intent of this section is to specify requirements for the control of exposure levels permitted in the workplace. All other sections of the proposed rule provide limitations on the dose actually received by an individual, but do not place any limitations on exposure levels permitted in the workplace. This section provides the levels of external radiation fields and concentrations of radioactive material necessary to demonstrate control of the workplace environment. Although the provisions in this section are not intended to place a contractor in "double jeopardy," doses to individuals that exceed the limits specified in other parts of the proposed rule are considered indications that a contractor is not properly controlling the workplace environment. Note that compliance with the provisions of this section are intended to be demonstrated through the methods used for workplace monitoring specified in subpart E.

Final rule: To clarify the intent of this section the following changes have been made to the final rule:

1. The provision in § 835.1003(a) has been modified to include the use of design features and administrative control procedures in the control of the workplace.

2. All of subpart E, as opposed to § 835.402, has been referenced in § 835.1003(b) in regard to the methods used to demonstrate compliance with this section. This revision was made to include the methods used for workplace monitoring among the methods used to demonstrate compliance with this section.

Subpart L—Releases of Materials and Equipment From Radiological Areas

Section 835.1101 Releases of Materials and Equipment From Radiological Areas

Comment: Difference from 10 CFR part 20. The proposed rule addressed requirements for the release of materials and equipment from radiological areas that are not included in 10 CFR part 20.

Response: Although there are differences between 10 CFR parts 835 and 20, the purpose of both parts to regulate the respective activities to achieve optimal protection for the worker, public, and environment is identical. DOE has chosen to address requirements regarding release of materials and equipment which the NRC has chosen not to.

Comment: Clarification for use of this section. Clarify whether the requirements in this section of the proposed rule apply to radiological areas established for external radiation control purposes only.

Response: The provisions for release of contaminated material only apply to radiological areas established to control surface or airborne radioactive material. It is expected that an area posted solely for the presence of external radiation would not contain material or equipment with contamination levels that exceed the levels listed in appendix D. If a contaminated item was found in a radiological area originally established only for external radiation control, this area would be re-posted to indicate the presence of contamination.

Comment: Requirements for releasing radioactive material to an uncontrolled area. Requirements for releasing radioactive material from controlled areas and/or radiological areas to an uncontrolled area should be provided.

Response: Provisions for the release of radioactive material to uncontrolled areas are contained in DOE Order 5400.5; DOE intends to incorporate these provisions in subsequent rulemaking.

Comment: Remedial action sites. For remedial action sites, commenters stated that alternative provisions must be established which ensure worker safety and allow for daily release of materials and equipment from radiological areas without unduly burdening the contractor with monitoring and reporting requirements.

Commenters noted that the requirements for release of equipment from contaminated radiological areas, when coupled with the requirements for controlling inadvertent transfer of removable surface contamination to locations outside of radiological areas, are not workable at some remediation

sites. Similar provisions in existing DOE Orders have been modified to accommodate specific operations. Surveys adequate to demonstrate compliance with the criteria of this section, under conditions at remedial sites, are impossible to perform in a timely manner. Without the exceptions described above, the cost of doing business would escalate.

Response: With regard to worker protection at remedial action sites, regulatory guidance is planned which will address concerns specific to these operations.

The subject requirements for control and release of material from radiological areas are considered basic and necessary to DOE radiological operations. Requests for exemptions from these requirements are highly dependent on site-specific factors and compensatory measures. Such requests for exemptions must be handled in accordance with 10 CFR part 820.

Comment: Survey requirements for remedial action sites. Requiring air sampling, radon monitoring, and release surveys are neither practical nor feasible to implement at a remedial action site.

Response: The level and scope of surveys are dictated by the nature of the site's/facility's operations. As many of the remedial action site operators' concerns, as possible, will be addressed by regulatory guidance. These concerns may be addressed through the exemption request process as provided in 10 CFR part 820. The conditions for release of materials and equipment from radiological areas established to control surface or airborne radioactive material, as listed in the proposed rule, were retained.

Comment Conditional release criteria. The conditional release criteria specified in this section should be modified to reflect the detection capabilities of available field instrumentation. The proposed rule applies to movement of material and equipment from radiological areas to controlled areas which implies a level of control is implemented. Field instrumentation with the sensitivity to detect appendix D levels is not available. Laboratory equipment would need to be purchased. Existing portable radiation detection instruments in use at some sites, which are representative of the best available technology, are not capable of detecting some of the contamination levels specified in appendix D (e.g., $^{90}Sr/^{90}Y$, ^{129}I, $^{226}Ra/^{226}Ac$). Changing the wording to "under laboratory conditions" was suggested.

Response and final rule: The final rule has been modified in appendix D, raising the transuranics value from 300 dpm/100 cm² to 500 dpm/100 cm². Any other requests for exceptions and exemptions to the final rule can be submitted to DOE under the provisions of 10 CFR part 820

Comment: Control procedures. Minimally acceptable monitoring and control procedures for movement of contaminated materials from one radiological area to another should be required and described.

Response: Regulatory guidance will be developed describing acceptable methods for complying with the provisions of the final rule on the movement of contaminated material between radiological areas.

Comment: Removable contamination. Commenters indicated that § 835 1101(c) of the proposed rule was unclear since it only addressed fixed contamination. With the controls specified in the proposed paragraph, removable contamination below some reasonable level should be included in addition to fixed contamination.

Response and final rule: The final rule was clarified to include the provisions for removable contamination specified in appendix D.

Comment: Release record. Records are not necessary for release from a radiological area to a controlled area because of the continuing control of the item or material. Comments suggest that the records requirement be applied only to the unrestricted release from the controlled area.

Response: Records of the items released from a radiological area are needed to ensure that the item can be tracked and that the radiological history of the item is known.

Comment: Survey date. Clarify the wording, "the date the last monitoring operation," so that the intent, "the date on which the release survey was performed," is clear.

Response and final rule: The wording "the date the last monitoring operation" was replaced with "the date on which the release survey was performed."

Subpart N—Accidents and Emergencies (Proposed Subpart M)

General: Comments were received on the appropriateness of the section on accidents and emergencies in the Department's standards for occupational radiation protection. Of particular note was a comparison to 10 CFR part 20, which does not contain similar provisions.

Response: In reconsidering the purpose of this subpart, the Department provides requirements for controlling exposures under accident and emergency conditions. In order to convey only those requirements necessary to assure that worker health and safety is maintained, however, the subpart was edited to delete sections not directly applicable to the control of exposure to DOE employees under accident and emergency conditions.

Section 835.1301 General Provisions (Proposed Section 835.1201 Accidental and Emergency Exposures)

Final rule: The title of this section was changed to more clearly reflect the contents of the section. Other changes to the language in this section were made in order to assure the uniform application of the provisions of the final rule throughout the DOE complex. These changes were editorial only and did not affect the technical content of the language in the rule.

Section 835.1302 Emergency Exposure Situations. (Proposed Sections 835.1202 General Considerations and 835.1203 Emergency Situations)

Final rule: The title of this section was changed to reflect clearly the contents of the section. Guidelines for controlling emergency exposures were moved into this section from proposed § 835.1203 and condensed into a tabular format for easier understanding which clarifies the Departmental policy regarding emergency exposures. The final rule only provides emergency exposure guidelines for preventing major property damage and lifesaving or protection of large populations. Emergency exposure guidelines for the recovery of deceased victims are no longer specified in this rule because such guidelines are more appropriately covered by site procedures.

The references to an Emergency Director were removed since this title could vary from site to site. This level of specificity was inconsistent with the purpose of the rule to provide requirements for controlling exposure under accident and emergency conditions. Emergency response directives provide DOE standards regarding emergency response organization.

Section 835.1304 Nuclear Accident Dosimetry. (Proposed Section 835.1204 Nuclear Accident Dosimetry)

Comment· Nuclear accident dosimetry accuracy. Commenters noted that this section places accuracy requirements on nuclear accident dosimetry which may not be attainable There does not appear to be a way for facilities to test their systems against these criteria because there is no well-characterized irradiation facility in operation. The two year implementation

period may not be sufficient to resolve this issue.

Response: Although the accuracy requirements for nuclear accident dosimetry, as presented in the proposed rule, are largely identical to the requirements of DOE Order 5480.11, the Department acknowledges that capability to demonstrate compliance with this accuracy requirement is subject to availability of an appropriate irradiation facility.

Final rule: The final rule no longer contains any language regarding the accuracy requirements for nuclear accident dosimetry. The final rule describes the necessary elements for nuclear accident dosimetry programs.

Appendix A—Derived Air Concentrations (DAC) for Controlling Radiation Exposure to Workers at DOE Facilities

Comment: Difference between 10 CFR parts 20 and 835. Commenters noted that the proposed rule did not contain the level of detail contained in the discussion in appendix B to 10 CFR part 20.

Response: DOE emphasizes determination of internal dose using bioassay measurements instead of air monitoring data; therefore, much of the information in appendix B to 10 CFR part 20 is not applicable to 10 CFR part 835.

Final rule: The final rule has been modified to list descriptive derived air concentration (DAC) information, formerly addressed in appendix E, in appendix A.

Comment: Units for derived air concentrations. The commenter stated that appendix A is somewhat confusing by having both µCi and Bq listed. It was suggested to either list one value or list the isotope once and list both values in the same location.

Response: Use of the SI units is discussed in response to comments in subpart A of the final rule. Federal Guidance Report No. 11 presents both µCi and Bq units, while 10 CFR part 20 uses only µCi.

Final rule: The tables presented in the proposed rule have been edited. These tables now list each isotope and both µCi and Bq values together.

Comment: DAC tables. Comments suggested that an additional footnote be added which would allow the facility to specify which set of DAC tables (conventional or SI units) would be used.

Response and final rule: The final rule has been edited to present both units in a clear format for reference with scientific standards. However, to assure consistent application of the regulation, the final rule has been modified to specify the use of special units.

Comment: Dose conversion factors for ^{222}Rn. Commenters noted that there are no dose conversion factors for ^{222}Rn documented in Federal Guidance Report No. 11. It is further suggested that a DOE guidance document be developed describing the acceptable methods for assessing, monitoring, and reporting a worker's dose that is caused by exposure to radon and its progeny.

Response: Footnote 4 of the proposed rule states that the values presented for protection from radon combined with its short-lived daughters are based on information given in ICRP Publication 32: "Limits for Inhalation of Radon Daughters by Workers" and Federal Guidance Report No. 11. Although the values for protection against radon are not in Federal Guidance Report No. 11, a discussion on radon and its decay products is provided in section II of the report. Information for assessing dose from radon exposure will be provided in regulatory guidance currently under development.

Appendix D—Surface Radioactivity Values

Final rule: Editorial changes were made to correct typographical errors.

Comment: Conditional release at "below detectable levels." Comments recommended that a caveat be added to appendix D to allow conditional release at "below detectable levels" where the appendix D levels cannot be verified with currently available state-of-the-art field instrumentation.

Comment: Instrument detection capabilities for transuranics. Comments suggested that the values in appendix D for transuranics should indicate use of an instrument capable of detecting 300 dpm under laboratory conditions but should recognize that it is currently impossible to reliably meet such values under all possible conditions in the field.

Response and final rule: The final rule has been modified in appendix D, raising the transuranics value from 300 dpm/100 cm² to 500 dpm/100 cm². Any other requests for exceptions and exemptions to the rule can be submitted to DOE under the provisions of 10 CFR part 820.

Comment: Contamination levels for ^{14}C and tritium. Commenters requested that a set of limits be established for tritium, one of the most prevalent nuclides found in research protocols at DOE sites. Comments suggested that guidance on contamination limits for both removable and fixed plus removable contamination levels for ^{3}H and ^{14}C be provided. Comments also suggested that the proposed limit be published in the **Federal Register** for public review and comment. It was recommended the tritium contamination limits be set at 10,000 dpm/100 cm².

Response: The contamination levels for ^{14}C are provided in the "beta-gamma emitters" group. The contamination levels for tritium will be provided in an amendment to this rule and issued for public comment.

Comment: Footnote 3 applicability. Comments stated that it is not clear if footnote 3 is applicable only for assessments of fixed plus removable contamination values, or if it is also applicable for removable values.

Response: Footnote 3 is applicable to the total value of fixed and removable contamination.

Appendix E—Derived Air Concentrations for Controlling Radiation Exposure to Workers at DOE Facilities

Comment: Comparison to 10 CFR part 20. Comments noted that the proposed rule does not contain the level of detail contained in the discussion section in appendix B of 10 CFR part 20.

Response and final rule: Appendix E provided descriptive information on other appendices. The final rule has been modified to place this information into the respective appendix.

VI. Review Under Executive Order 12291

Executive Order 12291, Federal Regulations, requires that a regulatory impact analysis be prepared prior to the promulgation of a "major rule." The DOE has concluded that this action is not a "major rule" for purpose of the Executive Order because its promulgation will not result in any of the following:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete in domestic or export market.

Pursuant to section 3(c) of E.O. 12291, this rule was submitted to the Director of the Office of Management and Budget. The Director has concluded his review under that Executive Order.

VII. Final Regulatory Flexibility Analysis

This final rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule that is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this regulation will not have a significant economic impact on a substantial number of small entities; therefore, no regulatory flexibility analysis has been prepared.

VIII. Paperwork Reduction Act Statement

The information and reporting requirements in this part are not substantially different from existing reporting requirements contained in DOE contracts with DOE prime contractors covered by this rule. Some new reporting requirements are required for subcontractors and suppliers to the DOE contractors covered by this rule. DOE will submit the collection of any new information requests concerning this rule to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501.1 *et seq.*, and the procedures implementing that Act, 5 CFR 1320.1 *et seq.*

IX. Finding of No Significant Environmental Impact

The DOE has reviewed the promulgation of 10 CFR part 835 under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and the Council on Environmental Quality regulations for implementing NEPA. The Department has completed an Environmental Assessment and on the basis of that information has issued a Finding of No Significant Impact (FONSI) for this rule. The Environmental Assessment and FONSI are available for inspection at the DOE Freedom of Information Reading Room, 1E–190, 1000 Independence Ave. SW., Washington DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

X. Review Under Executive Order 12612

Executive Order 12612, 52 FR 41 685 (October 30, 1987) requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the National Government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

This rule will not have a substantial direct effect on the institutional interests or traditional functions of States.

XI. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency subject to Executive Order 12291 to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in paragraphs 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: Specifies clearly any preemptive effect; describes any administrative proceedings; and defines key terms. DOE certifies that the final rule meets the requirements of paragraphs 2 (a) and (b) of Executive Order 12778.

List of Subjects in 10 CFR Part 835

Emergency radiation exposures, Nuclear material, Occupational safety and health, Radiation exposures, Radiation protection, Radioactive material, Reporting and record keeping requirements, Safety during emergencies, Training.

Issued in Washington, DC, on November 1, 1993.

Tara O'Toole,

Assistant Secretary, Environment, Safety and Health.

For the reason set forth in the preamble, title 10, chapter III, of the Code of Federal Regulations is amended by adding a new part 835 as set forth below.

PART 835—OCCUPATIONAL RADIATION PROTECTION

Subpart A—General Provisions

Sec.

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Appendix A to Part 835—Derived Air Concentrations (DAC) for Controlling Radiation Exposure to Workers at DOE Facilities

Appendix B to Part 835—Alternative Absorption Factors and Lung Retention Classes for Specific Compounds

Appendix C to Part 835—Derived Air Concentrations (DAC) for Workers From External Exposure During Immersion in a Contaminated Atmospheric Cloud

Appendix D to Part 835—Surface Radioactivity Values

Appendix E to Part 835—[Reserved]

Authority: 42 U.S.C. 2201; 7191.

Subpart A—General Provisions

§ 835.1 Scope.

(a) *General.* The rules in this part establish radiation protection standards, limits, and program requirements for protecting individuals from ionizing radiation resulting from the conduct of DOE activities.

(b) *Exclusion.* The requirements in this part do not apply to:

(1) Activities that are regulated through a license by the Nuclear Regulatory Commission or a State under an Agreement with the Nuclear Regulatory Commission, including activities certified by the Nuclear Regulatory Commission under section 1701 of the Atomic Energy Act;

(2) Activities conducted under the authority of the Director, Naval Nuclear Propulsion Program, as described in Pub. L. 98–525;

(3) Activities conducted under the Nuclear Explosives and Weapons Safety Program relating to the prevention of accidental or unauthorized nuclear detonations; or

(4) Background radiation, radiation doses received as a patient for the purposes of medical diagnosis or therapy, or radiation doses received from voluntary participation in medical research programs.

§ 835.2 Definitions.

(a) As used in this part:

Airborne radioactive material or airborne radioactivity means radioactive material in any chemical or physical form that is dissolved, mixed, suspended, or otherwise entrained in air.

Airborne radioactivity area means any area where the measured concentration of airborne radioactivity, above natural background, exceeds or is likely to exceed 10 percent of the derived air concentration (DAC) values listed in appendix A or appendix C of this part.

ALARA means "As Low As is Reasonably Achievable," which is the approach to radiation protection to manage and control exposures (both individual and collective) to the work force and to the general public to as low as is reasonable, taking into account social, technical, economic, practical, and public policy considerations. As used in this part, ALARA is not a dose limit but a process which has the objective of attaining doses as far below the applicable limits of this part as is reasonably achievable.

Ambient air means the general air in the area of interest (e.g., the general room atmosphere), as distinct from a specific stream or volume of air that may have different properties.

Annual limit on intake (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man (ICRP Publication 23) that would result in a committed effective dose equivalent of 5 rems (0.05 sievert) or a committed dose equivalent of 50 rems (0.5 sievert) to any individual organ or tissue. ALI values for intake by ingestion and inhalation of selected radionuclides are based on Table 1 of the U.S. Environmental Protection Agency's Federal Guidance Report No. 11, *Limiting Values of Radionuclide Intake and Air Concentration and Dose Conversion Factors for Inhalation, Submersion, and Ingestion,* published September 1988. This document is available from the National Technical Information Service, Springfield, VA.

Background means radiation from:

(i) Naturally occurring radioactive materials which have not been technologically enhanced;

(ii) Cosmic sources;

(iii) Global fallout as it exists in the environment (such as from the testing of nuclear explosive devices);

(iv) Radon and its progeny in concentrations or levels existing in buildings or the environment which have not been elevated as a result of current or prior activities; and

(v) Consumer products containing nominal amounts of radioactive material or producing nominal amounts of radiation.

Bioassay means the determination of kinds, quantities, or concentrations, and, in some cases, locations of radioactive material in the human body, whether by direct measurement or by analysis, and evaluation of radioactive materials excreted or removed from the human body.

Calibration means to adjust and/or determine either:

(i) The response or reading of an instrument relative to a standard (e.g., primary, secondary, or tertiary) or to a series of conventionally true values; or

(ii) The strength of a radiation source relative to a standard (e.g., primary, secondary, or tertiary) or conventionally true value.

Contamination area means any area where contamination levels are greater than the values specified in appendix D of this part, but less than or equal to 100 times those levels.

Continuous air monitor (CAM) means an instrument that continuously samples and measures the levels of airborne radioactive materials on a "real-time" basis and has alarm capabilities at preset levels.

Contractor means any entity under contract with the Department of Energy with the responsibility to perform activities at a DOE site or facility.

Controlled area means any area to which access is managed in order to protect individuals from exposure to radiation and/or radioactive material. Individuals who enter only the controlled area without entering radiological areas are not expected to receive a total effective dose equivalent of more than 100 mrem (0.001 sievert) in a year.

Declared pregnant worker means a woman who has voluntarily declared to her employer, in writing, her pregnancy for the purpose of being subject to the occupational exposure limits to the embryo/fetus as provided in § 835.206. This declaration may be revoked, in writing, at any time by the declared pregnant worker.

Derived air concentration (DAC) means, for the radionuclides listed in appendix A of this part, the airborne concentration that equals the ALI divided by the volume of air breathed by an average worker for a working year of 2000 hours (assuming a breathing volume of 2400 m^3). For the radionuclides listed in appendix C of this part, the air immersion DACs were calculated for a continuous, non-shielded exposure via immersion in a semi-infinite atmospheric cloud. The value is based upon the derived airborne concentration found in Table 1 of the U.S. Environmental Protection Agency's Federal Guidance Report No. 11, *Limiting Values of Radionuclide Intake and Air Concentration and Dose Conversion Factors for Inhalation, Submersion, and Ingestion,* published September 1988. This document is available from the National Technical Information Service, Springfield, VA.

DOE activities means an activity taken for or by the DOE that has the potential to result in the occupational exposure of

an individual to radiation or radioactive material. The activity may be, but is not limited to, design, construction, operation, or decommissioning. To the extent appropriate, the activity may involve a single DOE facility or operation or a combination of facilities and operations, possibly including an entire site.

Entrance or access point means any location through which an individual could gain access to areas controlled for the purposes of radiation protection. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

General employee means an individual who is either a DOE or DOE contractor employee; an employee of a subcontractor to a DOE contractor; or a visitor who performs work for or in conjunction with DOE or utilizes DOE facilities.

High contamination area means any area where contamination levels are greater than 100 times the values specified in appendix D of this part.

High radiation area means any area, accessible to individuals, in which radiation levels could result in an individual receiving a deep dose equivalent in excess of 0.1 rem (0.001 sievert) in 1 hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

Individual means any human being.

Member of the public means an individual who is not occupationally exposed to radiation or radioactive material. An individual is not a "member of the public" during any period in which the individual receives occupational exposure.

Minor means an individual less than 18 years of age.

Monitoring means actions intended to detect and quantify radiological conditions.

Nonstochastic effects means effects due to radiation exposure for which the severity varies with the dose and for which a threshold normally exists (e.g., radiation-induced opacities within the lens of the eye).

Occupational exposure means an individual's exposure to ionizing radiation (external and internal) as a result of that individual's work assignment. Occupational exposure does not include planned special exposures, exposure received as a medical patient, background radiation, or voluntary participation in medical research programs.

Person means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency, any State or political subdivision of, or any political entity within a State, any foreign government or nation or other entity, and any legal successor, representative, agent or agency of the foregoing; provided that person does not include the Department or the United States Nuclear Regulatory Commission.

Radiation means ionizing radiation: alpha particles, beta particles, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. Radiation as used in this part, does not include non-ionizing radiation, such as radio- or micro-waves, or visible, infrared, or ultraviolet light.

Radiation area means any area accessible to individuals in which radiation levels could result in an individual receiving a deep dose equivalent in excess of 0.005 rem (0.05 millisievert) in 1 hour at 30 centimeters from the source or from any surface that the radiation penetrates.

Radiological area means any area within a controlled area which must be posted as a "radiation area," "high radiation area," "very high radiation area," "contamination area," "high contamination area," or "airborne radioactivity area" in accordance with § 835.603.

Radiological worker means a general employee whose job assignment involves operation of radiation producing devices or working with radioactive materials, or who is likely to be routinely occupationally exposed above 0.1 rem (0.001 sievert) per year total effective dose equivalent.

Representative, as applied to the sampling of radioactive material, means sampling in such a manner that the sample closely approximates both the amount of activity and the physical and chemical properties of the material (e.g., particle size and solubility in the case of air sampling of the aerosol to which workers may be exposed).

Stochastic effects means malignant and hereditary diseases for which the probability of an effect occurring, rather than its severity, is regarded as a function of dose without a threshold for radiation protection purposes.

Survey means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation. When appropriate, such an evaluation includes a physical survey of the location of radioactive material and measurements or calculations of levels of radiation, or concentrations or quantities of radioactive material present.

Very high radiation area means any area accessible to individuals in which radiation levels could result in an individual receiving an absorbed dose in excess of 500 rads (5 grays) in one hour at 1 meter from a radiation source or from any surface that the radiation penetrates.

Year means the period of time beginning on or near January 1 used to determine compliance with the provisions of this part. The starting date of the year used to determine compliance may be changed provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

(b) As used in this part to describe various aspects of radiation dose:

Absorbed dose (D) means the energy absorbed by matter from ionizing radiation per unit mass of irradiated material at the place of interest in that material. The absorbed dose is expressed in units of rad (or gray) (1 rad = 0.01 gray).

Collective dose means the sum of the total effective dose equivalent values for all individuals in a specified population. Collective dose is expressed in units of person-rem (or person-sievert).

Committed dose equivalent ($H_{T,50}$) means the dose equivalent calculated to be received by a tissue or organ over a 50-year period after the intake of a radionuclide into the body. It does not include contributions from radiation sources external to the body. Committed dose equivalent is expressed in units of rem (or sievert).

Committed effective dose equivalent ($H_{E,50}$) means the sum of the committed dose equivalents to various tissues in the body ($H_{T,50}$), each multiplied by the appropriate weighting factor (w_T)—that is, $H_{E,50} = \Sigma w_T H_{T,50}$. Committed effective dose equivalent is expressed in units of rem (or sievert).

Cumulative total effective dose equivalent means the sum of the total effective dose equivalents recorded for an individual for each year of employment at a DOE or DOE contractor site or facility, effective January 1, 1989.

Deep dose equivalent means the dose equivalent derived from external radiation at a depth of 1 cm in tissue.

Dose equivalent (H) means the product of absorbed dose (D) in rad (or gray) in tissue, a quality factor (Q), and other modifying factors (N). Dose equivalent is expressed in units of rem (or sievert) (1 rem = 0.01 sievert).

Effective dose equivalent (H_E) means the summation of the products of the dose equivalent received by specified tissues of the body (H_T) and the appropriate weighting factor (w_T)—that

is, $H_E = \Sigma w_T H_T$. It includes the dose from radiation sources internal and/or external to the body. The effective dose equivalent is expressed in units of rem (or sievert).

External dose or exposure means that portion of the dose equivalent received from radiation sources (e.g., "external sources") outside the body.

Extremity means hands and arms below the elbow or feet and legs below the knee.

Internal dose or exposure means that portion of the dose equivalent received from radioactive material taken into the body (e.g., "internal sources").

Lens of the eye dose equivalent means the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 cm.

Quality factor means the principal modifying factor used to calculate the dose equivalent from the absorbed dose; the absorbed dose (expressed in rad or gray) is multiplied by the appropriate quality factor (Q).

(i) The quality factors to be used for determining dose equivalent in rem are shown below:

QUALITY FACTORS

Radiation type	Quality factor
X-rays, gamma rays, positrons, electrons (including tritium beta particles)	1
Neutrons, ≤ 10 keV	3
Neutrons, > 10 keV	10
Protons and singly-charged particles of unknown energy with rest mass greater than one atomic mass unit	10
Alpha particles and multiple-charged particles (and particles of unknown charge) of unknown energy	20

When spectral data are insufficient to identify the energy of the neutrons, a quality factor of 10 shall be used.

(ii) When spectral data are sufficient to identify the energy of the neutrons, the following mean quality factor values may be used:

QUALITY FACTORS FOR NEUTRONS

[Mean quality factors, $\bar{Q}$ (maximum value in a 30-cm dosimetry phantom), and values of neutron flux density that deliver in 40 hours, a maximum dose equivalent of 100 mrem (0.001 sievert).]

Neutron energy (MeV)	Mean quality factor	Neutron flux density ($cm^{-2}s^{-1}$)
2.5×10^{-8} thermal	2	680
1×10^{-7}	2	680
1×10^{-6}	2	560

QUALITY FACTORS FOR NEUTRONS—Continued

[Mean quality factors, $\bar{Q}$ (maximum value in a 30-cm dosimetry phantom), and values of neutron flux density that deliver in 40 hours, a maximum dose equivalent of 100 mrem (0.001 sievert).]

Neutron energy (MeV)	Mean quality factor	Neutron flux density ($cm^{-2}s^{-1}$)
1×10^{-5}	2	560
1×10^{-4}	2	580
1×10^{-3}	2	680
1×10^{-2}	2.5	700
1×10^{-1}	7.5	115
5×10^{-1}	11	27
1	11	19
2.5	9	20
5	8	16
7	7	17
10	6.5	17
14	7.5	12
20	8	11
40	7	10
60	5.5	11
1×10^{2}	4	14
2×10^{2}	3.5	13
3×10^{2}	3.5	11
4×10^{2}	3.5	10

Shallow dose equivalent means the dose equivalent deriving from external radiation at a depth of 0.007 cm in tissue.

Total effective dose equivalent (TEDE) means the sum of the effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures). For purposes of compliance with this part, deep dose equivalent to the whole body may be used as effective dose equivalent for external exposures.

Weighting factor (w_T) means the fraction of the overall health risk, resulting from uniform, whole body irradiation, attributable to specific tissue (T). The dose equivalent to tissue, T, is multiplied by the appropriate weighting factor to obtain the effective dose equivalent contribution from that tissue. The weighting factors are as follows:

WEIGHTING FACTORS FOR VARIOUS TISSUES

Organs or tissues, T	Weighting factor, w_T
Gonads	0.25
Breasts	0.15
Red bone marrow	0.12
Lungs	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder[1]	0.30

WEIGHTING FACTORS FOR VARIOUS TISSUES—Continued

Organs or tissues, T	Weighting factor, w_T
Whole body[2]	1.00

[1] "Remainder" means the five other organs or tissues with the highest dose (e.g., liver, kidney, spleen, thymus, adrenal, pancreas, stomach, small intestine, and upper large intestine). The weighting factor for each remaining organ or tissue is 0.06.

[2] For the case of uniform external irradiation of the whole body, a weighting factor (w_T) equal to 1 may be used in determination of the effective dose equivalent.

Whole body means, for the purposes of external exposure, head, trunk (including male gonads), arms above and including the elbow, or legs above and including the knee.

(c) Terms defined in the Atomic Energy Act and not defined in this part are used consistent with the meanings given in the Act.

(d) As used in this part, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa, as the case may be.

§ 835.3 General rule.

(a) No person or DOE personnel shall take or cause to be taken any action inconsistent with the requirements of:

(1) This part; or

(2) Any program, plan, schedule, or other process established by this part.

(b) With respect to a particular DOE activity, contractor management shall be responsible for compliance with the requirements of this part.

(c) Where there is no contractor for a DOE activity, DOE shall ensure implementation of and compliance with the requirements of this part.

(d) Nothing in this part shall be construed as limiting actions that may be necessary to protect health and safety.

§ 835.4 Radiological units.

Unless otherwise specified, the quantities used in the records required by this part shall be clearly indicated in special units of curie, rad, or rem, including multiples and subdivisions of these units. The SI units, becquerel (Bq), gray (Gy), and sievert (Sv), are only provided parenthetically in this part for reference with scientific standards. These SI units are not authorized for use in records required under this part.

Subpart B—Radiation Protection Programs

§ 835.101 Radiation protection programs.

(a) A DOE activity shall be conducted in compliance with a documented

radiation protection program (RPP) as approved by the DOE.

(b) The DOE may direct or make modifications to a RPP.

(c) The content of each RPP shall be commensurate with the nature of the activities performed and shall include formal plans and measures for applying the as low as reasonably achievable (ALARA) process to occupational exposure.

(d) The RPP shall specify the existing and/or anticipated operational tasks that are intended to be within the scope of the RPP. Except as provided in § 835.101(i), any task outside the scope of a RPP shall not be initiated until an update of the RPP is approved by DOE.

(e) The content of the RPP shall address, but shall not necessarily be limited to, each requirement in this part.

(f) The RPP shall include plans, schedules, and other measures for achieving compliance with regulations of this part. Compliance with this part shall be achieved no later than January 1, 1996.

(g) The RPP for an existing activity shall be submitted to DOE no later than January 1, 1995.

(h) An update of the RPP shall be submitted to DOE:

(1) Whenever a change or an addition to the RPP is made;

(2) Prior to the initiation of a task not within the scope of the RPP; or

(3) Within 180 days of the effective date of any modifications to this part.

(i) Changes, additions, or updates to the RPP may become effective without prior Department approval only if the changes do not decrease the effectiveness of the RPP and the RPP, as changed, continues to meet the requirements of this part. Proposed changes that decrease the effectiveness of the RPP shall not be implemented without submittal to and approval by the Department.

(j) An initial RPP or an update shall be considered approved 180 days after its submission unless rejected by DOE at an earlier date.

§ 835.102 Internal audits.

Internal audits of all functional elements of the radiation protection program shall be conducted no less frequently than every 3 years and shall include program content and implementation.

Subpart C—Standards for Internal and External Exposure

§ 835.201 [Reserved]

§ 835.202 Occupational exposure limits for general employees.

(a) The occupational exposure to general employees resulting from DOE activities, other than planned special exposures under § 835.204 and emergency exposure situations under § 835.1302, shall be controlled so the following annual limits are not exceeded:

(1) A total effective dose equivalent of 5 rems (0.05 sievert);

(2) The sum of the deep dose equivalent for external exposures and the committed dose equivalent to any organ or tissue other than the lens of the eye of 50 rems (0.5 sievert);

(3) A lens of the eye dose equivalent of 15 rems (0.15 sievert); and

(4) A shallow dose equivalent of 50 rems (0.5 sievert) to the skin or to any extremity.

(b) All occupational exposure received during the current year shall be included when demonstrating compliance with § 835.202(a).

(c) Exposures from background, therapeutic and diagnostic medical radiation, and voluntary participation in medical research programs shall not be included in dose records or in the assessment of compliance with the occupational exposure limits.

§ 835.203 Combining internal and external dose equivalents resulting from DOE activities.

(a) The total effective dose equivalent during a year shall be determined by summing the effective dose equivalent from external exposures and the committed effective dose equivalent from intakes during the year. For purposes of compliance with this part, deep dose equivalent to the whole body may be used as effective dose equivalent for external exposures.

(b) Determinations of the effective dose equivalent shall be made using the weighting factor values provided in § 835.2.

(c) For the case of uniform external irradiation of the whole body, a weighting factor (w_T) equal to 1 may be used in the determination of the effective dose equivalent.

§ 835.204 Planned special exposures.

(a) A planned special exposure may be authorized for a radiological worker to receive doses in addition to and accounted for separately from the doses received under the limits specified in § 835.202(a), provided that each of the following conditions is satisfied:

(1) The planned special exposure is considered only in an exceptional situation when alternatives that might prevent a radiological worker from exceeding the limit in § 835.202(a)(1) are unavailable or impractical;

(2) The contractor management (and employer, if the employer is not the contractor) specifically requests the planned special exposure, in writing; and

(3) Joint written approval from the appropriate DOE Headquarters program office and the Assistant Secretary for Environment, Safety and Health is received.

(b) Prior to requesting an individual to participate in an authorized planned special exposure, the individual's dose from all previous planned special exposures and all doses in excess of the occupational dose limits shall be determined.

(c) An individual shall not receive a planned special exposure that, in addition to the doses determined in § 835.204(b), would result in a dose exceeding the following:

(1) A total effective dose equivalent of 5 rems (0.05 sievert) in the current year; and

(2) A cumulative total effective dose equivalent of 25 rems (0.25 sievert).

(d) Prior to a planned special exposure, written consent shall be obtained from each individual involved. Each individual shall be:

(1) Informed of the purpose of the planned operations and procedures to be used;

(2) Informed of the estimated doses and associated potential risks and specific radiological conditions and other hazards which might be involved in performing the task; and

(3) Instructed in the measures to be taken to keep the dose ALARA considering other risks that may be present.

(e) Records of the conduct of a planned special exposure shall be maintained and a written report submitted within 30 days after the planned special exposure to the approving organizations identified in § 835.204(a)(3).

(f) The dose from planned special exposures is not to be considered in controlling future occupational dose of the individual under § 835.202(a), but is to be included in records and reports required under this part.

§ 835.205 Determination of compliance for non-uniform exposure of the skin.

(a) Non-uniform exposures of the skin from X-rays, beta radiation, and/or radioactive material on the skin are to be assessed as specified in this section.

(b) For purposes of demonstrating compliance with § 835.202(a)(4), assessments shall be conducted as follows:

(1) *Area of skin irradiated is 100 cm² or more.* The non-uniform dose equivalent received during the year shall be averaged over the 100 cm² of the skin receiving the maximum dose, added to any uniform dose equivalent also received by the skin, and recorded as the shallow dose equivalent to any extremity or skin for the year.

(2) *Area of skin irradiated is 10 cm² or more, but is less than 100 cm².* The non-uniform dose equivalent (H) to the irradiated area received during the year shall be added to any uniform dose equivalent also received by the skin and recorded as the shallow dose equivalent to any extremity or skin for the year. H is the dose equivalent averaged over the 1 cm² of skin receiving the maximum absorbed dose, D, reduced by the fraction f, which is the irradiated area in cm² divided by 100 cm² (i.e., H=fD). In no case shall a value of f less than 0.1 be used.

(3) *Area of skin irradiated is less than 10 cm².* The non-uniform dose equivalent shall be averaged over the 1 cm² of skin receiving the maximum dose. This dose equivalent shall:

(i) Be recorded in the individual's occupational exposure history as a special entry; and

(ii) Not be added to any other shallow dose equivalent to any extremity or skin recorded as the dose equivalent for the year.

§ 835.206 Limits for the embryo/fetus.

(a) The dose equivalent limit for the embryo/fetus from the period of conception to birth, as a result of occupational exposure of a declared pregnant worker, is 0.5 rem (0.005 sievert).

(b) Substantial variation above a uniform exposure rate that would satisfy the limits provided in § 835.206(a) shall be avoided.

(c) If the dose equivalent to the embryo/fetus is determined to have already exceeded 0.5 rem (0.005 sievert) by the time a worker declares her pregnancy, the declared pregnant worker shall not be assigned to tasks where additional occupational exposure is likely during the remaining gestation period.

§ 835.207 Limits for minors.

Any minor exposed to radiation and/or radioactive material during direct on-site access at a DOE site or facility shall not exceed 0.1 rem (0.001 sievert) total effective dose equivalent in a year.

§ 835.208 Limits for members of the public entering a controlled area.

Any member of the public exposed to radiation and/or radioactive material during direct on-site access at a DOE site or facility shall not exceed 0.1 rem (0.001 sievert) total effective dose equivalent in a year.

§ 835.209 Concentrations of radioactive material in air.

(a) The derived air concentration (DAC) values given in appendices A and C to this part shall be used in the control of occupational exposures to airborne radioactive material.

(b) With regard to inhalation exposures and external exposures from airborne radionuclides, compliance with this part shall be demonstrated through conformity with § 835.101 and § 835.202 which establishes the applicable regulatory limits.

(c) The estimation of internal dose shall be based on bioassay data rather than air concentration values unless bioassay data are:

(1) unavailable;

(2) inadequate; or

(3) internal dose estimates based on representative air concentration values are demonstrated to be as or more accurate.

Subpart D—[Reserved]

Subpart E—Monitoring in the Workplace

§ 835.401 General requirements.

(a) Monitoring of individuals and areas shall be performed to:

(1) Demonstrate compliance with the regulations in this part;

(2) Document radiological conditions in the workplace;

(3) Detect changes in radiological conditions;

(4) Detect the gradual buildup of radioactive material in the workplace; and

(5) Verify the effectiveness of engineering and process controls in containing radioactive material and reducing radiation exposure.

(b) Area monitoring in the workplace shall be routinely performed, as necessary, to identify and control potential sources of personnel exposure to radiation and/or radioactive material.

(c) Instruments used for monitoring and contamination control shall be:

(1) Periodically maintained and calibrated on an established frequency of at least once per year;

(2) Appropriate for the type(s), levels, and energies of the radiation(s) encountered;

(3) Appropriate for existing environmental conditions; and

(4) Routinely tested for operability.

§ 835.402 Individual monitoring.

(a) For the purpose of monitoring individual exposures to external radiation, personnel dosimetry shall be provided to and used by:

(1) Radiological workers who, under typical conditions, are likely to receive one or more of the following:

(i) An effective dose equivalent to the whole body of 0.1 rem (0.001 sievert) or more in a year;

(ii) A shallow dose equivalent to the skin or to any extremity of 5 rems (0.05 sievert) or more in a year;

(iii) A lens of the eye dose equivalent of 1.5 rems (0.015 sievert) or more in a year;

(iv) A deep dose equivalent from external exposures to any organ or tissue other than the lens of the eye of 5 rems (0.05 sievert);

(2) Declared pregnant workers who are likely to receive from external sources a dose equivalent to the embryo/fetus in excess of 10 percent of the applicable limit in § 835.206;

(3) Minors and members of the public likely to receive, in 1 year, from external sources, a dose in excess of 50 percent of the applicable limits in § 835.207 or § 835.208, respectively; or

(4) Individuals entering a high or very high radiation area.

(b) Personnel external dosimetry programs shall be adequate to demonstrate compliance with § 835.202, including routine dosimeter calibration and conformance with the requirements of the DOE Laboratory Accreditation Program for Personnel Dosimetry.

(c) For the purpose of monitoring individual exposures to internal radiation, internal dose evaluation programs (including routine bioassay programs) shall be conducted for:

(1) Radiological workers who, under typical conditions, are likely to receive 0.1 rem (0.001 sievert) or more committed effective dose equivalent, and/or 5 rems (0.05 sievert) or more committed dose equivalent to any organ or tissue, from all occupational radionuclide intakes in a year;

(2) Declared pregnant workers likely to receive an intake resulting in a dose equivalent to the embryo/fetus in excess of 10 percent of the limit stated in § 835.206; or

(3) Minors and members of the public who are likely to receive, in 1 year, an intake resulting in a committed effective dose equivalent in excess of 50 percent of the limits stated in § 835.207 or § 835.208, respectively.

(d) Internal dose evaluation programs shall be adequate to demonstrate compliance with § 835.202.

§ 835.403 Area monitoring.

(a) Measurements of radioactivity concentrations in the ambient air of the workplace shall be performed as follows:

(1) Air sampling shall be performed in occupied areas where, under typical conditions, an individual is likely to receive an annual intake of 2 percent or more of the specified ALI values. For a given radionuclide and lung retention class, the ALI is the product of the DAC listed in appendix A of this part and the constant 2.4×10^9 ml. Samples shall be taken as necessary to detect and evaluate the level or concentration of airborne radioactive material at work locations.

(2) Real-time air monitoring, using continuous air monitors as defined in § 835.2, shall be performed in normally occupied areas where an individual is likely to be exposed to a concentration of airborne radioactivity exceeding 1 DAC as specified in appendix A of this part or where there is a need to alert potentially exposed individuals to unexpected increases in airborne radioactivity levels.

(3) For the airborne radioactive material that could be encountered, real-time air monitors shall have alarm capability and sufficient sensitivity to alert potentially exposed individuals that immediate action is necessary in order to minimize or terminate inhalation exposures.

(b) Monitoring of radiation in the workplace shall be performed using stationary (area) or portable radiation instruments, or a combination thereof. The instruments shall be readily available and shall be capable of measuring ambient radiation dose rates for the purpose of controlling radiation exposures.

§ 835.404 Radioactive contamination control and monitoring.

(a) Instruments and techniques used for radioactive contamination monitoring and control shall be adequate to ensure compliance with the requirements specified in this section.

(b) Appropriate controls shall be maintained and verified which prevent the inadvertent transfer of removable contamination to locations outside of radiological areas under normal operating conditions.

(c) Any area in which contamination levels exceed the values specified in appendix D of this part shall be:

(1) Posted in accordance with § 835.603; and

(2) Controlled in a manner commensurate with the physical and chemical characteristics of the contaminant, the radionuclides present, and the fixed and removable contamination levels.

(d) Areas with fixed contamination exceeding the total radioactivity values specified in appendix D of this part may be located outside of radiological areas provided the following conditions are met:

(1) Removable contamination levels are below the levels specified in appendix D of this part;

(2) Unrestricted access to the area is not likely to cause any individual to receive a total effective dose equivalent in excess of 0.1 rem (0.001 sievert) in a year;

(3) The area is routinely monitored;

(4) The area is clearly marked to alert personnel of the contaminated status;

(5) Appropriate administrative procedures are established and exercised to maintain control of these areas; and

(6) Dose rates do not exceed levels which would require posting in accordance with § 835.603.

(e) Entry control pursuant to § 835.501 and posting pursuant to § 835.603 are not required for areas with fixed contamination meeting the conditions of § 835.404(d).

(f) Appropriate monitoring to detect and prevent the spread of contamination shall be performed by individuals exiting radiological areas established to control removable contamination and/or airborne radioactivity.

(g) Protective clothing shall be required for entry to areas in which removable contamination exists at levels exceeding those specified in appendix D to this part.

Subpart F—Entry Control Program

§ 835.501 Radiological areas.

(a) Personnel entry control shall be maintained for each radiological area.

(b) The degree of control shall be commensurate with existing and potential radiological hazards within the area.

(c) One or more of the following methods shall be used to ensure control:

(1) Signs and barricades;

(2) Control devices on entrances;

(3) Conspicuous visual and/or audible alarms;

(4) Locked entrance ways; or

(5) Administrative controls.

(d) Administrative procedures shall be written as necessary to demonstrate compliance with the provisions of this section. These administrative procedures shall include actions essential to ensure the effectiveness and operability of barricades, devices, alarms, and locks. Authorizations shall be required to perform specific work within the area and shall include specific radiation protection measures.

(e) No control(s) shall be installed at any radiological area exit that would prevent rapid evacuation of personnel under emergency conditions.

§ 835.502 High and very high radiation areas.

(a) *High radiation areas.* One or more of the following features shall be used for each entrance or access point to a high radiation area where radiation levels exist such that an individual could exceed a deep dose equivalent to the whole body of 1 rem (0.01 sievert) in any one hour at 30 centimeters from the source or from any surface that the radiation penetrates:

(1) A control device that prevents entry to the area when high radiation levels exist or upon entry causes the radiation level to be reduced below that level defining a high radiation area;

(2) A device that functions automatically to prevent use or operation of the radiation source or field while personnel are in the area;

(3) A control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the high radiation area and the supervisor of the activity are made aware of the entry;

(4) Entryways that are locked. During periods when access to the area is required, positive control over each entry is maintained;

(5) Continuous direct or electronic surveillance that is capable of preventing unauthorized entry;

(6) A control device that will automatically generate audible and visual alarm signals to alert personnel in the area before use or operation of the radiation source and in sufficient time to permit evacuation of the area or activation of a secondary control device that will prevent use or operation of the source.

(b) *Very high radiation areas.* In addition to the above requirements, additional measures shall be implemented to ensure individuals are not able to gain access to very high radiation areas when dose rates are in excess of the posting requirements of § 835.603(c).

(c) No control(s) shall be established in a high or very high radiation area that would prevent rapid evacuation of personnel.

Subpart G—Posting and Labeling

§ 835.601 General requirements.

(a) Working areas that require posting because of the presence, or potential presence, of radiation and/or radioactive material are delineated in the

subsequent paragraphs of this section. Radioactive items or containers of radioactive materials, shall be individually labeled if adequate warning is not provided by control measures and required posting.

(b) DOE approved signs, labels, and radiation symbols shall be used to identify areas specified in this subpart.

(c) Required signs and labels shall have a yellow background. The radiation symbol shall be black or magenta.

(d) Signs required by this subpart shall be clear and conspicuously posted and may include radiological protection instructions.

(e) The posting requirements in this section may be modified to reflect the special considerations of DOE activities conducted at private residences. Such modifications shall provide the same level of protection to individuals as the existing provisions in this section.

§ 835.602 Controlled areas.

(a) Each access point to a controlled area (as defined in § 835.2) shall be posted, identifying it as a controlled area, whenever radioactive material and/or radiation fields which would require posting under § 835.603 may be present in the area.

(b) Signs used for this purpose may be selected by the contractor to avoid conflict with local security requirements.

§ 835.603 Radiological areas.

Each access point to a radiological area (as defined in § 835.2) shall be posted with conspicuous signs bearing the wording provided in this section.

(a) *Radiation Area.* The words "Caution, Radiation Area" shall be posted at any area accessible to individuals in which radiation levels could result in an individual receiving a deep dose equivalent in excess of 0.005 rem (0.05 millisievert) in 1 hour at 30 centimeters from the source or from any surface that the radiation penetrates.

(b) *High Radiation Area.* The words "Danger, High Radiation Area" shall be posted at any area accessible to individuals in which radiation levels could result in an individual receiving a deep dose equivalent in excess of 0.1 rem (0.001 sievert) in 1 hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

(c) *Very High Radiation Area.* The words "Grave Danger, Very High Radiation Area" shall be posted at any area accessible to individuals in which radiation levels could result in an individual receiving an absorbed dose in excess of 500 rads (5 grays) in one hour at 1 meter from the radiation source or from any surface that the radiation penetrates.

(d) *Airborne Radioactivity Area.* The words "Caution, Airborne Radioactivity Area" shall be posted for any occupied area in which airborne radioactivity levels exceed, or are likely to exceed, 10 percent of the DAC value listed in appendix A or appendix C of this part.

(e) *Contamination Area.* The words "Caution, Contamination Area" shall be posted where contamination levels exceed values listed in appendix D of this part, but are less than or equal to 100 times those values.

(f) *High Contamination Area.* The words "Danger, High Contamination Area" shall be posted where contamination levels are greater than 100 times the values listed in appendix D of this part.

Subpart H—Records

§ 835.701 General provisions.

(a) Records shall be maintained to document compliance with this part and with radiation protection programs required by § 835.101.

(b) Unless otherwise specified in this subpart, records shall be retained until final disposition is authorized by DOE.

§ 835.702 Individual monitoring records.

(a) Records shall be maintained to document doses received by all individuals for whom monitoring was required pursuant to § 835.402 and doses received during planned special exposures, accidents, and emergency conditions.

(b) The results of individual external and internal dose measurements that are performed, but are not required by § 835.402, shall be recorded. Recording of the non-uniform shallow dose equivalent to the skin caused by contamination on the skin (see § 835.205) is not required if the dose is less than 2 percent of the limit specified for the skin in § 835.202(a)(4).

(c) The records required by this section shall:

(1) Be sufficient to evaluate compliance with § 835.202;

(2) Be sufficient to provide dose information necessary to complete reports required by subpart I of this part and by Departmental requirements for occurrence reporting and processing;

(3) Include the following quantities for external dose received during the year:

(i) The effective dose equivalent from external sources of radiation (deep dose equivalent may be used as effective dose equivalent for external exposure);

(ii) The lens of the eye dose equivalent;

(iii) The shallow dose equivalent to the skin; and

(iv) The shallow dose equivalent to the extremities.

(4) Include the following quantities for internal dose resulting from intakes received during the year:

(i) Committed effective dose equivalent;

(ii) Committed dose equivalent to any organ or tissue of concern; and

(iii) Estimated intake and identity of radionuclides.

(5) Include the following quantities for the summation of the external and internal dose:

(i) Total effective dose equivalent in a year;

(ii) For any organ or tissue assigned an internal dose during the year, the sum of the deep dose equivalent from external exposures and the committed dose equivalent to that organ or tissue; and

(iii) Cumulative total effective dose equivalent received from external and internal sources while employed at the site or facility, since January 1, 1989.

(6) Include the dose equivalent to the embryo/fetus of a declared pregnant worker.

(d) Documentation of all occupational exposure received during the current year shall be obtained when demonstrating compliance with § 835.202(a). In the absence of formal records of previous occupational exposure during the year, a written estimate signed by the individual may be accepted.

(e) Efforts shall be made to obtain records of prior years occupational internal and external exposure.

(f) The records specified in this section that are identified with a specific individual shall be readily available to that individual.

(g) Data necessary to allow future verification or reassessment of the recorded doses shall be recorded.

(h) All records required by this section shall be transferred to the DOE upon cessation of activities at the site that could cause exposure to individuals.

§ 835.703 Monitoring and workplace records.

The following information shall be documented and maintained:

(a) Results of surveys for radiation and radioactive material in the workplace as required by §§ 835.401, 835.403, and 835.404;

(b) Results of surveys, measurements, and calculations used to determine individual occupational exposure from external and internal sources;

(c) Results of surveys for the release of material and equipment as required by § 835.1101(d); and

(d) Results of maintenance and calibration performed on:

(1) Instruments used for area monitoring and contamination control as required by § 835.401; and

(2) Devices used for individual monitoring as required by §§ 835.401 and 835.402.

§ 835.704 Administrative records.

(a) Training records shall be maintained, as necessary, to demonstrate compliance with §§ 835.901, 835.902, and 835.903.

(b) Actions taken to maintain occupational exposures as low as reasonably achievable, including the actions required for this purpose by § 835.101, as well as facility design and control actions required by §§ 835.1001, 835.1002, and 835.1003, shall be documented.

(c) Records shall be maintained to document the results of internal audits and other reviews of program content and implementation.

(d) Written declarations of pregnancy shall be maintained.

(e) Changes in equipment, techniques, and procedures used for monitoring in the workplace shall be documented.

Subpart I—Reports to Individuals

§ 835.801 Reports to individuals.

(a) Radiation exposure data for individuals monitored in accordance with § 835.402 shall be reported as specified in this section. The information shall include the data required under § 835.702(c). Each notification and report shall be in writing and include: the DOE site or facility name, the name of the individual, and the individual's social security number or employee number.

(b) Upon the request from an individual terminating employment, records of exposure shall be provided to that individual as soon as the data are available, but not later than 90 days after termination. A written estimate of the radiation dose received by that employee based on available information shall be provided at the time of termination, if requested.

(c) Each DOE- or DOE-contractor-operated site or facility shall, on an annual basis, provide a radiation dose report to each individual monitored during the year at that site or facility in accordance with § 835.402.

(d) Detailed information concerning any individual's exposure shall be made available to the individual upon request of that individual, consistent with the provisions of the Privacy Act (5 U.S.C. 552a).

(e) When a DOE contractor is required to report to the Department, pursuant to Departmental requirements for occurrence reporting and processing, any exposure of an individual to radiation and/or radioactive material, or planned special exposure in accordance with § 835.204(e), the contractor shall also provide that individual with a report on his or her exposure data included therein. Such report shall be transmitted at a time not later than the transmittal to the Department.

Subpart J—Radiation Safety Training

§ 835.901 General employees.

(a) All general employees shall be trained in radiation safety prior to receiving occupational exposure during access to controlled areas at a DOE site or facility. Allowance may be made for previous DOE training on generic radiation safety topics (i.e., those not specific to a site or facility), provided the training was received at another DOE site or facility within the past 2 years. Documentation of the previous training shall clearly identify the individual's name, date of training, topics covered, and name of the certifying individual. The knowledge of radiation safety possessed by general employees shall be verified by examination.

(b) Retraining shall be provided when there is a significant change to radiation protection policies and procedures that affect general employees and shall be conducted at intervals not to exceed 2 years.

§ 835.902 Radiological workers.

Radiological worker training programs and retraining shall be established and conducted at intervals not to exceed 2 years to familiarize the worker with the fundamentals of radiation protection and the ALARA process. Training shall include both classroom and applied training. Training shall either precede assignment as a radiological worker or be concurrent with assignment as a radiological worker if the worker is accompanied by and under the direct supervision of a trained radiological worker. Radiological worker training not specific to a given site or facility may be waived provided that: This training has been received at another DOE site or facility within the past 2 years; there is provision of proof-of-training in the form of a certification document containing the individual's name, date of training, and specific topics covered; and an appropriate official has certified the training of the individual. The knowledge of radiation safety possessed by radiological workers shall be verified by examination prior to an unsupervised assignment. The training shall include procedures specific to an individual's job assignment. The level of training is to be commensurate with each worker's assignment.

§ 835.903 Radiological control technicians.

Training and retraining programs for radiological control technicians shall be established and conducted at intervals not to exceed 2 years to familiarize technicians with the fundamentals of radiation protection and the proper procedures for maintaining exposures ALARA. This program shall include both classroom and applied training. The training shall either precede performance of tasks assigned to radiological control technicians or be concurrent with such task assignments if the individual is accompanied by and under the direct supervision of a trained individual. The required level of knowledge of radiation safety possessed by radiological control technicians shall be verified by examination to include demonstration prior to any unsupervised work assignment. The training program shall include procedures specific to the site or facility where the technician is assigned. The level of training shall be commensurate with the technician's assignment. Allowance may be made for previous DOE training on generic radiation safety topics (i.e., those not specific to a site or facility), provided the training was received within the past 2 years. Documentation of the previous training shall clearly identify the individual's name, date of training, topics covered, and name of the certifying individual.

Subpart K—Design and Control

§ 835.1001 Design and control.

(a) Measures shall be taken to maintain radiation exposure in controlled areas as low as is reasonably achievable through facility and equipment design and administrative control. The primary methods used shall be physical design features (e.g., confinement, ventilation, remote handling, and shielding). Administrative controls and procedural requirements shall be employed only as supplemental methods to control radiation exposure.

(b) For specific activities where use of physical design features are demonstrated to be impractical, administrative controls and procedural requirements shall be used to maintain radiation exposures ALARA.

§ 835.1002 Facility design and modifications.

During the design of new facilities or modification of old facilities, the following objectives shall be adopted:

(a) Optimization methods shall be used to assure that occupational exposure is maintained ALARA in developing and justifying facility design and physical controls.

(b) The design objective for controlling personnel exposure from external sources of radiation in areas of continuous occupational occupancy (2000 hours per year) shall be to maintain exposure levels below an average of 0.5 mrem (5 microsieverts) per hour and as far below this average as is reasonably achievable. The design objectives for exposure rates for potential exposure to a radiological worker where occupancy differs from the above shall be ALARA and shall not exceed 20 percent of the applicable standards in § 835.202.

(c) Regarding the control of airborne radioactive material, the design objective shall be, under normal conditions, to avoid releases to the workplace atmosphere and in any situation, to control the inhalation of such material by workers to levels that are ALARA; confinement and ventilation shall normally be used.

(d) The design or modification of a facility and the selection of materials shall include features that facilitate operations, maintenance, decontamination, and decommissioning.

§ 835.1003 Control procedures.

(a) During routine operations, the combination of design features and administrative control procedures shall provide that:

(1) The anticipated magnitude of the total effective dose equivalent shall not exceed 5 rems (0.05 sievert) in a year;

(2) The anticipated magnitude of the committed dose equivalent to any organ or tissue, plus any deep dose equivalent from external exposure, shall not exceed 50 rems (0.5 sievert) in a year; and

(3) Exposure levels are as low as reasonably achievable.

(b) Compliance with the requirements in paragraph (a) of this section shall be demonstrated by appropriate monitoring pursuant to the provisions of subpart E of this part.

Subpart L—Releases of Materials and Equipment From Radiological Areas

§ 835.1101 Releases of materials and equipment from radiological areas.

The following requirements apply for the release of materials and equipment from radiological areas for use in controlled areas:

(a) In radiological areas established to control surface or airborne radioactive material, material and equipment shall be treated as radioactive material and shall not be released from radiological areas to controlled areas if either of the following conditions exist:

(1) Measurements of accessible surfaces show that either the total or removable contamination levels exceed the values specified in appendix D to this part; or

(2) Prior use suggests that the contamination levels on inaccessible surfaces are likely to exceed the values specified in appendix D to this part.

(b) Material and equipment exceeding the total or removable contamination levels specified in appendix D to this part may be conditionally released for movement on-site from one radiological area for immediate placement in another radiological area only if appropriate monitoring and control procedures are established and exercised.

(c) Material and equipment with fixed contamination levels that exceed the limits specified in appendix D to this part may be released for use in controlled areas outside of the radiological areas with the following provisions:

(1) Removable contamination levels are below the level specified in appendix D of this part; and

(2) Materials shall be routinely monitored, clearly labeled, or tagged to alert personnel of the contaminated status; appropriate administrative procedures shall be established and exercised to maintain control of these items.

(d) The records for release of material and equipment shall describe the property, date on which the release survey was performed, identity of the individual who performed the survey, type and identification number of the survey instrument used, and results of the survey.

Subpart M—[Reserved]

Subpart N—Accidents and Emergencies

§ 835.1301 General provisions.

(a) A general employee whose occupational exposure has exceeded any of the limits specified in §§ 835.202 or 835.205 may be permitted to return to work in radiological areas during the current year providing that all of the following conditions are met:

(1) Approval is first obtained from the contractor management and the Head of the responsible DOE field organization;

(2) The individual receives counseling from radiological protection and medical personnel regarding the consequences of receiving additional occupational exposure during the year; and

(3) The affected employee agrees to return to radiological work.

(b) All exposures exceeding the limits specified in §§ 835.202 or 835.205 shall be recorded in the affected individual's occupational exposure file and reported to the DOE in accordance with Departmental requirements for occurrence reporting and processing.

(c) When the conditions under which the emergency or accident exposures were received have been eliminated, operating management shall notify the Head of the responsible DOE field organization.

(d) Operations after an emergency or accidental exposure in excess of the limits specified in §§ 835.202 or 835.205 may be resumed only with the approval of the DOE.

(e) Occurrence reports to DOE regarding emergencies and/or accidents shall be prepared and submitted in accordance with Departmental requirements for occurrence reporting and processing.

§ 835.1302 Emergency exposure situations.

(a) The risk of injury to those individuals involved in rescue and recovery operations shall be minimized.

(b) Operating management shall weigh actual and potential risks to rescue and recover individuals against the benefits to be gained.

(c) Rescue action that might involve substantial personal risk shall be performed by volunteers.

(d) The dose limits for individuals performing these operations are as follows:

GUIDELINES FOR CONTROL OF EMERGENCY EXPOSURES

Dose limit [1] (whole body)	Activity performed	Conditions
5 rems	All	
10 rems	Protecting major property.	Where lower dose limit not practicable.
25 rems	Lifesaving or protection of large populations.	Where lower dose limit not practicable.

GUIDELINES FOR CONTROL OF EMERGENCY EXPOSURES—Continued

Dose limit[1] (whole body)	Activity performed	Conditions
>25 rems	Lifesaving or protection of large populations.	Only on a voluntary basis to personnel fully aware of the risks involved.

[1] The lens of the eye dose limit is three times the listed values. The shallow dose limit to the skin of the whole body and the extremities is ten times the listed values. These doses are in addition to and accounted for separately from the doses received under the limits in §§ 835.202 and 835.205.

(e) Each individual selected shall be trained in accordance with § 835.902 and briefed beforehand of the known or anticipated hazards to which the individual will be subjected.

§ 835.1303 [Reserved]

§ 835.1304 Nuclear accident dosimetry.

(a) Installations possessing sufficient quantities of fissile material to potentially constitute a critical mass, such that the excessive exposure of personnel to radiation from a nuclear accident is possible, shall provide nuclear accident dosimetry for those personnel.

(b) Nuclear accident dosimetry shall include the following:

(1) A method to conduct initial screening of personnel involved in a nuclear accident to determine whether significant exposures to radiation occurred;

(2) Methods and equipment for analysis of biological materials;

(3) A system of fixed nuclear accident dosimeter units; and

(4) Personal nuclear accident dosimeters worn by all personnel who enter locations in which installed criticality alarm systems are required.

Appendix A to Part 835—Derived Air Concentrations (DAC) for Controlling Radiation Exposure to Workers at DOE Facilities

The derived air concentrations (DAC) for limiting radiation exposures through inhalation of radionuclides by workers are listed in this appendix. The values are based on either a stochastic (committed effective dose equivalent) dose limit of 5 rems (0.05 Sv) or a nonstochastic (organ) dose limit of 50 rems (0.5 Sv) per year, whichever is more limiting.

Note: the 15 rems [0.15 Sv] dose limit for the lens of the eye does not appear as a critical organ dose limit.)

The columns in this appendix contain the following information: (1) Radionuclide; (2) inhaled air DAC for lung retention class D, W, and Y in units of μCi/ml; (3) inhaled air DAC for lung retention class D, W, and Y in units of Bq/m^3; and (4) an indication of whether or not the DAC for each class is controlled by the stochastic (effective dose equivalent) or nonstochastic (tissue) dose. The classes D, W, and Y have been established to describe the clearance of inhaled radionuclides from the lung. This classification refers to the approximate length of retention in the pulmonary region. Thus, the range of half-times for retention in the pulmonary region is less than 10 days for class D (days), from 10 to 100 days for class W (weeks), and greater than 100 days for class Y (years). The DACs are listed by radionuclide, in order of increasing atomic mass, and are based on the assumption that the particle size distribution of the inhaled material is unknown and an assumed particle size distribution of 1 μm is used. For situations where the particle size distribution is known to differ significantly from 1 μm, appropriate corrections can be made to both the estimated dose to workers and the DACs.

Radionuclide	Inhaled air-lung retention class[3]			Inhaled air-lung retention class[3]			Stochastic or organ[1]
	μCi/ml			Bq/m^3			
	D	W	Y	D	W	Y	(D/ W/ Y)
H-3 (Water)[2]	2.E−05	2.E−05	2.E−05	8.E+05	8.E+05	8.E+05	St/St/St
H-3 (Elemental)[2]	5.E−01	5.E−01	5.E−01	2.E+10	2.E+10	2.E+10	St/St/St
Be-7	–	9.E−06	8.E−06	–	3.E+05	3.E+05	/St/St
Be-10	–	6.E−08	6.E−09	–	2.E+03	2.E+02	/St/St
C-11 (Org)[2]	2.E−04	2.E−04	2.E−04	6.E+06	6.E+06	6.E+06	St/St/St
C-11 (CO)[2]	5.E−04	5.E−04	5.E−04	2.E+07	2.E+07	2.E+07	St/St/St
C-11 (CO_2)[2]	3.E−04	3.E−04	3.E−04	1.E+07	1.E+07	1.E+07	St/St/St
C-14 (Org)[2]	1.E−06	1.E−06	1.E−06	4.E+07	4.E+04	4.E+07	St/St/St
C-14 (CO)[2]	7.E−04	7.E−04	7.E−04	3.E+07	3.E+07	3.E+07	St/St/St
C-14 (CO_2)[2]	9.E−05	9.E−05	9.E−05	3.E+06	3.E+06	3.E+06	St/St/St
F-18	3.E−05	4.E−05	3.E−05	1.E+06	1.E+06	1.E+06	St/St/St
Na-22	3.E−07	–	–	1.E+04	–	–	St/ /
Na-24	2.E−06	–	–	8.E+04	–	–	St/ /
Mg-28	7.E−07	5.E−07	–	3.E+04	2.E+04	–	St/St/
Al-26	3.E−08	3.E−08	–	1.E+03	1.E+03	–	St/St/
Si-31	1.E−05	1.E−05	1.E−05	4.E+05	5.E+05	4.E+05	St/St/St
Si-32	1.E−07	5.E−08	2.E−09	4.E+03	2.E+03	8.E+01	St/St/St
P-32	4.E−07	2.E−07	–	1.E+04	6.E+03	–	St/St/
P-33	3.E−06	1.E−06	–	1.E+05	4.E+04	–	St/St/
S-35	7.E−06	9.E−07	–	3.E+05	3.E+04	–	St/St/
S-35 (Gas)	–	6.E−06	–	–	2.E+05	–	/St/
Cl-36	1.E−06	1.E−07	–	4.E+04	4.E+03	–	St/St/
Cl-38	2.E−05	2.E−05	–	6.E+05	7.E+05	–	St/St/
Cl-39	2.E−05	2.E−05	–	8.E+05	9.E+05	–	St/St/
K-40	2.E−07	–	–	6.E+03	–	–	St/ /
K-42	2.E−06	–	–	7.E+04	–	–	St/ /
K-43	4.E−06	–	–	1.E+05	–	–	St/ /
K-44	3.E−05	–	–	1.E+06	–	–	St/ /
K-45	5.E−05	–	–	2.E+06	–	–	St/ /
Ca-41	–	2.E−06	–	–	6.E+04	–	/E/
Ca-45	–	3.E−07	–	–	1.E+04	–	/St/

Radionuclide	Inhaled air-lung retention class [3]			Inhaled air-lung retention class [3]			Stochastic or organ [1]
	μCi/ml			Bq/m³			
	D	W	Y	D	W	Y	(D/ W/ Y)
Ca-47	–	4.E−07	–	–	1.E+04	–	/St/
Sc-43	–	–	1.E−05	–	–	4.E+05	/ /St
Sc-44m	–	–	3.E−07	–	–	1.E+04	/ /St
Sc-44	–	–	5.E−06	–	–	2.E+05	/ /St
Sc-46	–	–	1.E−07	–	–	4.E+03	/ /St
Sc-47	–	–	1.E−06	–	–	5.E+04	/ /St
Sc-48	–	–	6.E−07	–	–	2.E+04	/ /St
Sc-49	–	–	2.E−05	–	–	8.E+05	/ /St
Ti-44	5.E−09	1.E−08	2.E−09	2.E+02	4.E+02	9.E+01	St/St/St
Ti-45	1.E−05	1.E−05	1.E−05	4.E+05	5.E+05	5.E+05	St/St/St
V-47	4.E−05	4.E−05	–	1.E+06	1.E+06	–	St/St/
V-48	4.E−07	3.E−07	–	2.E+04	1.E+04	–	St/St/
V-49	1.E−05	7.E−06	–	5.E+05	3.E+05	–	BS/St/
Cr-48	5.E−06	3.E−06	3.E−06	2.E+05	1.E+05	1.E+05	St/St/St
Cr-49	3.E−05	4.E−05	4.E−05	1.E+06	2.E+06	1.E+06	St/St/St
Cr-51	2.E−05	1.E−05	8.E−06	7.E+05	4.E+05	3.E+05	St/St/St
Mn-51	2.E−05	2.E−05	–	8.E+05	9.E+05	–	St/St/
Mn-52m	4.E−05	4.E−05	–	1.E+06	2.E+06	–	St/St/
Mn-52	5.E−07	4.E−07	–	2.E+04	1.E+04	–	St/St/
Mn-53	5.E−06	5.E−06	–	2.E+05	2.E+05	–	BS/St/
Mn-54	4.E−07	3.E−07	–	1.E+04	1.E+04	–	St/St/
Mn-56	6.E−06	9.E−06	–	2.E+05	3.E+05	–	St/St/
Fe-52	1.E−06	1.E−06	–	5.E+04	4.E+04	–	St/St/
Fe-55	8.E−07	2.E−06	–	3.E+04	6.E+04	–	St/St/
Fe-59	1.E−07	2.E−07	–	5.E+03	8.E+03	–	St/St/
Fe-60	3.E−09	8.E−09	–	1.E+02	3.E+02	–	St/St/
Co-55	–	1.E−06	1.E−06	–	4.E+04	4.E+04	/St/St
Co-56	–	1.E−07	8.E−08	–	5.E+03	3.E+03	/St/St
Co-57	–	1.E−06	3.E−07	–	4.E+04	1.E+04	/St/St
Co-58m	–	4.E−05	3.E−05	–	1.E+06	1.E+06	/St/St
Co-58	–	5.E−07	3.E−07	–	2.E+04	1.E+04	/St/St
Co-60m	–	2.E−03	1.E−03	–	6.E+07	4.E+07	/St/St
Co-60	–	7.E−08	1.E−08	–	3.E+03	5.E+02	/St/St
Co-61	–	3.E−05	2.E−05	–	1.E+06	9.E+05	/St/St
Co-62m	–	7.E−05	7.E−05	–	3.E+06	2.E+06	/St/St
Ni-56 (Inorg)	8.E−07	5.E−07	–	3.E+04	2.E+04	–	St/St/
Ni-56 (Vapor)	–	5.E−07	–	–	2.E+04	–	/St/
Ni-57 (Inorg)	2.E−06	1.E−06	–	7.E+04	5.E+04	–	St/St/
Ni-57 (Vapor)	–	3.E−06	–	–	1.E+05	–	/St/
Ni-59 (Inorg)	2.E−06	3.E−06	–	6.E+04	1.E+05	–	St/St/
Ni-59 (Vapor)	–	8.E−07	–	–	3.E+04	–	/St/
Ni-63 (Inorg)	7.E−07	1.E−06	–	3.E+04	4.E+04	–	St/St/
Ni-63 (Vapor)	–	3.E−07	–	–	1.E+04	–	/St/
Ni-65 (Inorg)	1.E−05	1.E−05	–	4.E+05	5.E+05	–	St/St/
Ni-65 (Vapor)	–	7.E−06	–	–	3.E+05	–	/St/
Ni-66 (Inorg)	7.E−07	3.E−07	–	3.E+04	1.E+04	–	St/St/
Ni-66 (Vapor)	–	1.E−06	–	–	5.E+04	–	/St/
Cu-60	4.E−05	5.E−05	4.E−05	1.E+06	2.E+06	2.E+06	St/St/St
Cu-61	1.E−05	2.E−05	1.E−05	5.E+05	6.E+05	5.E+05	St/St/St
Cu-64	1.E−05	1.E−05	9.E−06	5.E+05	4.E+05	3.E+05	St/St/St
Cu-67	3.E−06	2.E−06	2.E−06	1.E+05	8.E+04	7.E+04	St/St/St
Zn-62	–	–	1.E−06	–	–	4.E+04	/ /St
Zn-63	–	–	3.E−05	–	–	1.E+06	/ /St
Zn-65	–	–	1.E−07	–	–	4.E+03	/ /St
Zn-69m	–	–	3.E−06	–	–	1.E+05	/ /St
Zn-69	–	–	6.E−05	–	–	2.E+06	/ /St
Zn-71m	–	–	7.E−06	–	–	3.E+05	/ /St
Zn-72	–	–	5.E−07	–	–	2.E+04	/ /St
Ga-65	7.E−05	8.E−05	–	3.E+06	3.E+06	–	St/St/
Ga-66	1.E−06	1.E−06	–	5.E+04	5.E+04	–	St/St/
Ga-67	6.E−06	4.E−06	–	2.E+05	2.E+05	–	St/St/
Ga-68	2.E−05	2.E−05	–	6.E+05	8.E+05	–	St/St/
Ga-70	7.E−05	8.E−05	–	3.E+06	3.E+06	–	St/St/
Ga-72	2.E−06	1.E−06	–	6.E+04	5.E+04	–	St/St/
Ga-73	6.E−06	6.E−06	–	2.E+05	2.E+05	–	St/St/
Ge-66	1.E−05	8.E−06	–	4.E+05	3.E+05	–	St/St/
Ge-67	4.E−05	4.E−05	–	1.E+06	2.E+06	–	St/St/
Ge-68	2.E−06	4.E−08	–	6.E+04	2.E+03	–	St/St/
Ge-69	6.E−06	3.E−06	–	2.E+05	1.E+05	–	St/St/
Ge-71	2.E−04	2.E−05	–	7.E+06	6.E+05	–	St/St/

Radionuclide	Inhaled air-lung retention class [3]			Inhaled air-lung retention class [3]			Stochastic or organ [1]
	µCi/ml			Bq/m³			
	D	W	Y	D	W	Y	(D/ W/ Y)
Ge-75	3.E−05	3.E−05	–	1.E+06	1.E+06	–	St/St/
Ge-77	4.E−06	2.E−06	–	2.E+05	9.E+04	–	St/St/
Ge-78	9.E−06	9.E−06	–	4.E+05	3.E+05	–	St/St/
As-69	–	5.E−05	–	–	2.E+06	–	/St/
As-70	–	2.E−05	–	–	8.E+05	–	/St/
As-71	–	2.E−06	–	–	7.E+04	–	/St/
As-72	–	6.E−07	–	–	2.E+04	–	/St/
As-73	–	7.E−07	–	–	3.E+04	–	/St/
As-74	–	3.E−07	–	–	1.E+04	–	/St/
As-76	–	6.E−07	–	–	2.E+04	–	/St/
As-77	–	2.E−06	–	–	8.E+04	–	/St/
As-78	–	9.E−06	–	–	3.E+05	–	/St/
Se-70	1.E−05	2.E−05	–	6.E+05	7.E+05	–	St/St/
Se-73m	6.E−05	6.E−05	–	2.E+06	2.E+06	–	St/St/
Se-73	6.E−06	7.E−06	–	2.E+05	2.E+05	–	St/St/
Se-75	3.E−07	3.E−07	–	1.E+04	9.E+03	–	St/St/
Se-79	3.E−07	2.E−07	–	1.E+04	9.E+03	–	St/St/
Se-81m	3.E−05	3.E−05	–	1.E+06	1.E+06	–	St/St/
Se-81	9.E−05	1.E−04	–	3.E+06	4.E+06	–	St/St/
Se-83	5.E−05	5.E−05	–	2.E+06	2.E+06	–	St/St/
Br-74m	1.E−05	2.E−05	–	6.E+05	6.E+05	–	St/St/
Br-74	3.E−05	3.E−05	–	1.E+06	1.E+06	–	St/St/
Br-75	2.E−05	2.E−05	–	7.E+05	8.E+05	–	St/St/
Br-76	2.E−06	2.E−06	–	7.E+04	7.E+04	–	St/St/
Br-77	1.E−05	8.E−06	–	4.E+05	3.E+05	–	St/St/
Br-80m	7.E−06	6.E−06	–	3.E+05	2.E+05	–	St/St/
Br-80	8.E−05	9.E−05	–	3.E+06	3.E+06	–	St/St/
Br-82	2.E−06	2.E−06	–	6.E+04	6.E+04	–	St/St/
Br-83	3.E−05	3.E−05	–	1.E+06	1.E+06	–	St/St/
Br-84	2.E−05	3.E−05	–	9.E+05	1.E+06	–	St/St/
Rb-79	5.E−05	–	–	2.E+06	–	–	St/ /
Rb-81m	1.E−04	–	–	5.E+06	–	–	St/ /
Rb-81	2.E−05	–	–	8.E+05	–	–	St/ /
Rb-82m	7.E−06	–	–	3.E+05	–	–	St/ /
Rb-83	4.E−07	–	–	2.E+04	–	–	St/ /
Rb-84	3.E−07	–	–	1.E+04	–	–	St/ /
Rb-86	3.E−07	–	–	1.E+04	–	–	St/ /
Rb-87	6.E−07	–	–	2.E+04	–	–	St/ /
Rb-88	3.E−05	–	–	1.E+06	–	–	St/ /
Rb-89	6.E−05	–	–	2.E+06	–	–	St/ /
Sr-80	5.E−06	–	5.E−06	2.E+05	–	2.E+05	St/ /St
Sr-81	3.E−05	–	3.E−05	1.E+06	–	1.E+06	St/ /St
Sr-83	3.E−06	–	2.E−06	1.E+05	–	5.E+04	St/ /St
Sr-85m	3.E−04	–	3.E−04	9.E+06	–	1.E+07	St/ /St
Sr-85	1.E−06	–	7.E−07	4.E+04	–	2.E+04	St/ /St
Sr-87m	5.E−05	–	6.E−05	2.E+06	–	2.E+06	St/ /St
Sr-89	3.E−07	–	6.E−08	1.E+04	–	2.E+03	St/ /St
Sr-90	8.E−09	–	2.E−09	3.E+02	–	6.E+01	BS/ /St
Sr-91	2.E−06	–	1.E−06	9.E+04	–	5.E+04	St/ /St
Sr-92	4.E−06	–	3.E−06	1.E+05	–	1.E+05	St/ /St
Y-86m	–	2.E−05	2.E−05	–	9.E+05	9.E+05	/St/St
Y-86	–	1.E−06	1.E−06	–	5.E+04	5.E+04	/St/St
Y-87	–	1.E−06	1.E−06	–	5.E+04	5.E+04	/St/St
Y-88	–	1.E−07	1.E−07	–	4.E+03	4.E+03	/St/St
Y-90m	–	5.E−06	5.E−06	–	2.E+05	2.E+05	/St/St
Y-90	–	3.E−07	2.E−07	–	1.E+04	9.E+03	/St/St
Y-91m	–	1.E−04	7.E−05	–	4.E+06	3.E+06	/St/St
Y-91	–	7.E−08	5.E−08	–	3.E+03	2.E+03	/St/St
Y-92	–	3.E−06	3.E−06	–	1.E+05	1.E+05	/St/St
Y-93	–	1.E−06	1.E−06	–	4.E+04	4.E+04	/St/St
Y-94	–	3.E−05	3.E−05	–	1.E+06	1.E+06	/St/St
Y-95	–	6.E−05	6.E−05	–	2.E+06	2.E+06	/St/St
Zr-86	2.E−06	1.E−06	1.E−06	6.E+04	4.E+04	4.E+04	St/St/St
Zr-88	9.E−08	2.E−07	1.E−07	3.E+03	7.E+03	5.E+03	St/St/St
Zr-89	2.E−06	1.E−06	1.E−06	5.E+04	4.E+04	4.E+04	St/St/St
Zr-93	3.E−09	1.E−08	2.E−08	1.E+02	4.E+02	9.E+02	BS/BS/BS
Zr-95	6.E−08	2.E−07	1.E−07	2.E+03	6.E+03	4.E+03	BS/St/St
Zr-97	8.E−07	6.E−07	5.E−07	3.E+04	2.E+04	2.E+04	St/St/St
Nb-88	–	1.E−04	9.E−05	–	4.E+06	3.E+06	/St/St
Nb-89 (66 min)	–	2.E−05	2.E−05	–	6.E+05	6.E+05	/St/St

Radionuclide	Inhaled air-lung retention class [3]			Inhaled air-lung retention class [3]			Stochastic or organ [1]
	µCi/ml			Bq/m³			
	D	W	Y	D	W	Y	(D/ W/ Y)
Nb-89 (122 min)	–	8.E−06	7.E−06	–	3.E+05	2.E+05	/St/St
Nb-90	–	1.E−06	1.E−06	–	4.E+04	4.E+04	/St/St
Nb-93m	–	5.E−07	7.E−08	–	2.E+04	3.E+03	/St/St
Nb-94	–	8.E−08	6.E−09	–	3.E+03	2.E+02	/St/St
Nb-95m	–	1.E−06	9.E−07	–	4.E+04	4.E+04	/St/St
Nb-95	–	5.E−07	5.E−07	–	2.E+04	2.E+04	/St/St
Nb-96	–	1.E−06	1.E−06	–	4.E+04	4.E+04	/St/St
Nb-97	–	3.E−05	3.E−05	–	1.E+06	1.E+06	/St/St
Nb-98	–	2.E−05	2.E−05	–	8.E+05	8.E+05	/St/St
Mo-90	3.E−06	–	2.E−06	1.E+05	–	7.E+04	St/ /St
Mo-93m	7.E−06	–	6.E−06	3.E+05	–	2.E+05	St/ /St
Mo-93	2.E−06	–	7.E−08	8.E+04	–	3.E+03	St/ /St
Mo-99	1.E−06	–	6.E−07	4.E+04	–	2.E+04	St/ /St
Mo-101	6.E−05	–	6.E−05	2.E+06	–	2.E+06	St/ /St
Tc-93m	7.E−05	1.E−04	–	2.E+06	5.E+06	–	St/St/
Tc-93	3.E−05	4.E−05	–	1.E+06	2.E+06	–	St/St/
Tc-94m	2.E−05	2.E−05	–	7.E+05	9.E+05	–	St/St/
Tc-94	8.E−06	1.E−05	–	3.E+05	4.E+05	–	St/St/
Tc-96m	1.E−04	1.E−04	–	4.E+06	4.E+06	–	St/St/
Tc-96	1.E−06	9.E−07	–	5.E+04	3.E+04	–	St/St/
Tc-97m	3.E−06	5.E−07	–	1.E+05	2.E+04	–	SW/St/
Tc-97	2.E−05	2.E−06	–	8.E+05	9.E+04	–	St/St/
Tc-98	7.E−07	1.E−07	–	3.E+04	5.E+03	–	St/St/
Tc-99m	6.E−05	1.E−04	–	2.E+06	4.E+06	–	St/St/
Tc-99	2.E−06	3.E−07	–	8.E+04	1.E+04	–	SW/St/
Tc-101	1.E−04	2.E−04	–	5.E+06	6.E+06	–	St/St/
Tc-104	3.E−05	4.E−05	–	1.E+06	1.E+06	–	St/St/
Ru-94	2.E−05	3.E−05	2.E−05	7.E+05	1.E+06	9.E+05	St/St/St
Ru-97	8.E−06	5.E−06	5.E−06	3.E+05	2.E+05	2.E+05	St/St/St
Ru-103	7.E−07	4.E−07	3.E−07	3.E+04	2.E+04	1.E+04	St/St/St
Ru-105	6.E−06	6.E−06	5.E−06	2.E+05	2.E+05	2.E+05	St/St/St
Ru-106	4.E−08	2.E−08	5.E−09	1.E+03	8.E+02	2.E+02	St/St/St
Rh-99m	2.E−05	3.E−05	3.E−05	9.E+05	1.E+06	1.E+06	St/St/St
Rh-99	1.E−06	9.E−07	8.E−07	5.E+04	3.E+04	3.E+04	St/St/St
Rh-100	2.E−06	2.E−06	2.E−06	8.E+04	6.E+04	6.E+04	St/St/St
Rh-101m	5.E−06	3.E−06	3.E−06	2.E+05	1.E+05	1.E+05	St/St/St
Rh-101	2.E−07	3.E−07	7.E−08	8.E+03	1.E+04	2.E+03	St/St/St
Rh-102m	2.E−07	2.E−07	5.E−08	8.E+03	6.E+03	2.E+03	St/St/St
Rh-102	4.E−08	7.E−08	2.E−08	1.E+03	3.E+03	9.E+02	St/St/St
Rh-103m	4.E−04	5.E−04	5.E−04	2.E+07	2.E+07	2.E+07	St/St/St
Rh-105	5.E−06	3.E−06	2.E−06	2.E+05	1.E+05	9.E+04	St/St/St
Rh-106m	1.E−05	1.E−05	1.E−05	4.E+05	6.E+05	5.E+05	St/St/St
Rh-107	1.E−04	1.E−04	1.E−04	4.E+06	4.E+06	4.E+06	St/St/St
Pd-100	6.E−07	5.E−07	6.E−07	2.E+04	2.E+04	2.E+04	St/St/St
Pd-101	1.E−05	1.E−05	1.E−05	5.E+05	5.E+05	5.E+05	St/St/St
Pd-103	3.E−06	2.E−06	1.E−06	1.E+05	7.E+04	5.E+04	St/St/St
Pd-107	9.E−06	3.E−06	2.E−07	3.E+05	1.E+05	6.E+03	K /St/St
Pd-109	3.E−06	2.E−06	2.E−06	1.E+05	8.E+04	7.E+04	St/St/St
Ag-102	8.E−05	9.E−05	8.E−05	3.E+06	3.E+06	3.E+06	St/St/St
Ag-103	4.E−05	6.E−05	5.E−05	2.E+06	2.E+06	2.E+06	St/St/St
Ag-104m	4.E−05	5.E−05	5.E−05	2.E+06	2.E+06	2.E+06	St/St/St
Ag-104	3.E−05	6.E−05	6.E−05	1.E+06	2.E+06	2.E+06	St/St/St
Ag-105	4.E−07	7.E−07	7.E−07	2.E+04	3.E+04	3.E+04	St/St/St
Ag-106m	3.E−07	4.E−07	4.E−07	1.E+04	1.E+04	1.E+04	St/St/St
Ag-106	7.E−05	8.E−05	8.E−05	3.E+06	3.E+06	3.E+06	St/St/St
Ag-108m	8.E−08	1.E−07	1.E−08	3.E+03	4.E+03	4.E+02	St/St/St
Ag-110m	6.E−08	8.E−08	4.E−08	2.E+03	3.E+03	1.E+03	St/St/St
Ag-111	7.E−07	4.E−07	4.E−07	2.E+04	1.E+04	1.E+04	L /St/St
Ag-112	3.E−06	4.E−06	4.E−06	1.E+05	2.E+05	1.E+05	St/St/St
Ag-115	4.E−05	4.E−05	3.E−05	1.E+06	1.E+06	1.E+06	St/St/St
Cd-104	3.E−05	5.E−05	5.E−05	1.E+06	2.E+06	2.E+06	St/St/St
Cd-107	2.E−05	2.E−05	2.E−05	8.E+05	9.E+05	8.E+05	St/St/St
Cd-109	1.E−08	5.E−08	5.E−08	5.E+02	2.E+03	2.E+03	K /K /St
Cd-113m	1.E−09	4.E−09	5.E−09	4.E+01	1.E+02	2.E+02	K /K /St
Cd-113	9.E−10	3.E−09	6.E−09	4.E+01	1.E+02	2.E+02	K /K /St
Cd-115m	2.E−08	5.E−08	6.E−08	8.E+02	2.E+03	2.E+03	K /St/St
Cd-115	6.E−07	5.E−07	6.E−07	2.E+04	2.E+04	2.E+04	St/St/St
Cd-117m	5.E−06	7.E−06	6.E−06	2.E+05	3.E+05	2.E+05	St/St/St
Cd-117	5.E−06	7.E−06	6.E−06	2.E+05	3.E+05	2.E+05	St/St/St
In-109	2.E−05	3.E−05	–	7.E+05	1.E+06	–	St/St/

Radionuclide	Inhaled air-lung retention class [3] µCi/ml			Inhaled air-lung retention class [3] Bq/m³			Stochastic or organ [1]
	D	W	Y	D	W	Y	(D/ W/ Y)
In-110 (69 min)	2.E−05	2.E−05	–	7.E+05	9.E+05	–	St/St/
In-110 (5 h)	7.E−06	8.E−06	–	3.E+05	3.E+05	–	St/St/
In-111	3.E−06	3.E−06	–	1.E+05	1.E+05	–	St/St/
In-112	3.E−04	3.E−04	–	1.E+07	1.E+07	–	St/St/
In-113m	6.E−05	8.E−05	–	2.E+06	3.E+06	–	St/St/
In-114m	3.E−08	4.E−08	–	1.E+03	2.E+03	–	St/St/
In-115m	2.E−05	2.E−05	–	7.E+05	7.E+05	–	St/St/
In-115	6.E−10	2.E−09	–	2.E+01	8.E+01	–	St/St/
In-116m	3.E−05	5.E−05	–	1.E+06	2.E+06	–	St/St/
In-117m	1.E−05	2.E−05	–	5.E+05	7.E+05	–	St/St/
In-117	7.E−05	9.E−05	–	3.E+06	3.E+06	–	St/St/
In-119m	5.E−05	6.E−05	–	2.E+06	2.E+06	–	St/St/
Sn-110	5.E−06	5.E−06	–	2.E+05	2.E+05	–	St/St/
Sn-111	9.E−05	1.E−04	–	4.E+06	4.E+06	–	St/St/
Sn-113	5.E−07	2.E−07	–	2.E+04	9.E+03	–	St/St/
Sn-117m	5.E−07	6.E−07	–	2.E+04	2.E+04	–	BS/St/
Sn-119m	1.E−06	4.E−07	–	4.E+04	1.E+04	–	St/St/
Sn-121m	4.E−07	2.E−07	–	1.E+04	9.E+03	–	St/St/
Sn-121	6.E−06	5.E−06	–	2.E+05	2.E+05	–	St/St/
Sn-123m	5.E−05	6.E−05	–	2.E+06	2.E+06	–	St/St/
Sn-123	3.E−07	7.E−08	–	1.E+04	3.E+03	–	St/St/
Sn-125	4.E−07	2.E−07	–	1.E+04	5.E+03	–	St/St/
Sn-126	2.E−08	3.E−08	–	9.E+02	1.E+03	–	St/St/
Sn-127	8.E−06	8.E−06	–	3.E+05	3.E+05	–	St/St/
Sn-128	1.E−05	1.E−05	–	4.E+05	6.E+05	–	St/St/
Sb-115	1.E−04	1.E−04	–	4.E+06	5.E+06	–	St/St/
Sb-116m	3.E−05	6.E−05	–	1.E+06	2.E+06	–	St/St/
Sb-116	1.E−04	1.E−04	–	4.E+06	5.E+06	–	St/St/
Sb-117	9.E−05	1.E−04	–	3.E+06	4.E+06	–	St/St/
Sb-118m	8.E−06	9.E−06	–	3.E+05	3.E+05	–	St/St/
Sb-119	2.E−05	1.E−05	–	7.E+05	4.E+05	–	St/St/
Sb-120 (16 min)	2.E−04	2.E−04	–	7.E+06	8.E+06	–	St/St/
Sb-120 (6 d)	9.E−07	6.E−07	–	3.E+04	2.E+04	–	St/St/
Sb-122	1.E−06	4.E−07	–	4.E+04	2.E+04	–	St/St/
Sb-124m	3.E−04	3.E−04	–	1.E+07	9.E+06	–	St/St/
Sb-124	4.E−07	1.E−07	–	1.E+04	4.E+03	–	St/St/
Sb-125	1.E−06	2.E−07	–	4.E+04	8.E+03	–	St/St/
Sb-126m	8.E−05	8.E−05	–	3.E+06	3.E+06	–	St/St/
Sb-126	4.E−07	2.E−07	–	2.E+04	8.E+03	–	St/St/
Sb-127	9.E−07	4.E−07	–	3.E+04	1.E+04	–	St/St/
Sb-128 (9 h)	2.E−06	1.E−06	–	6.E+04	5.E+04	–	St/St/
Sb-128 (10 min)	2.E−04	2.E−04	–	6.E+06	7.E+06	–	St/St/
Sb-129	4.E−06	4.E−06	–	1.E+05	1.E+05	–	St/St/
Sb-130	3.E−05	3.E−05	–	1.E+06	1.E+06	–	St/St/
Sb-131	1.E−05	1.E−05	–	4.E+05	4.E+05	–	T /T /
Te-116	9.E−06	1.E−05	–	3.E+05	5.E+05	–	St/St/
Te-121m	8.E−08	2.E−07	–	3.E+03	6.E+03	–	BS/St/
Te-121	2.E−06	1.E−06	–	7.E+04	5.E+04	–	St/St/
Te-123m	9.E−08	2.E−07	–	3.E+03	8.E+03	–	BS/St/
Te-123	8.E−08	2.E−07	–	3.E+03	7.E+03	–	BS/BS/
Te-125m	2.E−07	3.E−07	–	7.E+03	1.E+04	–	BS/St/
Te-127m	1.E−07	1.E−07	–	4.E+03	4.E+03	–	BS/St/
Te-127	9.E−06	7.E−06	–	4.E+05	3.E+05	–	St/St/
Te-129m	3.E−07	1.E−07	–	1.E+04	4.E+03	–	St/St/
Te-129	3.E−05	3.E−05	–	1.E+06	1.E+06	–	St/St/
Te-131m	2.E−07	2.E−07	–	6.E+03	6.E+03	–	T /T /
Te-131	2.E−06	2.E−06	–	8.E+04	8.E+04	–	T /T /
Te-132	9.E−08	9.E−08	–	4.E+03	3.E+03	–	T /T /
Te-133m	2.E−06	2.E−06	–	8.E+04	8.E+04	–	T /T /
Te-133	9.E−06	9.E−06	–	4.E+05	4.E+05	–	T /T /
Te-134	1.E−05	1.E−05	–	4.E+05	4.E+05	–	T /T /
I-120m	9.E−06	–	–	3.E+05	–	–	St/ /
I-120	4.E−06	–	–	1.E+05	–	–	T / /
I-121	7.E−06	–	–	3.E+05	–	–	T / /
I-123	3.E−06	–	–	1.E+05	–	–	T / /
I-124	3.E−08	–	–	1.E+03	–	–	T / /
I-125	3.E−08	–	–	1.E+03	–	–	T / /
I-126	1.E−08	–	–	5.E+02	–	–	T / /
I-128	5.E−05	–	–	2.E+06	–	–	St/ /
I-129	4.E−09	–	–	1.E+02	–	–	T / /

Radionuclide	Inhaled air-lung retention class[3] µCi/ml			Inhaled air-lung retention class[3] Bq/m[3]			Stochastic or organ[1]
	D	W	Y	D	W	Y	(D/ W/ Y)
I-130	3.E−07	–	–	1.E+04	–	–	T / /
I-131	2.E−08	–	–	7.E+02	–	–	T / /
I-132m	4.E−06	–	–	1.E+05	–	–	T / /
I-132	3.E−06	–	–	1.E+05	–	–	T / /
I-133	1.E−07	–	–	4.E+03	–	–	T / /
I-134	2.E−05	–	–	7.E+05	–	–	E / /
I-135	7.E−07	–	–	2.E+04	–	–	T / /
Cs-125	6.E−05	–	–	2.E+06	–	–	St/ /
Cs-127	4.E−05	–	–	2.E+06	–	–	St/ /
Cs-129	1.E−05	–	–	5.E+05	–	–	St/ /
Cs-130	8.E−05	–	–	3.E+06	–	–	St/ /
Cs-131	1.E−05	–	–	5.E+05	–	–	St/ /
Cs-132	2.E−06	–	–	6.E+04	–	–	St/ /
Cs-134m	6.E−05	–	–	2.E+06	–	–	St/ /
Cs-134	4.E−08	–	–	2.E+03	–	–	St/ /
Cs-135m	8.E−05	–	–	3.E+06	–	–	St/ /
Cs-135	5.E−07	–	–	2.E+04	–	–	St/ /
Cs-136	3.E−07	–	–	1.E+04	–	–	St/ /
Cs-137	7.E−08	–	–	2.E+03	–	–	St/ /
Cs-138	2.E−05	–	–	9.E+05	–	–	St/ /
Ba-126	6.E−06	–	–	2.E+05	–	–	St/ /
Ba-128	7.E−07	–	–	3.E+04	–	–	St/ /
Ba-131m	6.E−04	–	–	2.E+07	–	–	St/ /
Ba-131	3.E−06	–	–	1.E+05	–	–	St/ /
Ba-133m	4.E−06	–	–	1.E+05	–	–	St/ /
Ba-133	3.E−07	–	–	1.E+04	–	–	St/ /
Ba-135m	5.E−06	–	–	2.E+05	–	–	St/ /
Ba-139	1.E−05	–	–	5.E+05	–	–	St/ /
Ba-140	6.E−07	–	–	2.E+04	–	–	St/ /
Ba-141	3.E−05	–	–	1.E+06	–	–	St/ /
Ba-142	6.E−05	–	–	2.E+06	–	–	St/ /
La-131	5.E−05	7.E−05	–	2.E+06	3.E+06	–	St/St/
La-132	4.E−06	5.E−06	–	2.E+05	2.E+05	–	St/St/
La-135	4.E−05	4.E−05	–	2.E+06	2.E+06	–	St/St/
La-137	3.E−08	1.E−07	–	1.E+03	4.E+03	–	L /E /
La-138	2.E−09	6.E−09	–	5.E+01	2.E+02	–	St/St/
La-140	6.E−07	5.E−07	–	2.E+04	2.E+04	–	St/St/
La-141	4.E−06	5.E−06	–	1.E+05	2.E+05	–	St/St/
La-142	9.E−06	1.E−05	–	4.E+05	5.E+05	–	St/St/
La-143	4.E−05	4.E−05	–	2.E+06	1.E+06	–	St/St/
Ce-134	–	3.E−07	3.E−07	–	1.E+04	1.E+04	/St/St
Ce-135	–	2.E−06	2.E−06	–	6.E+04	5.E+04	/St/St
Ce-137m	–	2.E−06	2.E−06	–	7.E+04	6.E+04	/St/St
Ce-137	–	6.E−05	5.E−05	–	2.E+06	2.E+06	/St/St
Ce-139	–	3.E−07	3.E−07	–	1.E+04	1.E+04	/St/St
Ce-141	–	3.E−07	2.E−07	–	1.E+04	9.E+03	/St/St
Ce-143	–	8.E−07	7.E−07	–	3.E+04	2.E+04	/St/St
Ce-144	–	1.E−08	6.E−09	–	4.E+02	2.E+02	/St/St
Pr-136	–	1.E−04	9.E−05	–	4.E+06	4.E+06	/St/St
Pr-137	–	6.E−05	6.E−05	–	2.E+06	2.E+06	/St/St
Pr-138m	–	2.E−05	2.E−05	–	8.E+05	7.E+05	/St/St
Pr-139	–	5.E−05	5.E−05	–	2.E+06	2.E+06	/St/St
Pr-142m	–	7.E−05	6.E−05	–	3.E+06	2.E+06	/St/St
Pr-142	–	8.E−07	8.E−07	–	3.E+04	3.E+04	/St/St
Pr-143	–	3.E−07	3.E−07	–	1.E+04	1.E+04	/St/St
Pr-144	–	5.E−05	5.E−05	–	2.E+06	2.E+06	/St/St
Pr-145	–	4.E−06	3.E−06	–	1.E+05	1.E+05	/St/St
Pr-147	–	8.E−05	8.E−05	–	3.E+06	3.E+06	/St/St
Nd-136	–	2.E−05	2.E−05	–	9.E+05	8.E+05	/St/St
Nd-138	–	3.E−06	2.E−06	–	1.E+05	8.E+04	/St/St
Nd-139m	–	7.E−06	6.E−06	–	3.E+05	2.E+05	/St/St
Nd-139	–	1.E−04	1.E−04	–	5.E+06	4.E+06	/St/St
Nd-141	–	3.E−04	3.E−04	–	1.E+07	9.E+06	/St/St
Nd-147	–	4.E−07	3.E−07	–	2.E+04	1.E+04	/St/St
Nd-149	–	1.E−05	1.E−05	–	4.E+05	4.E+05	/St/St
Nd-151	–	8.E−05	8.E−05	–	3.E+06	3.E+06	/St/St
Pm-141	–	8.E−05	7.E−05	–	3.E+06	3.E+06	/St/St
Pm-143	–	3.E−07	3.E−07	–	9.E+03	1.E+04	/St/St
Pm-144	–	5.E−08	5.E−08	–	2.E+03	2.E+03	/St/St
Pm-145	–	7.E−08	8.E−08	–	3.E+03	3.E+03	/BS/St

Radionuclide	Inhaled air-lung retention class [3]			Inhaled air-lung retention class [3]			Stochastic or organ [1]
	μCi/ml			Bq/m³			
	D	W	Y	D	W	Y	(D/ W/ Y)
Pm-146	–	2.E−08	2.E−08	–	8.E+02	7.E+02	/St/St
Pm-147	–	6.E−08	6.E−08	–	2.E+03	2.E+03	/BS/St
Pm-148m	–	1.E−07	1.E−07	–	5.E+03	5.E+03	/St/St
Pm-148	–	2.E−07	2.E−07	–	8.E+03	8.E+03	/St/St
Pm-149	–	8.E−07	8.E−07	–	3.E+04	3.E+04	/St/St
Pm-150	–	8.E−06	7.E−06	–	3.E+05	3.E+05	/St/St
Pm-151	–	2.E−06	1.E−06	–	6.E+04	5.E+04	/St/St
Sm-141m	–	4.E−05	–	–	2.E+06	–	/St/
Sm-141	–	7.E−05	–	–	3.E+06	–	/St/
Sm-142	–	1.E−05	–	–	4.E+05	–	/St/
Sm-145	–	2.E−07	–	–	8.E+03	–	/St/
Sm-146	–	1.E−11	–	–	6.E−01	–	/BS/
Sm-147	–	2.E−11	–	–	6.E−01	–	/BS/
Sm-151	–	4.E−08	–	–	2.E+03	–	/BS/
Sm-153	–	1.E−06	–	–	4.E+04	–	/St/
Sm-155	–	9.E−05	–	–	3.E+06	–	/St/
Sm-156	–	4.E−06	–	–	1.E+05	–	/St/
Eu-145	–	8.E−07	–	–	3.E+04	–	/St/
Eu-146	–	5.E−07	–	–	2.E+04	–	/St/
Eu-147	–	7.E−07	–	–	3.E+04	–	/St/
Eu-148	–	2.E−07	–	–	6.E+03	–	/St/
Eu-149	–	1.E−06	–	–	5.E+04	–	/St/
Eu-150 (12 h)	–	3.E−06	–	–	1.E+05	–	/St/
Eu-150 (34 yr)	–	8.E−09	–	–	3.E+02	–	/St/
Eu-152m	–	3.E−06	–	–	1.E+05	–	/St/
Eu-152	–	1.E−08	–	–	4.E+02	–	/St/
Eu-154	–	8.E−09	–	–	3.E+02	–	/St/
Eu-155	–	4.E−08	–	–	1.E+03	–	/BS/
Eu-156	–	2.E−07	–	–	7.E+03	–	/St/
Eu-157	–	2.E−06	–	–	7.E+04	–	/St/
Eu-158	–	2.E−05	–	–	9.E+05	–	/St/
Gd-145	7.E−05	7.E−05	–	2.E+06	3.E+06	–	St/St/
Gd-146	5.E−08	1.E−07	–	2.E+03	4.E+03	–	St/St/
Gd-147	2.E−06	2.E−06	–	6.E+04	5.E+04	–	St/St/
Gd-148	3.E−12	1.E−11	–	1.E−01	5.E−01	–	BS/BS/
Gd-149	9.E−07	1.E−06	–	3.E+04	4.E+04	–	St/St/
Gd-151	2.E−07	5.E−07	–	6.E+03	2.E+04	–	BS/St/
Gd-152	4.E−12	2.E−11	–	2.E−01	6.E−01	–	BS/BS/
Gd-153	6.E−08	3.E−07	–	2.E+03	9.E+03	–	BS/St/
Gd-159	3.E−06	2.E−06	–	1.E+05	9.E+04	–	St/St/
Tb-147	–	1.E−05	–	–	5.E+05	–	/St/
Tb-149	–	3.E−07	–	–	1.E+04	–	/St/
Tb-150	–	9.E−06	–	–	3.E+05	–	/St/
Tb-151	–	4.E−06	–	–	1.E+05	–	/St/
Tb-153	–	3.E−06	–	–	1.E+05	–	/St/
Tb-154	–	2.E−06	–	–	7.E+04	–	/St/
Tb-155	–	3.E−06	–	–	1.E+05	–	/St/
Tb-156m (24 h)	–	3.E−06	–	–	1.E+05	–	/St/
Tb-156m (5 h)	–	1.E−05	–	–	4.E+05	–	/St/
Tb-156	–	6.E−07	–	–	2.E+04	–	/St/
Tb-157	–	1.E−07	–	–	5.E+03	–	/BS/
Tb-158	–	8.E−09	–	–	3.E+02	–	/St/
Tb-160	–	1.E−07	–	–	4.E+03	–	/St/
Tb-161	–	7.E−07	–	–	2.E+04	–	/St/
Dy-155	–	1.E−05	–	–	4.E+05	–	/St/
Dy-157	–	3.E−05	–	–	1.E+06	–	/St/
Dy-159	–	1.E−06	–	–	4.E+04	–	/St/
Dy-165	–	2.E−05	–	–	7.E+05	–	/St/
Dy-166	–	3.E−07	–	–	1.E+04	–	/St/
Ho-155	–	7.E−05	–	–	2.E+06	–	/St/
Ho-157	–	6.E−04	–	–	2.E+07	–	/St/
Ho-159	–	4.E−04	–	–	2.E+07	–	/St/
Ho-161	–	2.E−04	–	–	7.E+06	–	/St/
Ho-162m	–	1.E−04	–	–	4.E+06	–	/St/
Ho-162	–	1.E−03	–	–	4.E+07	–	/St/
Ho-164m	–	1.E−04	–	–	5.E+06	–	/St/
Ho-164	–	3.E−04	–	–	1.E+07	–	/St/
Ho-166m	–	3.E−09	–	–	1.E+02	–	/St/
Ho-166	–	7.E−07	–	–	3.E+04	–	/St/
Ho-167	–	2.E−05	–	–	9.E+05	–	/St/

Radionuclide	Inhaled air-lung retention class [3] µCi/ml			Inhaled air-lung retention class [3] Bq/m³			Stochastic or organ [1]
	D	W	Y	D	W	Y	(D/ W/ Y)
Er-161	–	3.E−05	–	–	1.E+06	–	/St/
Er-165	–	8.E−05	–	–	3.E+06	–	/St/
Er-169	–	1.E−06	–	–	4.E+04	–	/St/
Er-171	–	4.E−06	–	–	2.E+05	–	/St/
Er-172	–	6.E−07	–	–	2.E+04	–	/St/
Tm-162	–	1.E−04	–	–	4.E+06	–	/St/
Tm-166	–	6.E−06	–	–	2.E+05	–	/St/
Tm-167	–	8.E−07	–	–	3.E+04	–	/St/
Tm-170	–	9.E−08	–	–	3.E+03	–	/St/
Tm-171	–	1.E−07	–	–	5.E+03	–	/BS/
Tm-172	–	5.E−07	–	–	2.E+04	–	/St/
Tm-173	–	5.E−06	–	–	2.E+05	–	/St/
Tm-175	–	1.E−04	–	–	4.E+06	–	/St/
Yb-162	–	1.E−04	1.E−04	–	5.E+06	4.E+06	/St/St
Yb-166	–	8.E−07	8.E−07	–	3.E+04	3.E+04	/St/St
Yb-167	–	3.E−04	3.E−04	–	1.E+07	1.E+07	/St/St
Yb-169	–	3.E−07	3.E−07	–	1.E+04	1.E+04	/St/St
Yb-175	–	1.E−06	1.E−06	–	5.E+04	5.E+04	/St/St
Yb-177	–	2.E−05	2.E−05	–	8.E+05	7.E+05	/St/St
Yb-178	–	2.E−05	1.E−05	–	6.E+05	6.E+05	/St/St
Lu-169	–	2.E−06	2.E−06	–	7.E+04	7.E+04	/St/St
Lu-170	–	9.E−07	8.E−07	–	3.E+04	3.E+04	/St/St
Lu-171	–	8.E−07	8.E−07	–	3.E+04	3.E+04	/St/St
Lu-172	–	5.E−07	5.E−07	–	2.E+04	2.E+04	/St/St
Lu-173	–	1.E−07	1.E−07	–	4.E+03	4.E+03	/BS/St
Lu-174m	–	1.E−07	9.E−08	–	4.E+03	3.E+03	/BS/St
Lu-174	–	5.E−08	7.E−08	–	2.E+03	2.E+03	/BS/St
Lu-176m	–	1.E−05	1.E−05	–	4.E+05	4.E+05	/St/St
Lu-176	–	2.E−09	3.E−09	–	7.E+01	1.E+02	/BS/St
Lu-177m	–	5.E−08	3.E−08	–	2.E+03	1.E+03	/BS/St
Lu-177	–	9.E−07	9.E−07	–	3.E+04	3.E+04	/St/St
Lu-178m	–	8.E−05	7.E−05	–	3.E+06	3.E+06	/St/St
Lu-178	–	5.E−05	5.E−05	–	2.E+06	2.E+06	/St/St
Lu-179	–	8.E−06	6.E−06	–	3.E+05	2.E+05	/St/St
Hf-170	2.E−06	2.E−06	–	9.E+04	7.E+04	–	St/St/
Hf-172	4.E−09	2.E−08	–	1.E+02	6.E+02	–	BS/BS/
Hf-173	5.E−06	5.E−06	–	2.E+05	2.E+05	–	St/St/
Hf-175	4.E−07	5.E−07	–	2.E+04	2.E+04	–	BS/St/
Hf-177m	2.E−05	4.E−05	–	9.E+05	1.E+06	–	St/St/
Hf-178m	6.E−10	2.E−09	–	2.E+01	8.E+01	–	BS/BS/
Hf-179m	1.E−07	3.E−07	–	5.E+03	9.E+03	–	BS/St/
Hf-180m	9.E−06	1.E−05	–	3.E+05	4.E+05	–	St/St/
Hf-181	7.E−08	2.E−07	–	3.E+03	7.E+03	–	BS/St/
Hf-182m	4.E−05	6.E−05	–	1.E+06	2.E+06	–	St/St/
Hf-182	3.E−10	1.E−09	–	1.E+01	5.E+01	–	BS/BS/
Hf-183	2.E−05	2.E−05	–	7.E+05	8.E+05	–	St/St/
Hf-184	3.E−06	3.E−06	–	1.E+05	1.E+05	–	St/St/
Ta-172	–	5.E−05	4.E−05	–	2.E+06	2.E+06	/St/St
Ta-173	–	8.E−06	7.E−06	–	3.E+05	3.E+05	/St/St
Ta-174	–	4.E−05	4.E−05	–	1.E+06	1.E+06	/St/St
Ta-175	–	7.E−06	6.E−06	–	3.E+05	2.E+05	/St/St
Ta-176	–	5.E−06	5.E−06	–	2.E+05	2.E+05	/St/St
Ta-177	–	8.E−06	7.E−06	–	3.E+05	3.E+05	/St/St
Ta-178	–	4.E−05	3.E−05	–	1.E+06	1.E+06	/St/St
Ta-179	–	2.E−06	4.E−07	–	8.E+04	1.E+04	/St/St
Ta-180m	–	3.E−05	2.E−05	–	1.E+06	9.E+05	/St/St
Ta-180	–	2.E−07	1.E−08	–	7.E+03	4.E+02	/St/St
Ta-182m	–	2.E−04	2.E−04	–	8.E+06	6.E+06	/St/St
Ta-182	–	1.E−07	6.E−08	–	5.E+03	2.E+03	/St/St
Ta-183	–	5.E−07	4.E−07	–	2.E+04	2.E+04	/St/St
Ta-184	–	2.E−06	2.E−06	–	8.E+04	7.E+04	/St/St
Ta-185	–	3.E−05	3.E−05	–	1.E+06	1.E+06	/St/St
Ta-186	–	1.E−04	9.E−05	–	4.E+06	3.E+06	/St/St
W-176	2.E−05	–	–	8.E+05	–	–	St/ /
W-177	4.E−05	–	–	1.E+06	–	–	St/ /
W-178	8.E−06	–	–	3.E+05	–	–	St/ /
W-179	7.E−04	–	–	3.E+07	–	–	St/ /
W-181	1.E−05	–	–	5.E+05	–	–	St/ /
W-185	3.E−06	–	–	1.E+05	–	–	St/ /
W-187	4.E−06	–	–	2.E+05	–	–	St/ /

Radionuclide	Inhaled air-lung retention class [3] µCi/ml			Inhaled air-lung retention class [3] Bq/m³			Stochastic or organ [1]
	D	W	Y	D	W	Y	(D/ W/ Y)
W-188	5.E−07	–	–	2.E+04	–	–	St/ /
Re-177	1.E−04	2.E−04	–	4.E+06	5.E+06	–	St/St/
Re-178	1.E−04	1.E−04	–	4.E+06	4.E+06	–	St/St/
Re-181	4.E−06	4.E−06	–	1.E+05	1.E+05	–	St/St/
Re-182 (64 h)	1.E−06	9.E−07	–	4.E+04	3.E+04	–	St/St/
Re-182 (12 h)	5.E−06	6.E−06	–	2.E+05	2.E+05	–	St/St/
Re-184m	1.E−06	2.E−07	–	5.E+04	7.E+03	–	St/St/
Re-184	2.E−06	6.E−07	–	6.E+04	2.E+04	–	St/St/
Re-186m	7.E−07	6.E−08	–	3.E+04	2.E+03	–	SW/St/
Re-186	1.E−06	7.E−07	–	5.E+04	3.E+04	–	St/St/
Re-187	3.E−04	4.E−05	–	1.E+07	2.E+06	–	SW/St/
Re-188m	6.E−05	6.E−05	–	2.E+06	2.E+06	–	St/St/
Re-188	1.E−06	1.E−06	–	4.E+04	4.E+04	–	St/St/
Re-189	2.E−06	2.E−06	–	8.E+04	7.E+04	–	St/St/
Os-180	2.E−04	2.E−04	2.E−04	6.E+06	8.E+06	7.E+06	St/St/St
Os-181	2.E−05	2.E−05	2.E−05	7.E+05	7.E+05	7.E+05	St/St/St
Os-182	2.E−06	2.E−06	2.E−06	9.E+04	7.E+04	6.E+04	St/St/St
Os-185	2.E−07	3.E−07	3.E−07	8.E+03	1.E+04	1.E+04	St/St/St
Os-189m	1.E−04	9.E−05	7.E−05	4.E+06	3.E+06	3.E+06	St/St/St
Os-191m	1.E−05	9.E−06	7.E−06	4.E+05	3.E+05	3.E+05	St/St/St
Os-191	9.E−07	7.E−07	6.E−07	3.E+04	3.E+04	2.E+04	St/St/St
Os-193	2.E−06	1.E−06	1.E−06	7.E+04	5.E+04	4.E+04	St/St/St
Os-194	2.E−08	2.E−08	3.E−09	7.E+02	9.E+02	1.E+02	St/St/St
Ir-182	6.E−05	6.E−05	5.E−05	2.E+06	2.E+06	2.E+06	St/St/St
Ir-184	1.E−05	1.E−05	1.E−05	4.E+05	5.E+05	4.E+05	St/St/St
Ir-185	5.E−06	5.E−06	4.E−06	2.E+05	2.E+05	2.E+05	St/St/St
Ir-186	3.E−06	3.E−06	2.E−06	1.E+05	1.E+05	9.E+04	St/St/St
Ir-187	1.E−05	1.E−05	1.E−05	5.E+05	5.E+05	4.E+05	St/St/St
Ir-188	2.E−06	2.E−06	1.E−06	7.E+04	6.E+04	5.E+04	St/St/St
Ir-189	2.E−06	2.E−06	2.E−06	7.E+04	6.E+04	6.E+04	St/St/St
Ir-190m	8.E−05	9.E−05	8.E−05	3.E+06	3.E+06	3.E+06	St/St/St
Ir-190	4.E−07	4.E−07	4.E−07	1.E+04	2.E+04	1.E+04	St/St/St
Ir-192m	4.E−08	9.E−08	6.E−09	1.E+03	3.E+03	2.E+02	St/St/St
Ir-192	1.E−07	2.E−07	9.E−08	4.E+03	6.E+03	3.E+03	St/St/St
Ir-194m	4.E−08	7.E−08	4.E−08	2.E+03	3.E+03	2.E+03	St/St/St
Ir-194	1.E−06	8.E−07	8.E−07	5.E+04	3.E+04	3.E+04	St/St/St
Ir-195m	1.E−05	1.E−05	9.E−06	4.E+05	4.E+05	3.E+05	St/St/St
Ir-195	2.E−05	2.E−05	2.E−05	6.E+05	8.E+05	7.E+05	St/St/St
Pt-186	2.E−05	–	–	6.E+05	–	–	St/ /
Pt-188	7.E−07	–	–	3.E+04	–	–	St/ /
Pt-189	1.E−05	–	–	4.E+05	–	–	St/ /
Pt-191	3.E−06	–	–	1.E+05	–	–	St/ /
Pt-193m	2.E−06	–	–	9.E+04	–	–	St/ /
Pt-193	1.E−05	–	–	4.E+05	–	–	St/ /
Pt-195m	2.E−06	–	–	7.E+04	–	–	St/ /
Pt-197m	2.E−05	–	–	7.E+05	–	–	St/ /
Pt-197	4.E−06	–	–	2.E+05	–	–	St/ /
Pt-199	6.E−05	–	–	2.E+06	–	–	St/ /
Pt-200	1.E−06	–	–	5.E+04	–	–	St/ /
Au-193	1.E−05	8.E−06	8.E−06	4.E+05	3.E+05	3.E+05	St/St/St
Au-194	3.E−06	2.E−06	2.E−06	1.E+05	9.E+04	8.E+04	St/St/St
Au-195	5.E−06	6.E−07	2.E−07	2.E+05	2.E+04	6.E+03	St/St/St
Au-198m	1.E−06	5.E−07	5.E−07	4.E+04	2.E+04	2.E+04	St/St/St
Au-198	2.E−06	7.E−07	7.E−07	6.E+04	3.E+04	3.E+04	St/St/St
Au-199	4.E−06	2.E−06	2.E−06	1.E+05	6.E+04	6.E+04	St/St/St
Au-200m	1.E−06	1.E−06	1.E−06	5.E+04	4.E+04	4.E+04	St/St/St
Au-200	3.E−05	3.E−05	3.E−05	1.E+06	1.E+06	1.E+06	St/St/St
Au-201	9.E−05	1.E−04	9.E−05	3.E+06	4.E+06	4.E+06	St/St/St
Hg-193m (Org)	6.E−06	–	–	2.E+05	–	–	St/ /
Hg-193m (Inorg)	4.E−06	3.E−06	–	1.E+05	1.E+05	–	St/St/
Hg-193m (Vapor)	–	4.E−06	–	–	1.E+05	–	/St/
Hg-193 (Org)	3.E−05	–	–	1.E+06	–	–	St/ /
Hg-193 (Inorg)	2.E−05	2.E−05	–	7.E+05	6.E+05	–	St/St/
Hg-193 (Vapor)	–	1.E−05	–	–	5.E+05	–	/St/
Hg-194 (Org)	1.E−08	–	–	4.E+02	–	–	St/ /
Hg-194 (Inorg)	2.E−08	5.E−08	–	7.E+02	2.E+03	–	St/St/
Hg-194 (Vapor)	–	1.E−08	–	–	5.E+02	–	/St/
Hg-195m (Org)	3.E−06	–	–	9.E+04	–	–	St/ /
Hg-195m (Inorg)	2.E−06	2.E−06	–	8.E+04	6.E+04	–	St/St/
Hg-195m (Vapor)	–	−2.E−06	–	–	6.E+04	–	/St/

Radionuclide	Inhaled air-lung retention class [3] µCi/ml			Inhaled air-lung retention class [3] Bq/m³			Stochastic or organ [1]
	D	W	Y	D	W	Y	(D/ W/ Y)
Hg-195 (Org)	2.E−05	–	–	7.E+05	–	–	St/ /
Hg-195 (Inorg)	1.E−05	1.E−05	–	5.E+05	5.E+05	–	St/St/
Hg-195 (Vapor)	–	1.E−05	–	–	5.E+05	–	/St/
Hg-197m (Org)	4.E−06	–	–	1.E+05	–	–	St/ /
Hg-197m (Inorg)	3.E−06	2.E−06	–	1.E+05	8.E+04	–	St/St/
Hg-197m (Vapor)	–	2.E−06	–	–	8.E+04	–	/St/
Hg-197 (Org)	6.E−06	–	–	2.E+05	–	–	St/ /
Hg-197 (Inorg)	5.E−06	4.E−06	–	2.E+05	1.E+05	–	St/St/
Hg-197 (Vapor)	–	3.E−05	–	–	1.E+05	–	/St/
Hg-199m (Org)	7.E−05	–	–	3.E+06	–	–	St/ /
Hg-199m (Inorg)	6.E−05	7.E−05	–	2.E+06	3.E+06	–	St/St/
Hg-199m (Vapor)	–	3.E−05	–	–	1.E+06	–	/St/
Hg-203 (Org)	3.E−07	–	–	1.E+04	–	–	St/ /
Hg-203 (Inorg)	5.E−07	5.E−07	–	2.E+04	2.E+04	–	St/St/
Hg-203 (Vapor)	–	3.E−07	–	–	1.E+04	–	/St/
Tl-194m	6.E−05	–	–	2.E+06	–	–	St/ /
Tl-194	3.E−04	–	–	9.E+06	–	–	St/ /
Tl-195	5.E−05	–	–	2.E+06	–	–	St/ /
Tl-197	5.E−05	–	–	2.E+06	–	–	St/ /
Tl-198m	2.E−05	–	–	9.E+05	–	–	St/ /
Tl-198	1.E−05	–	–	5.E+05	–	–	St/ /
Tl-199	3.E−05	–	–	1.E+06	–	–	St/ /
Tl-200	5.E−06	–	–	2.E+05	–	–	St/ /
Tl-201	9.E−06	–	–	3.E+05	–	–	St/ /
Tl-202	2.E−06	–	–	8.E+04	–	–	St/ /
Tl-204	9.E−07	–	–	3.E+04	–	–	St/ /
Pb-195m	8.E−05	–	–	3.E+06	–	–	St/ /
Pb-198	3.E−05	–	–	1.E+06	–	–	St/ /
Pb-199	3.E−05	–	–	1.E+06	–	–	St/ /
Pb-200	3.E−06	–	–	1.E+05	–	–	St/ /
Pb-201	9.E−06	–	–	3.E+05	–	–	St/ /
Pb-202m	1.E−05	–	–	4.E+05	–	–	St/ /
Pb-202	2.E−08	–	–	8.E+02	–	–	St/ /
Pb-203	4.E−06	–	–	2.E+05	–	–	St/ /
Pb-205	6.E−07	–	–	2.E+04	–	–	St/ /
Pb-209	2.E−05	–	–	9.E+05	–	–	St/ /
Pb-210	1.E−10	–	–	4.E+00	–	–	BS/ /
Pb-211	3.E−07	–	–	1.E+04	–	–	St/ /
Pb-212	1.E−08	–	–	5.E+02	–	–	St/ /
Pb-214	3.E−07	–	–	1.E+04	–	–	St/ /
Bi-200	3.E−05	4.E−05	–	1.E+06	2.E+06	–	St/St/
Bi-201	1.E−05	2.E−05	–	4.E+05	6.E+05	–	St/St/
Bi-202	2.E−05	3.E−05	–	6.E+05	1.E+06	–	St/St/
Bi-203	3.E−06	2.E−06	–	1.E+05	9.E+04	–	St/St/
Bi-205	1.E−06	5.E−07	–	4.E+04	2.E+04	–	St/St/
Bi-206	6.E−07	4.E−07	–	2.E+04	1.E+04	–	St/St/
Bi-207	7.E−07	2.E−07	–	3.E+04	5.E+03	–	St/St/
Bi-210m	2.E−09	3.E−10	–	7.E+01	1.E+01	–	K /St/
Bi-210	1.E−07	1.E−08	–	4.E+03	4.E+02	–	K /St/
Bi-212	1.E−07	1.E−07	–	4.E+03	4.E+03	–	St/St/
Bi-213	1.E−07	2.E−07	–	5.E+03	5.E+03	–	St/St/
Bi-214	3.E−07	4.E−07	–	1.E+04	1.E+04	–	St/St/
Po-203	3.E−05	4.E−05	–	1.E+06	1.E+06	–	St/St/
Po-205	2.E−05	3.E−05	–	6.E+05	1.E+06	–	St/St/
Po-207	1.E−05	1.E−05	–	4.E+05	4.E+05	–	St/St/
Po-210	3.E−10	3.E−10	–	1.E+01	1.E+01	–	E /St/
At-207	1.E−06	9.E−07	–	4.E+04	3.E+04	–	St/St/
At-211	3.E−08	2.E−08	–	1.E+03	8.E+02	–	St/St/
Rn-220	8.E−09 [4]	—[4]	—[4]	3.E+02 [4]	—[4]	—[4]	—[4]
Rn-222	3.E−08 [4]	—[4]	—[4]	1.E+03 [4]	—[4]	—[4]	—[4]
Fr-222	2.E−07	–	–	7.E+03	–	–	St/ /
Fr-223	3.E−07	–	–	1.E+04	–	–	St/ /
Ra-223	–	3.E−10	–	–	1.E+01	–	/St/
Ra-224	–	7.E−10	–	–	3.E+01	–	/St/
Ra-225	–	3.E−10	–	–	1.E+01	–	/St/
Ra-226	–	3.E−10	–	–	1.E+01	–	/St/
Ra-227	–	6.E−06	–	–	2.E+05	–	/BS/
Ra-228	–	5.E−10	–	–	2.E+01	–	/St/
Ac-224	1.E−08	2.E−08	2.E−08	4.E+02	8.E+02	7.E+02	BS/St/St
Ac-225	1.E−10	3.E−10	3.E−10	4.E+00	1.E+01	1.E+01	BS/St/St

Radionuclide	Inhaled air-lung retention class [3] µCi/ml			Inhaled air-lung retention class [3] Bq/m³			Stochastic or organ [1]
	D	W	Y	D	W	Y	(D/ W/ Y)
Ac-226	1.E−09	2.E−09	2.E−09	5.E+01	8.E+01	7.E+01	BS/St/St
Ac-227	2.E−13	7.E−13	2.E−12	7.E−03	3.E−02	6.E−02	BS/BS/St
Ac-228	4.E−09	2.E−08	2.E−08	2.E+02	6.E+02	7.E+02	BS/BS/St
Th-226	–	7.E−08	6.E−08	–	2.E+03	2.E+03	/St/St
Th-227	–	1.E−10	1.E−10	–	5.E+00	5.E+00	/St/St
Th-228	–	4.E−12	7.E−12	–	2.E−01	3.E−01	/BS/St
Th-229	–	4.E−13	1.E−12	–	1.E−02	4.E−02	/BS/BS
Th-230	–	3.E−12	7.E−12	–	9.E−02	2.E−01	/BS/BS
Th-231	–	3.E−06	3.E−06	–	1.E+05	1.E+05	/St/St
Th-232	–	5.E−13	1.E−12	–	2.E−02	4.E−02	/BS/BS
Th-234	–	9.E−08	6.E−08	–	3.E+03	2.E+03	/St/St
Pa-227	–	5.E−08	4.E−08	–	2.E+03	2.E+03	/St/St
Pa-228	–	5.E−09	5.E−09	–	2.E+02	2.E+02	/BS/St
Pa-230	–	2.E−09	1.E−09	–	7.E+01	5.E+01	/St/St
Pa-231	–	7.E−13	2.E−12	–	2.E−02	6.E−02	/BS/BS
Pa-232	–	9.E−09	2.E−08	–	3.E+02	9.E+02	/BS/BS
Pa-233	–	3.E−07	2.E−07	–	1.E+04	9.E+03	/St/St
Pa-234	–	3.E−06	3.E−06	–	1.E+05	1.E+05	/St/St
U-230	2.E−10	1.E−10	1.E−10	6.E+00	5.E+00	4.E+00	BS/St/St
U-231	3.E−06	2.E−06	2.E−06	1.E+05	9.E+04	7.E+04	St/St/St
U-232	9.E−11	2.E−10	3.E−12	3.E+00	6.E+00	1.E−01	BS/St/St
U-233	5.E−10	3.E−10	2.E−11	2.E+01	1.E+01	6.E−01	BS/St/St
U-234	5.E−10	3.E−10	2.E−11	2.E+01	1.E+01	6.E−01	BS/St/St
U-235	6.E−10	3.E−10	2.E−11	2.E+01	1.E+01	6.E−01	BS/St/St
U-236	6.E−10	3.E−10	2.E−11	2.E+01	1.E+01	6.E−01	BS/St/St
U-237	1.E−06	7.E−07	6.E−07	4.E+04	3.E+04	2.E+04	St/St/St
U-238	6.E−10	3.E−10	2.E−11	2.E+01	1.E+01	6.E−01	BS/St/St
U-239	8.E−05	7.E−05	6.E−05	3.E+06	3.E+06	2.E+06	St/St/St
U-240	2.E−06	1.E−06	1.E−06	6.E+04	4.E+04	4.E+04	St/St/St
Np-232	–	1.E−06 [5]	–	–	4.E+04 [5]	–	/BS/
Np-233	–	1.E−03 [5]	–	–	5.E+07 [5]	–	/St/
Np-234	–	1.E−06 [5]	–	–	4.E+04 [5]	–	/St/
Np-235	–	5.E−07 [5]	–	–	2.E+04 [5]	–	/BS/
Np-236 (1.E+05 yr)	–	1.E−11 [5]	–	–	4.E−01 [5]	–	/BS/
Np-236 (22 h)	–	2.E−08 [5]	–	–	6.E+02 [5]	–	/BS/
Np-237	–	2.E−12 [5]	–	–	9.E−02 [5]	–	/BS/
Np-238	–	4.E−08 [5]	–	–	1.E+03 [5]	–	/BS/
Np-239	–	1.E−06 [5]	–	–	4.E+04 [5]	–	/St/
Np-240	–	3.E−05 [5]	–	–	1.E+06 [5]	–	/St/
Pu-234	–	9.E−08 [5]	8.E−08 [5]	–	3.E+03 [5]	3.E+03 [5]	/St/St
Pu-235	–	1.E−03 [5]	1.E−03 [5]	–	5.E+07 [5]	4.E+07 [5]	/St/St
Pu-236	–	7.E−12 [5]	1.E−11 [5]	–	3.E−01 [5]	6.E−01 [5]	/BS/St
Pu-237	–	1.E−06 [5]	1.E−06 [5]	–	5.E+04 [5]	5.E+04 [5]	/St/St
Pu-238	–	3.E−12 [5]	7.E−12 [5]	–	9.E−02 [5]	3.E−01 [5]	/BS/BS
Pu-239	–	2.E−12 [5]	6.E−12 [5]	–	8.E−02 [5]	2.E−01 [5]	/BS/BS
Pu-240	–	2.E−12 [5]	6.E−12 [5]	–	8.E−02 [5]	2.E−01 [5]	/BS/BS
Pu-241	–	1.E−10 [5]	3.E−10 [5]	–	4.E+00 [5]	1.E+01 [5]	/BS/BS
Pu-242	–	2.E−12 [5]	6.E−12 [5]	–	9.E−02 [5]	2.E−01 [5]	/BS/BS
Pu-243	–	1.E−05 [5]	1.E−05 [5]	–	5.E+05 [5]	6.E+05 [5]	/St/St
Pu-244	–	2.E−12 [5]	6.E−12 [5]	–	9.E−02 [5]	2.E−01 [5]	/BS/BS
Pu-245	–	2.E−06 [5]	2.E−06 [5]	–	7.E+04 [5]	6.E+04 [5]	/St/St
Am-237	–	1.E−04 [5]	–	–	4.E+06 [5]	–	/St/
Am-238	–	1.E−06 [5]	–	–	4.E+04 [5]	–	/BS/
Am-239	–	5.E−06 [5]	–	–	2.E+05 [5]	–	/St/
Am-240	–	1.E−06 [5]	–	–	4.E+04 [5]	–	/St/
Am-241	–	2.E−12 [5]	–	–	8.E−02 [5]	–	/BS/
Am-242m	–	2.E−12 [5]	–	–	8.E−02 [5]	–	/BS/
Am-242	–	3.E−08 [5]	–	–	1.E+03 [5]	–	/BS/
Am-243	–	2.E−12 [5]	–	–	8.E−02 [5]	–	/BS/
Am-244m	–	2.E−06 [5]	–	–	6.E+04 [5]	–	/BS/
Am-244	–	7.E−08 [5]	–	–	3.E+03 [5]	–	/BS/
Am-245	–	3.E−05 [5]	–	–	1.E+06 [5]	–	/St/
Am-246m	–	7.E−05 [5]	–	–	3.E+06 [5]	–	/St/
Am-246	–	4.E−05 [5]	–	–	2.E+06 [5]	–	/St/
Cm-238	–	4.E−07 [5]	–	–	2.E+04 [5]	–	/St/
Cm-240	–	2.E−10 [5]	–	–	8.E+00 [5]	–	/BS/
Cm-241	–	9.E−09 [5]	–	–	4.E+02 [5]	–	/BS/
Cm-242	–	1.E−10 [5]	–	–	4.E+00 [5]	–	/BS/
Cm-243	–	3.E−12 [5]	–	–	1.E−01 [5]	–	/BS/
Cm-244	–	4.E−12 [5]	–	–	2.E−01 [5]	–	/BS/

Radionuclide	Inhaled air-lung retention class [3] µCi/ml			Inhaled air-lung retention class [3] Bq/m³			Stochastic or organ [1]
	D	W	Y	D	W	Y	(D/ W/ Y)
Cm-245	–	2.E−12 [5]	–	–	8.E−02 [5]	–	/BS/
Cm-246	–	2.E−12 [5]	–	–	8.E−02 [5]	–	/BS/
Cm-247	–	2.E−12 [5]	–	–	9.E−02 [5]	–	/BS/
Cm-248	–	6.E−13 [5]	–	–	2.E−02 [5]	–	/BS/
Cm-249	–	6.E−06 [5]	–	–	2.E+05 [5]	–	/BS/
Bk-245	–	5.E−07	–	–	2.E+04	–	/St/
Bk-246	–	1.E−06	–	–	5.E+04	–	/St/
Bk-247	–	2.E−12	–	–	8.E−02	–	/BS/
Bk-249	–	9.E−10	–	–	3.E+01	–	/BS/
Bk-250	–	2.E−07	–	–	7.E+03	–	/BS/
Cf-244	–	2.E−07 [5]	2.E−07 [5]	–	9.E+03 [5]	9.E+03 [5]	/St/St
Cf-246	–	4.E−09 [5]	4.E−09 [5]	–	2.E+02 [5]	1.E+02 [5]	/St/St
Cf-248	–	4.E−11 [5]	5.E−11 [5]	–	1.E+00 [5]	2.E+00 [5]	/BS/St
Cf-249	–	2.E−12 [5]	6.E−12 [5]	–	8.E−02 [5]	2.E−01 [5]	/BS/BS
Cf-250	–	5.E−12 [5]	1.E−11 [5]	–	2.E−01 [5]	4.E−01 [5]	/BS/St
Cf-251	–	2.E−12 [5]	5.E−12 [5]	–	8.E−02 [5]	2.E−01 [5]	/BS/BS
Cf-252	–	1.E−11 [5]	2.E−11 [5]	–	4.E−01 [5]	6.E−01 [5]	/BS/St
Cf-253	–	8.E−10 [5]	7.E−10 [5]	–	3.E+01 [5]	3.E+01 [5]	/St/St
Cf-254	–	9.E−12 [5]	7.E−12 [5]	–	3.E−01 [5]	3.E−01 [5]	/St/St
Es-250	–	3.E−07	–	–	1.E+04	–	/BS/
Es-251	–	4.E−07	–	–	2.E+04	–	/BS/
Es-253	–	6.E−10	–	–	2.E+01	–	/St/
Es-254m	–	4.E−09	–	–	2.E+02	–	/St/
Es-254	–	4.E−11	–	–	2.E+00	–	/BS/
Fm-252	–	6.E−09	–	–	2.E+02	–	/St/
Fm-253	–	4.E−09	–	–	2.E+02	–	/St/
Fm-254	–	4.E−08	–	–	2.E+03	–	/St/
Fm-255	–	9.E−09	–	–	3.E+02	–	/St/
Fm-257	–	1.E−10	–	–	4.E+00	–	/E /
Md-257	–	4.E−08	–	–	2.E+03	–	/St/
Md-258	–	1.E−10	–	–	4.E+00	–	/BS/

Footnotes for Appendix A

[1] A determination of whether the DACs are controlled by stochastic (St) or nonstochastic (organ) dose, or if they both give the same result (E), for each lung retention class, is given in this column. The key to the organ notation for nonstochastic dose is: BS=Bone surface, K=Kidney, L=Liver, SW=Stomach wall, and T=Thyroid. A blank indicates that no calculations were performed for the lung retention class shown.

[2] The ICRP identifies tritiated water and carbon as having immediate uptake and distribution; therefore no solubility classes are designated. For the purposes of this table, the DAC values are shown as being constant, independent of solubility class. For tritiated water, the inhalation DAC values allow for an additional 50% absorption through the skin, as described in ICRP Publication No. 30: Limits for Intakes of Radionuclides by Workers. For elemental tritium, the DAC values are based solely on consideration of the dose-equivalent rate to the tissues of the lung from inhaled tritium gas contained within the lung, without absorption in the tissues.

[3] A dash indicates no values given for this data category.

[4] These values are appropriate for protection from radon combined with its short-lived daughters and are based on information given in ICRP Publication 32: Limits for Inhalation of Radon Daughters by Workers and Federal Guidance Report No. 11: Limiting Values of Radionuclide Intake and Air Concentrations, and Dose Conversion Factors for Inhalation, Submersion, and Ingestion (EPA 520/1−88−020). The values given are for 100% equilibrium concentration conditions of the radon daughters with the parent. To allow for an actual measured equilibrium concentration or a demonstrated equilibrium concentration, the values given in this table should be multiplied by the ratio (100%/actual %) or (100%/demonstrated %), respectively. Alternatively, the DAC values for Rn-220 and Rn-222 may be replaced by 1 WL* and 1/3 WL*, respectively, for appropriate limiting of daughter concentrations. Because of the dosimetric considerations for radon, no f_1 or lung clearance values are listed.

*A "Working Level" (WL) is any combination of short-lived radon daughters, in one liter of air without regard to the degree of equilibrium, that will result in the ultimate emission of 1.3 E+05 MeV of alpha energy.

[5] For the calculations, f_1 values were obtained from ICRP Publication 48: The Metabolism of Plutonium and Related Elements. It is assumed that the effective dose equivalents for inhalation are unchanged even though the f_1 values have changed. This is because the contribution to organ dose from inhalation is dependent mainly on transfer from lung to blood when f_1 values are small. Also, the gastrointestinal tract dose would be unchanged because the fraction of activity passing through the tract is $(1.0-f_1)$.

Appendix B to Part 835—Alternative Absorption Factors and Lung Retention Classes for Specific Compounds

Alternative absorption factors and lung retention classes for specific compounds are listed by element in this appendix for cross-referencing with the inhalation DACs in appendix A to this part. The data shown in this appendix are listed by element in alphabetical order.

Element/symbol	Atomic No.	Compound	f_1	Lung retention class
Actinium/Ac	89	Oxides, hydroxides	1.E−03	Y
		Halides, nitrates	1.E−03	W
		All others	1.E−03	D
Aluminum/Al	13	Oxides, hydroxides, carbides, halides, nitrates, elemental form.	1.E−02	W

Element/symbol	Atomic No.	Compound	f_1	Lung retention class
		All others	1.E−02	D
Americium/Am	95	All forms	1.E−03	W
Antimony/Sb	51	Oxides, hydroxides, halides, sulphides, sulphates, nitrates	1.E−01	D
		All others	1.E−02	W
Arsenic/As	33	All forms	5.E−01	W
Astatine/At	85	All (as a halide)	1.E+00	W or D; dependent upon associated element.
Barium/Ba	56	All forms	1.E−01	D
Berkelium/Bk	97	All forms	5.E−04	W
Beryllium/Be	4	Oxides, halides, nitrates	5.E−03	Y
		All others	5.E−03	W
Bismuth/Bi	83	All except nitrates	5.E−02	W
		Nitrates	5.E−02	D
Bromine/Br	35	Bromides	1.E+00	W or D; dependent upon associated element.
Cadmium/Cd	48	Oxides, hydroxides	5.E−02	Y
		Sulphates, halides	5.E−02	W
		All others	5.E−02	D
Calcium/Ca	20	All forms	3.E−01	W
Californium/Cf	98	Oxides, hydroxides	1.E−03	Y
		All others	1.E−03	W
Carbon/C	6	Oxides [1]	–	D
		Organic (C–11)	1.E+00	W
		Organic (C–14)	1.E+00	W
Cerium/Ce	58	Oxides, hydroxides, fluorides	3.E−04	Y
		All others	3.E−04	W
Cesium/Cs	55	All forms	1.E+00	D
Chlorine/Cl	17	Chloride	1.E+00	W or D; dependent upon associated element.
Chromium/Cr	24	Oxides, hydroxides	1.E−01	Y
		Halides, nitrates	1.E−01	W
		All others	1.E−01	D
		Ingestion [2]		
		Trivalent	1.E−02	—
		Hexavalent	1.E−01	—
Cobalt/Co	27	Oxides, hydroxides, halides, nitrates	5.E−02	Y
		All others	5.E−02	W
		Ingestion only [2]	3.E−01	—
Copper/Cu	29	Oxides, hydroxides	5.E−01	Y
		Sulphites, halides, nitrates	5.E−01	W
		All others	5.E−01	D
Curium/Cm	96	All forms	1.E−03	W
Dysprosium/Dy	66	All forms	3.E−04	W
Einsteinium/Es	99	All forms	5.E−04	W
Erbium/Er	68	All forms	3.E−04	W
Europium/Eu	63	All forms	1.E−03	W
Fermium/Fm	100	All forms	5.E−04	W
Fluorine/F	9	Fluoride	1.E+00	Y, W, or D; dependent upon associated element.
Francium/Fr	87	All forms	1.E+00	D
Gadolinium/Gd	64	Oxides, hydroxides, fluorides	3.E−04	W
		All others	3.E−04	D
Gallium/Ga	31	Oxides, hydroxides, carbides, halides, nitrates	1.E−03	W
		All others	1.E−03	D
Germanium/Ge	32	Oxides, sulphides, halides	1.E+00	W
		All others	1.E+00	D
Gold/Au	79	Oxides, hydroxides	1.E−01	Y
		Halides, nitrates	1.E−01	W
		All others	1.E−01	D
Hafnium/Hf	72	Oxides, hydroxides, halides, carbides, nitrates	2.E−03	W
		All others	2.E−03	D
Holmium/Ho	67	All forms	3.E−04	W
Hydrogen/H	1	Water, elemental	1.E+00	—
Indium/In	49	Oxides, hydroxides, halides	2.E−02	W
		All others	2.E−02	D
Iodine/I	53	All forms	1.E+00	D
Iridium/Ir	77	Oxides, hydroxides	1.E−02	Y
		Halides, nitrates, metallic form	1.E−02	W
		All others	1.E−02	D
Iron/Fe	26	Oxides, hydroxides, halides	1.E−01	W
		All others	1.E−01	D
Lanthanum/La	57	Oxides, hydroxides	1.E−03	W
		All others	1.E−03	D

Element/symbol	Atomic No.	Compound	f_1	Lung retention class
Lead/Pb	82	All forms	2.E−01	D
Lutetium/Lu	71	Oxides, hydroxides, fluorides	3.E−04	Y
		All others	3.E−04	W
Magnesium/Mg	12	Oxides, hydroxides, carbides, halides, nitrates	5.E−01	W
		All others	5.E−01	D
Manganese/Mn	25	Oxides, hydroxides, halides, nitrates	1.E−01	W
		All others	1.E−01	D
Mendelevium/Md	101	All forms	5.E−04	W
Mercury/Hg	80	Oxides, hydroxides, halides, nitrates, sulphites	2.E−02	W
		Sulphates, elemental form	2.E−02	D
		Organic forms	1.E+00	D
		Vapor[1]	–	D
Molybdenum/Mo	42	Oxides, hydroxides, MoS_2	5.E−02	Y
		All others	8.E−01	D
		Ingestion[2]		
		MoS_2	5.E−02	—
		All Others	8.E−01	—
Neodymium/Nd	60	Oxides, hydroxides, carbides, fluorides	3.E−04	W
		All others	3.E−04	Y
Neptunium/Np	93	All forms	1.E−03	W
Nickel/Ni	28	Oxides, hydroxides	5.E−02	W
		All others (vapor)[1]	–	D
Niobium/Nb	41	Oxides, hydroxides	1.E−02	Y
		All others	1.E−02	W
Osmium/Os	76	Oxides, hydroxides	1.E−02	Y
		Halides, nitrates	1.E−02	W
		All others	1.E−02	D
Palladium/Pd	46	Oxides, hydroxides	5.E−03	Y
		Nitrates	5.E−03	W
		All others	5.E−03	D
Phosphorus/P	15	Phosphates	8.E−01	W or D; dependent upon associated element.
Platinum/Pt	78	All forms	1.E−02	D
Plutonium/Pu	94	Oxides, hydroxides	1.E−05	Y
		Nitrates	1.E−04	W
		All other	1.E−03	W
		[Note: Use same values for ingestion]		
Polonium/Po	84	Oxides, hydroxides, nitrates	1.E−01	W
		All others	1.E−01	D
Potassium/K	19	All forms	1.E+00	D
Praseodymium/Pr	59	Oxides, hydroxides, carbides, fluorides	3.E−04	Y
		All others	3.E−04	W
Promethium/Pm	61	Oxides, hydroxides, carbides, fluorides	3.E−04	Y
		All others	3.E−04	W
Protactinium/Pa	91	Oxides, hydroxides	1.E−03	Y
		All others	1.E−03	W
Radium/Ra	88	All forms	2.E−01	W
Rhenium/Re	75	Oxides, hydroxides, halides, nitrates	8.E−01	W
		All others	8.E−01	D
Rhodium/Rh	45	Oxides, hydroxides	5.E−02	Y
		Halides	5.E−02	W
		All others	5.E−02	D
Rubidium/Rb	37	All forms	1.E+00	D
Ruthenium/Ru	44	Oxides, hydroxides	5.E−02	Y
		Halides	5.E−02	W
		All others	5.E−02	D
Samarium/Sm	62	All forms	3.E−04	W
Scandium/Sc	21	All forms	1.E−04	Y
Selenium/Se	34	Oxides, hydroxides, carbides	8.E−01	W
		All others	8.E−01	D
		Ingestion only[2]	5.E−02	—
Silicon/Si	14	Ceramic forms	1.E−02	Y
		Oxides, hydroxides, carbides, nitrates	1.E−02	W
		All others	1.E−02	D
Silver/Ag	47	Oxides, hydroxides	5.E−02	Y
		Nitrates, sulphides	5.E−02	W
		All others, elemental form	5.E−02	D
Sodium/Na	11	All forms	1.E+00	D
Strontium/Sr	38	$SrTiO_3$	1.E−02	Y
		All others (soluble)	3.E−01	D
Sulfur/S	16	All inorganic	8.E−01	D
		Elemental form	8.E−01	W
		Gases	1.E+00	D

Element/symbol	Atomic No.	Compound	f_1	Lung retention class
		Ingestion[2]		
		All inorganic	1.E−01	—
Tantalum/Ta	73	Oxides, hydroxides, halides, carbides, nitrates, nitrides	1.E−03	Y
		All others	1.E−03	W
Technetium/Tc	43	Oxides, hydroxides, halides, nitrates	8.E−01	W
		All others	8.E−01	D
Tellurium/Te	52	Oxides, hydroxides, nitrates	2.E−01	W
		All others	2.E−01	D
Terbium/Tb	65	All forms	3.E−04	W
Thallium/Tl	81	All forms	1.E+00	D
Thorium/Th	90	Oxides, hydroxides	2.E−04	Y
		All others	2.E−04	W
Thulium/Tm	69	All forms	3.E−04	W
Tin/Sn	50	Oxides, hydroxides, halides, nitrates, sulphides, $Sn_3(PO_4)_4$.	2.E−02	W
		All others	2.E−02	D
Titanium/Ti	22	$SrTiO_3$	1.E−02	Y
		Oxides, hydroxides, carbides, halides, nitrates	1.E−02	W
		All others	1.E−02	D
Tungsten/W	74	*Ingestion*[2]		
		Tungstic acid	1.E−02	—
		All others	3.E−01	—
Uranium/U	92	UO_2, U_3O_8	2.E−03	Y
		UO_3, tetravalent compounds	5.E−02	W
		UF_6, uranyl compounds	5.E−02	D
Vanadium/V	23	Oxides, hydroxides, carbides, halides	1.E−02	W
		All others	1.E−02	D
Ytterbium/Yb	70	Oxides, hydroxides, fluorides	3.E−04	Y
		All others	3.E−04	W
Yttrium/Y	39	Oxides, hydroxides	1.E−04	Y
		All others	1.E−04	W
Zinc/Zn	30	All forms	5.E−01	Y
Zirconium/Zr	40	Carbides	2.E−03	Y
		Oxides, hydroxides, halides, nitrates	2.E−03	W
		All others	2.E−03	D

[1] A dash indicates no data for the value shown.
[2] For ingestion, no lung retention classes are listed.

Appendix C to Part 835—Derived Air Concentration (DAC) for Workers From External Exposure During Immersion in a Contaminated Atmospheric Cloud

The air immersion DAC values shown in this appendix are based on a stochastic limit of 5 rems (0.05 Sv) per year or a nonstochastic (organ) dose limit of 50 rems (0.5 Sv) per year. Four columns of information are presented: (1) Radionuclide; (2) half-life in units of seconds (s), minutes (min), hours (h), days (d), or years (yr); (3) air immersion DAC in units of μCi/ml; and (4) air immersion DAC in units of Bq/m³. The data are listed by radionuclide in order of increasing atomic mass. The air immersion DACs were calculated for a continuous, nonshielded exposure via immersion in a semi-infinite atmospheric cloud.

The DAC value for air immersion listed for a given radionuclide is determined either by a yearly limit on effective dose equivalent, which provides a limit on stochastic radiation effects, or by a limit on yearly dose equivalent to any organ, which provides a limit on nonstochastic radiation effects. For most of the radionuclides listed, the DAC value is determined by the yearly limit on effective dose equivalent. Thus, the few cases where the DAC value is determined by the yearly limit on shallow dose equivalent to the skin are indicated in the table by an appropriate footnote. Again, the DACs listed in this appendix account only for immersion in a semi-infinite cloud and do not account for inhalation or ingestion exposures.

Three classes of radionuclides are included in the air immersion DACs as described below.

(1) *Class 1.* The first class of radionuclides includes selected noble gases and short-lived activation products that occur in gaseous form. For these radionuclides, inhalation doses are negligible compared to the external dose from immersion in an atmospheric cloud.

(2) *Class 2.* The second class of radionuclides includes those for which a DAC value for inhalation has been calculated, but for which the DAC value for external exposure to a contaminated atmospheric cloud is more restrictive (i.e., results in a lower DAC value). These radionuclides generally have half-lives of a few hours or less, or are eliminated from the body following inhalation sufficiently rapidly to limit the inhalation dose.

(3) *Class 3.* The third class of radionuclides includes selected isotopes with relatively short half-lives. These radionuclides typically have half-lives that are less than 10 minutes, they do not occur as a decay product of a longer lived radionuclide, or they lack sufficient decay data to permit internal dose calculations. These radionuclides are also typified by a radioactive emission of highly intense, high-energy photons and rapid removal from the body following inhalation.

The DAC values are given for individual radionuclides. For known mixtures of radionuclides, the sum of the ratio of the observed concentration of a particular radionuclide and its corresponding DAC for all radionuclides in the mixture must not exceed 1.0. For unknown radionuclides, the most restrictive DAC (lowest value) for those isotopes not known to be absent shall be used.

Radio-nuclide	Half-Life	Air Immersion DAC	
		(μCi/ml)	(Bq/m³)
C-11	20.48 min	4.E−06	1.E+05
N-13	9.97 min	4.E−06	1.E+05

Radionuclide	Half-Life	Air Immersion DAC	
		(μCi/ml)	(Bq/m³)
N–16	7.13 s	7.E–07	3.E+04
O–15	122.24 s	4.E–06	1.E+05
F–18[1]	109.74 min	4.E–06	1.E+05
Na–24[1]	15.00 h	9.E–07	3.E+04
Mg–27[2]	9.458 min	5.E–06	2.E+05
Al–28[2]	2.240 min	2.E–06	7.E+04
Cl–38[1]	37.21 min	3.E–06	1.E+05
Ar–37	35.02 d	3.E+00	1.E+11
Ar–39	269 yr	2.E–04[3]	7.E+06[3]
Ar–41	1.827 h	3.E–06	1.E+05
K–43[1]	22.6 h	5.E–06	2.E+05
Ca–492	8.719 min	1.E–06	4.E+04
Sc–44[1]	3.927 h	2.E–06	7.E+04
Sc–46m[2]	18.72 s	5.E–05	2.E+06
Ti–45[1]	3.08 h	5.E–06	2.E+05
Ti–51[2]	5.752 min	1.E–05	4.E+05
V–52[2]	3.75 min	3.E–06	1.E+05
Cr–49[1]	42.09 min	5.E–06	2.E+05
Mn–52m[1]	21.4 min	2.E–06	7.E+04
Mn–56[1]	2.5785 h	2.E–06	7.E+04
Mn–57[2]	1.47 min	6.E–05	2.E+06
Co–60m[1]	10.47 min	1.E–03	4.E+07
Ni–57[1,4]	36.08 h	2.E–06	7.E+04
Ni–65[1,5]	2.520 h	8.E–06	3.E+05
Cu–61[1]	3.408 h	5.E–06	2.E+05
Cu–62[2]	9.74 min	5.E–06	2.E+05
Ga–66[1]	9.40 h	2.E–06	7.E+04
Ga–68[1]	68.0 min	5.E–06	2.E+05
Ga–72[1]	14.1 h	1.E–06	4.E+04
Se–73[1]	7.15 h	4.E–06	1.E+05
Br–77[1]	57.04 h	1.E–05[6]	4.E+05[6]
Br–80[1]	17.4 min	5.E–05	2.E+06
Br–82[1]	35.30 h	1.E–06	4.E+04
Br–84[1]	31.80 min	2.E–06	7.E+04
Br–85[2]	172 s	5.E–05	2.E+06
Kr–79	35.04 h	2.E–05	7.E+05
Kr–81	2.1E+05 yr	5.E–04	2.E+07
Kr–83m	1.83 h	5.E–02	2.E+09
Kr–85	10.72 yr	1.E–04[3]	4.E+06[3]
Kr–85m	4.48 h	3.E–05	1.E+06
Kr–87	76.3 min	5.E–06	2.E+05
Kr–88	2.84 h	2.E–06	7.E+04
Kr–89	3.16 min	2.E–06	7.E+04
Kr–90	32.32 s	3.E–06	1.E+05
Rb–81[1]	4.58 h	8.E–06	3.E+05
Rb–82[2]	1.25 min	2.E–06	7.E+04
Rb–88[1]	17.8 min	7.E–06	3.E+05
Rb–89[1]	15.44 min	2.E–06	7.E+04
Rb–90[2]	157 s	2.E–06	7.E+04
Rb–90m[2]	258 s	1.E–06	4.E+04
Sr–85m[1]	67.66 min	2.E–05	7.E+04
Sr–87m[1]	2.805 h	6.E–05	2.E+06
Sr–92[1]	2.71 h	3.E–06	1.E+05
Sr–93[2]	7.3 min	2.E–06	7.E+04
Y–86[1]	14.74 h	1.E–06	4.E+04
Y–90m[1]	3.19 h	5.E–06[6]	2.E+05[6]
Y–91m[1]	49.71 min	9.E–06	3.E+05
Nb–90[1]	14.60 h	1.E–07	4.E+03
Nb–94m[2]	6.26 min	9.E–04	3.E+07
Nb–97[1]	72.1 min	7.E–06	3.E+05
Nb–97m[1]	60 s	6.E–06	2.E+05
Mo–91[2]	15.9 min	4.E–06	1.E+05
Mo–101[1]	14.61 min	3.E–06	1.E+05
Tc–95[1]	20.0 h	5.E–06	2.E+05
Tc–96m[1]	51.5 min	1.E–04	4.E+06
Tc–99m[1]	6.02 h	3.E–05	1.E+06
Tc–101[1]	14.2 min	1.E–05	4.E+05
Ru–105[1]	4.44 h	5.E–06	2.E+05
Rh–105m[2]	45 s	1.E–04	4.E+06
Rh–106[2]	29.92 s	2.E–05	7.E+05
Ag–108[2]	2.37 min	2.E–04	7.E+06
Ag–109m[2]	39.6 s	1.E–03	4.E+07

Radionuclide	Half-Life	Air Immersion DAC	
		(μCi/ml)	(Bq/m³)
Ag-110[2]	24.57 s	9.E-05	3.E+06
Cd-111m[2]	48.7 min	1.E-05	4.E+05
Cd-117[1]	2.49 h	4.E-06	1.E+05
Cd-117m[1]	3.36 h	2.E-06	7.E+04
In-113m[1]	1.658 h	2.E-05	7.E+05
In-114[2]	71.9 s	1.E-04	4.E+06
In-116m[1]	54.15 min	2.E-06	7.E+04
In-117[1]	43.8 min	7.E-06	3.E+05
Sb-117[1]	2.80 h	3.E-05	1.E+06
Sb-126m[1]	19.0 min	3.E-06	1.E+05
Sb-129[1]	4.40 h	3.E-06	1.E+05
Te-133[1]	12.45 min	5.E-06	2.E+05
Te-133m[1]	55.4 min	2.E-06	7.E+04
Te-134[1]	41.8 min	5.E-06	2.E+05
I-122[2]	3.62 min	5.E-06	2.E+05
I-128[1]	24.99 min	5.E-05	2.E+06
I-132[1]	2.30 h	2.E-06	7.E+04
I-134[1]	52.6 min	1.E-06	4.E+04
I-135[1]	6.61 h	7.E-07[6]	3.E+04[6]
I-136[2]	83 s	1.E-06	4.E+04
Xe-122	20.1 h	8.E-05	3.E+06
Xe-123	2.14 h	7.E-06	3.E+05
Xe-125	16.8 h	2.E-05	7.E+05
Xe-127	36.406 d	1.E-05	4.E+05
Xe-129m	8.89 d	2.E-04	7.E+06
Xe-131m	11.84 d	5.E-04	2.E+07
Xe-133	5.245 d	1.E-04	4.E+06
Xe-133m	2.19 d	1.E-04	4.E+06
Xe-135	9.11 h	2.E-05	7.E+05
Xe-135m	15.36 min	1.E-05	4.E+05
Xe-137	3.83 min	2.E-05	7.E+05
Xe-138	14.13 min	4.E-06	1.E+05
Cs-126[2]	1.64 min	4.E-06	1.E+05
Cs-129[1]	32.06 h	1.E-05[6]	4.E+05[6]
Cs-138[1]	32.2 min	2.E-06	7.E+04
Cs-139[2]	9.40 min	1.E-05	4.E+05
Ba-137m[2]	2.552 min	7.E-06	3.E+05
Ba-141[1]	18.27 min	5.E-06	2.E+05
Ba-142[1]	10.70 min	5.E-06	2.E+05
La-142[1]	95.4 min	1.E-06	4.E+04
Pr-144m[2]	7.2 min	9.E-04	3.E+07
Nd-149[1]	1.73 h	1.E-05	4.E+05
Gd-162[2]	9.7 min	1.E-05	4.E+05
Td-162[2]	7.76 min	4.E-06	1.E+05
Dy-157[1]	8.06 h	1.E-05	4.E+05
Re-182m[1]	12.7 h	4.E-06	1.E+05
Os-190m[2]	9.9 min	3.E-06	1.E+05
Ir-190m[1]	3.2 h	8.E-05[6]	3.E+06[6]
Au-195m[2]	30.6 s	2.E-05	7.E+05
Tl-200[1]	26.1 h	3.E-06	1.E+05
Tl-207[2]	4.77 min	4.E-05[3]	1.E+06[3]
Tl-208[2]	3.053 min	1.E-06	4.E+04
Tl-209[2]	2.20 min	2.E-06	7.E+04
Tl-210[2]	1.30 min	1.E-06	4.E+04
Pb-204m[2]	66.9 min	2.E-06	7.E+04
Bi-211[2]	2.13 min	1.E-04	4.E+06
Po-211[2]	0.516 s	5.E-04	2.E+07
Rn-220	55.61 s	8.E-09[6]	3.E+02[6]
Rn-222	3.824 d	3.E-08[6]	1.E+03[6]
Th-233[2]	22.3 min	1.E-04	4.E+06
Pa-234[1]	6.70 h	2.E-06	7.E+04
Pa-234m[2]	1.17 min	4.E-05[3]	1.E+06[3]
U-239[1]	23.40 min	8.E-05[6]	3.E+06[6]
Np-240[1]	65 min	4.E-06	1.E+05
Np-240m[2]	7.4 min	1.E-05	4.E+05
Am-246[1]	25.0 min	4.E-06	1.E+05

[1] Committed effective dose equivalent from inhalation is calculated in ICRP Publication 30, but the DAC value for external exposure to a contaminated atmospheric cloud is more restrictive than the DAC value for inhalation.

[2] Committed effective dose equivalent from inhalation is not calculated in ICRP Publication 30, but DAC value for external exposure to contaminated cloud should be more restrictive than DAC value for inhalation due to relatively short half-life of radionuclide.

[3] DAC value is determined by limit on annual shallow dose equivalent to skin, rather than yearly limit on effective dose equivalent.

[4] DAC value applies to radionuclide in vapor form only; DAC value for inhalation is more restrictive for radionuclide in inorganic form.

[5] DAC value applies to radionuclide in inorganic or vapor form.
[6] DAC value for exposure to contaminated atmospheric cloud is the same as DAC value for inhalation.

Appendix D to Part 835—Surface Radioactivity Values

SURFACE RADIOACTIVITY VALUES;[1] IN DPM/100 CM[2]

Nuclide	Removable[2,4]	Total (Fixed + Removable)[2,3]
U-nat, U-235, U-238, and associated decay products	1,000	5,000
Transuranics, Ra-226, Ra-228, Th-230, Th-228, Pa-231, Ac-227, I-125, I-129	20	500
Th-nat, Th-232, Sr-90, Ra-223, Ra-224, U-232, I-126, I-131, I-133	200	1,000
Beta-gamma emitters (nuclides with decay modes other than alpha emission or spontaneous fission) except Sr-90 and others noted above.[5]	1,000	5,000
Tritium Organic Compounds; surfaces contaminated by HT, HTO, and metal tritide aerosols	[Reserved]	[Reserved]

[1] The values in this appendix apply to radioactive contamination deposited on, but not incorporated into the interior of, the contaminated item. Where surface contamination by both alpha- and beta-gamma-emitting nuclides exists, the limits established for alpha- and beta-gamma-emitting nuclides should apply independently.

[2] As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive material as determined by correcting the counts per minute observed by an appropriate detector for background, efficiency, and geometric factors associated with the instrumentation.

[3] The levels may be averaged over one square meter provided the maximum surface activity in any area of 100 cm^2 is less than three times the value specified. For purposes of averaging, any square meter of surface shall be considered to be above the activity guide G if: (1) From measurements of a representative number n of sections it is determined that $1/n \Sigma_n S_i \geq G$, where S_i is the dpm/100 cm^2 determined from measurement of section i; or (2) it is determined that the sum of the activity of all isolated spots or particles in any 100 cm^2 area exceeds 3G.

[4] The amount of removable radioactive material per 100 cm^2 of surface area should be determined by swiping the area with dry filter or soft absorbent paper, applying moderate pressure, and then assessing the amount of radioactive material on the swipe with an appropriate instrument of known efficiency. (Note—The use of dry material may not be appropriate for tritium.) When removable contamination on objects of surface area less than 100 cm^2 is determined, the activity per unit area should be based on the actual area and the entire surface should be wiped. Except for transuranics and Ra-228, Ac-227, Th-228, Th-230, Pa-231 and alpha emitters, it is not necessary to use swiping techniques to measure removable contamination levels if direct scan surveys indicate that the total residual surface contamination levels are within the limits for removable contamination.

[5] This category of radionuclides includes mixed fission products, including the Sr-90 which is present in them. It does not apply to Sr-90 which has been separated from the other fission products or mixtures where the Sr-90 has been enriched.

Appendix E to Part 835—[Reserved]

[FR Doc. 93–27997 Filed 12–13–93; 8:45 am]

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Tuesday
December 14, 1993

Part V

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 16, et al.
Human Tissue Intended for Transplantation; Interim Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16 and 1270

[Docket No. 93N–0453]

Human Tissue Intended for Transplantation

AGENCY: Food and Drug Administration, HHS.

ACTION: Interim rule; opportunity for public comment.

SUMMARY: The Food and Drug Administration (FDA) is issuing an interim rule to require certain infectious disease testing, donor screening, and recordkeeping to help prevent the transmission of AIDS and hepatitis through human tissue used in transplantation. The regulations are effective upon publication. FDA is taking this action in response to growing concerns that some human tissue products are being offered for transplantation use without even the minimum donor testing and screening needed to protect recipients against human immunodeficiency virus (HIV) infection and hepatitis infection. The new regulations require all facilities engaged in procurement, processing, storage, or distribution of human tissues intended for transplant to ensure that minimum required infectious disease testing has been performed and that records documenting such testing for each tissue are available for inspection by FDA. The regulations also provide authority for the agency to conduct inspections of such facilities and to detain, recall, or destroy tissue for which appropriate documentation is not available.

DATES: *Effective Date:* The interim rule is effective December 14, 1993. *Comments:* Written comments by March 14, 1994.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION:

I. Background

There has been a growing concern about the risk of transmission of hepatitis or HIV-related disease through transplantation of human tissue. Many forms of human tissue are currently subject to Federal regulation. FDA has regulated blood and blood products for decades under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act (PHS Act). Further, the agency recently published a notice on the application of current statutory authorities to human somatic cell therapy and gene therapy products (58 FR 53248, October 14, 1993). Somatic cell therapy products are defined as autologous, allogenic, or xenogeneic cells that have been propagated, expanded, selected, pharmacologically treated, or otherwise altered in biological characteristics ex vivo to be administered to humans and applicable to the prevention, treatment, cure, diagnosis, or mitigation of disease or injuries. Gene therapy products are defined as products containing genetic material administered to modify or manipulate the expression of genetic material to alter the biological properties of living cells.

Other human tissues have been regulated by FDA on a case-by-case basis, as a public health need was identified. Tissues that the agency has already regulated under the Medical Device Amendments of 1976 (Pub. L. 94–295) include: Corneal lenticules (corneas used to correct rather than restore vision), dura mater allografts (brain membrane material), heart valve allografts, skin and bone products that are processed in ways other than to only reduce infectivity or preserve tissue integrity, and preserved umbilical cord vein grafts.

The National Organ Transplant Act of 1984 (Pub. L. 98–507, (42 U.S.C. 273 *et seq.*)), as amended, provides for Federal oversight of the organ transplant system. The Health Resources and Services Administration (HRSA) and the Health Care Financing Administration (HCFA) within the Department of Health and Human Services (DHHS) currently administer programs related to organ transplantation. In June 1991, DHHS published proposed rules governing performance standards for organ procurement organizations (56 FR 28513, June 21, 1991). The organ transplant system currently includes: Liver, heart, lung, kidney, and some pancreas transplants. Organ transplants are characterized by the fact that the organs receive oxygen and nutrients in the ultimate recipient through the original vascular structures.

Under 42 U.S.C. 274e, it is unlawful to buy or sell a human organ for use in transplantation. Transactions prohibited by this provision include: Sale of a human (including fetal) kidney, liver, heart, pancreas, bone marrow, cornea, eye, bone, skin, or any subpart. Human tissues that are subparts of the listed organs are included within the scope of the prohibition. Reasonable payments associated with removal, transportation, implantation, processing, preservation, quality control, and storage of an organ or with certain donor expenses are not prohibited.

The National Heart, Lung, and Blood Institute, within the National Institutes of Health of HHS, administers the contract for the National Marrow Donor Program, for which standards were established by the Transplant Amendments Act of 1990 (Pub. L. 101–616), and has published a related notice (58 FR 4961, February 7, 1991).

II. Human Tissue Banking

These various programs have, however, left one area of substantial activity without direct or active Federal oversight. Generally, this subject matter consists of musculoskeletal and integumentary materials that may be recovered from living or cadaveric donors. Specifically, these materials largely consist of bone, ligaments, tendons, fascia, cartilage, corneas, and skin that are used in the treatment of bond disease, orthopedic injuries, ligamentous and joint complaints, degenerative skeletal disease, blindness due to corneal opacification, and burn wounds. Tissue donation may be associated with organ procurement. In that event, a HCFA-certified organ procurement organization is likely to have interacted with the donor or the donor's family. Tissue banks may also recover tissue based on referrals of donor availability from other domestic sources, such as medical examiners' offices and hospitals. Medical examiners' offices and hospitals may also directly recover the tissue and send it elsewhere for processing and distribution. In addition, tissue may be recovered from foreign sources.

Currently, industry estimates are that over 280,000 patients annually receive bone, skin, or other integumentary transplants. Additionally, nearly 42,000 patients receive cornea transplants. Annual revenues for tissue banking generally may approach $100 million. Representatives of industry have noted the increasing commercialization of tissue banking.

In part based upon the absence of comprehensive national oversight, there has been concerted effort within the private sector to develop voluntary quality assurance programs. In 1976, the tissue banking industry established the American Association of Tissue Banks (AATB) to develop a voluntary

accreditation system for skin and orthopedic-related tissues. AATB's accreditation system evaluates tissue banks for compliance with a comprehensive set of standards through document review and site visits. The AATB currently has accredited over 50 U.S. skin and bone tissue banks out of an estimated 150 to 200 tissue banks. An estimated additional 50 banks are in the process of acquiring accreditation. The AATB standards cover acquisition, processing, preservation, storage, labeling, and distribution of tissue. Current acquisition standards include specific disease screening through testing for hepatitis B and C and HIV and review of medical histories for risk factors for disease transmission.

The Eye Bank Association of America (EBAA) was established in 1961 and today represents 109 eye bank organizations in the United States and Canada. Over 95 percent of the membership is accredited by EBAA. To become accredited, eye banks must meet voluntary medical standards and submit to a triennial site visit. EBAA works closely with the American Academy of Ophthalmology to revise and refine its medical standards. These standards include testing for hepatitis B and C and HIV. EBAA medical standards also require review of all available medical, coroner, and autopsy records for these diseases.

Additionally, because reports from the Centers for Disease Control and Prevention (CDC) that HIV had been transmitted through transplantation, the Public Health Service (PHS) has taken a number of actions. The Assistant Secretary for Health convened a Work Group to evaluate the need for and type of Federal oversight that should be developed over the entire array of human tissues. In its report issued and July 1, 1991, the Work Group concluded that the risk of infectious disease transmission was quite low, but it did recommend revision of PHS guidelines on donor screening, testing, and recordkeeping. Further, the Work Group noted that investigation into the needed level of mandatory oversight for tissue transplantation, apart from organ and bone marrow transplantation, should take place. The PHS Work Group recommended FDA evaluation of this question.

On March 17 of this year, the U.S. PHS announced the availability of the revised draft guideline on the prevention of transmission of HIV through transplantation of human tissues and organs (58 FR 14402, March 17, 1993).

III. Congressional Interest and Industry Support for Oversight

In 1992, Senator Simon introduced S. 2908, which would have required a mandatory floor of infectious disease controls and Federal certification of tissue banks that were in compliance with requirements. FDA participated in hearings on S. 2908 before the Senate Committee on Labor and Human Resources. While FDA opposed that particular resolution of tissue transplantation issues, the agency made a commitment to engage actively in investigation of the tissue banking industry and in the ongoing public debate on the appropriate role for Federal oversight. Senator Simon introduced S. 1702, which deals with human tissue regulation, on November 19, 1993.

A member of a national consortium of tissue banks testified at the 1992 hearing that the organization "supports Senator Simon's legislation because it believes that uniform national standards for the identification of donors, and the recovery, processing and distribution of tissue will provide needed assurance that tissue is safe and effective for all transplant recipients." (Senate Hearing on S. 2908, 102d Cong., 2d sess. 52 (Sept. 29, 1992).)

On October 15 of this year, Representative Wyden chaired a hearing before the Subcommittee on Regulation, Business Opportunities and Technology of the Committee on Small Business on appropriate oversight for tissue banking. At those hearings, representatives of industry advocated passage of legislation setting forth regulatory requirements for tissue banking.

The president of the AATB advocated "immediate compulsory registration of all tissue banks to determine the scope of tissue banking" and the "[establishment of] uniform donor selection requirements to ensure the lowest possible risk of disease transmission to patients." The chairperson of the EBAA noted that its accreditation system is voluntary and that "[a]bsent from this process is [an] enforcement mechanism to mandate closure of noncompliant entities and require universal participation." The chairperson further noted that, "[t]o truly provide for improved public safety, legislation and regulation must include a mechanism to either rapidly educate or close outlets within hospitals, clinics, and physician practices where standards for allografts addressed through accreditation and CDC guidelines often go unrecognized."

The national head of the American Red Cross Tissue Services testified that:

> The American Red Cross feels strongly that appropriate, enforceable federal standards are needed to ensure the continued safety of the people who depend upon human tissue to sustain or improve the quality of their lives and to foster continued public support for the collection and use of transplantable tissue * * *. We believe that safety and public support will be maintained if the Food and Drug Administration (FDA) (1) registers and licenses all tissue banks, whether they engage in procurement, processing, storage, or distribution; (2) establishes standard tissue-specific donor screening procedures; and (3) develops effective tracking procedures in order to identify the source of infection after transplant and to identify other recipients who may be at risk.

The president of the American Academy of Orthopaedic Surgeons similarly supported "legislation to provide uniform standards for tissue banking practices and processing in order to ensure the safety of our patients from the transmission of disease."

Representative Wyden introduced H.R. 3547 on November 19, 1993. This bill is substantially identical to S. 1702.

IV. Recent Developments

At the October 15 hearing, the Director of FDA's Center for Biologics Evaluation and Research noted the advent of commercialization and the development of promotional practices for human tissue materials. She testified that "[s]everal tissue bank directors have been solicited by individuals offering to sell tissue that originates from other countries. Generally, these contacts have been unwilling to declare the actual source of the tissue, to provide documentation as to the cause of death, the medical records of the donor, the results of donor screening and testing, or to furnish samples of donor serum for testing."

The manager of the Northwest Tissue Center in Seattle, Washington, stated that the tissue center had "received calls from brokers offering to send us tissue for processing from Russia, Eastern Europe, and Central and South America. This raises significant concerns about ensuring safety. If tissue is to be imported from outside the United States, very strict controls must be put in place to ensure the same standards of donor screening, testing, and tissue recovery, because of the potential for unknown diseases that might be transmitted."

The Director of Blood and Tissue Resources from the Department of Health for the State of New York testified concerning state regulation of tissue banking in New York. She noted that the New York program had found that tissues had been removed from donors for a variety of purposes despite

the fact that donor or family consent was totally absent and thus, donor medical histories were incomplete.

Representative Wyden submitted for the record a solicitation from a foreign tissue bank that noted that many tissues offered for use in the United States by the bank were recovered without aseptic precautions.

As a result of a number of similar allegations, the agency has initiated inquiries regarding possible supplying of human tissue materials intended for transplantation without appropriate infectious disease testing and medical screening. In a relatively brief period of time, the agency was able to ascertain, in a few isolated instances, the availability for importation and distribution of tissue materials that do not meet minimal screening standards for transmission of infectious disease. Agency investigators contacted several individuals who had offered to supply tissues from foreign sources. Two persons indicated immediate willingness to import tissues within weeks from donors from whom full medical histories and proper donor screening and testing had not been obtained. Both indicated that they had been engaged in past tissue sales for transplantation. Furthermore, the circumstances of alleged donation offered to agency investigators, without consent or notice to concerned relatives, would have precluded adequate evaluation of the donor's risk factors that would be relevant to minimize the potential for infectious disease transmission. Finally, the brief medical histories that were provided to agency investigators, limited to causes of death, indicated that tissue from these donors should not be accepted for transplantation use.

One purveyor provided-agency investigators with blood samples from a prospective donor-cadaver accompanied by documentation of previous infectious disease testing, including alleged testing for hepatitis B. On retesting by the Government, the sample was confirmed to be markedly positive for hepatitis B surface antigen. The purveyor admitted, when confronted with this fact, his awareness that testing facilities at the site of donation were inadequate and that previous donors had also tested positive for hepatitis.

These isolated instances demonstrate that donation has occurred, and continues to occur, when generally-accepted donor screening through medical history review is largely absent. The agency currently believes that these instances do not represent the predominant practice within the industry. Nonetheless, the traffic in tissue for transplantation without adequate testing or donor screening, whether domestic or imported, cannot be permitted to occur.

V. Legal Authority

Because the public health objective in regulating tissue entities in this interim rule is to prevent the transmission of communicable disease, FDA is developing these regulatory requirements under the legal authority of section 361 of the PHS Act (42 U.S.C. 264). This section authorizes the Secretary, DHHS (the Secretary), to make and enforce such regulations as judged necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or from State to State. Intrastate transactions may be regulated under authority of this provision, as appropriate. (*See State of Louisiana* versus *Mathews*, 427 F. Supp. 174 (E. D. La. 1977).)

Section 361 of the PHS Act also provides for such inspection and destruction of articles found to be so infected or contaminated as to be sources of dangerous infection to humans, and other measures, as may be deemed by the Secretary to be necessary. Section 361 of the PHS Act has been invoked by FDA to regulate various activities or articles. For example, FDA has invoked this authority to regulate conveyance sanitation, the source and use of potable water, and milk pasteurization. The agency has also acted under section 361 to prevent the transmission of communicable disease through shellfish, turtles, certain birds, and bristle brushes. (See 21 CFR parts 1240 and 1250.) FDA has also relied in part on this section in promulgating requirements to protect the blood supply.

Authority for the enforcement of section 361 of the PHS Act is provided for in part under section 368 of the PHS Act (42 U.S.C. 271). Under section 368(a) of the PHS Act any person who violates a regulation prescribed under section 361 of the PHS Act may be punished by imprisonment for up to 1 year (42 U.S.C. 271(a)). Individuals may also be punished for violating such a regulation by a fine of up to $100,000 if death has not resulted from the violation or up to $250,000 if death has resulted (18 U.S.C. 3559, 3571(b)). Organizations may be fined up to $200,000 per violation not resulting in death and $500,000 per violation resulting in death (18 U.S.C. 3559, 3571(c)). In addition, Federal district courts have jurisdiction to enjoin individuals and organizations from violating regulations implementing Section 361 of the PHS Act.

VI. Regulatory Program

A. Introduction

FDA is issuing this interim rule because of an immediate need to protect the public health from the transmission of HIV infection and hepatitis infection through transplantation of tissue from donors infected with or at risk of these diseases. The interim rule is not intended to serve as a long term regulatory program for assuring the safety or quality of human tissues used in transportation. In the near future, FDA intends to propose more extensive regulations regarding infectious disease control for tissues that would incorporate, but not be limited to, the elements described in this interim rule. FDA would then issue a final rule consolidating the interim rule and the subsequently proposed regulations and responding to comments both to the interim and proposed rules.

B. Scope

Section 1270.1 defines the scope of applicability of these regulations. In general, any establishment or person engaged in the recovery, processing, storage, or distribution of banked human tissues would be affected by the regulations. A definition of "banked human tissue" is provided in § 1270.3(b) of the interim rule. In essence, such tissue is tissue derived from a human body intended for administration to another human for medical purposes and procured, processed, stored, or distributed by methods not intended to change tissue structure or functional characteristics. Tissues that are processed or stored only in ways to prevent transmission of infectious disease and to preserve clinical usefulness would be covered by the regulation.

Tissues already regulated by FDA as drugs, biological products, or medical devices, and vascularized organs, semen, other reproductive tissue, human milk, and bone marrow would not be affected by the interim rule (see definition of "banked human tissue" in § 1270.3(b)). Tissues such as bone, ligaments, tendons, fascia, cartilage, corneas, and skin whose structure or functional characteristics have not been changed through processing or other techniques would be covered by the requirements of the regulations. Establishments such as transportation centers and other hospitals which may store tissue only for a short term pending scheduled surgery within the same facility but do not participate in

the recovery, processing, or distribution of tissue would not be regulated under these provisions. (See definition of "storage" in § 1270.3(h).)

C. Definitions

Section 1270.3 provides definitions for several of the terms used in the interim rule. The definitions will be discussed, as necessary, in the section of the interim rule in which the defined term appears.

D. Infectious Disease Testing and Donor Screening

Requirements for the laboratory tests to be performed and for the screening of donors to be conducted are specified in § 1270.5. In order for the laboratory test results to be reliable, it is important that the tests be properly performed. Section 1270.5(b) provides that the tests must be performed by laboratories appropriately certified under the Clinical Laboratories Improvement Act of 1988 (Pub. L. 100–578).

The purpose of the required laboratory tests is to help to establish a lack of infection with or exposure to Human Immunodeficiency Virus, Types 1 and 2, (HIV–1 and HIV–2), Hepatitis B, and Hepatitis C. The interim rule requires that a blood specimen obtained from the donor be used to perform the following required tests:

Human immunodeficiency virus-1 antibody (anti-HIV 1)
Human immunodeficiency virus-2 antibody (anti-HIV 2)
Hepatitis B surface antigen (HBsAg)
Hepatitis C virus antibody (anti-HCV)

HIV and Hepatitis B and C testing are essential to help protect against these serious and life-threatening diseases, which can be transmitted by all types of tissues. FDA recognizes that, depending on the types of tissue involved, other testing may be appropriate to assure that the tissue is safe for transplantation. Additional testing requirements may be included in the notice of proposed rulemaking which FDA intends to issue in the near future.

FDA is requiring in § 1270.5(e) that the process of determining suitable donors include identifying the donor and obtaining a relevant medical history to determine whether the donor has engaged in behaviors that place the donor at high risk for contracting AIDS or hepatitis and whether the donor has displayed signs or symptoms of these diseases. FDA is not specifying in these regulations what specific questions should be asked of the donor or the next-of-kin but only that such procedures be in place and in use by establishments which procure tissue. The future proposed rule may provide more specific requirements on obtaining an adequate medical history of the donor. When corneal retrieval is performed under authorization of a specific State or territorial law, § 1270.5(e) defines the relevant medical history as including all available medical, coroner, and autopsy records. This provision would apply to retrieval of corneas by medical examiners or coroners in certain States. FDA specifically requests comment on this definition of relevant medical history for corneal retrieval.

Section 1270.5 also contains requirements for the quarantining of tissue. Quarantining means identifying the tissue as not suitable for transplantation or holding the tissue in an area clearly identified as being for quarantine (see definition in 1270.3(i)). Banked human tissue must be quarantined unless it is accompanied by: (1) Records indicating negative test results for the required tests of the donor's blood and (2) records of the donor's medical history assuring freedom from risk factors or clinical evidence of HIV infection and hepatitis B and C. For donors that have been transfused within 48 hours of taking the blood sample, special quarantine provisions are set forth in § 1270.5(d) to help eliminate misleading test results.

This interim rule is effective immediately for tissues currently in storage. Thus, such tissues must either be immediately quarantined or have available the required documentation of donor testing and screening. FDA specifically solicits comment on the feasibility and burdensomeness of the immediate application of this rule to tissues currently in storage.

E. Written Procedures

Section 1270.7 requires that the testing and donor screening prescribed in § 1270.5 be performed in accordance with written procedures. The testing procedures must conform to the manufacturers' instructions for use in the package inserts for the required test kits. Such written procedures are intended to assure that testing and donor screening are adequate and consistently performed. The regulations also require that the personnel performing testing or donor selection have ready access to the appropriate written procedures. Any deviation from these written procedures must be recorded and justified. An establishment need not develop its own written procedures, but may adopt those in a manual prepared by another organization, as long as the procedures satisfy the requirements of the regulations.

F. Records

Sections 1270.9 and 1270.11 require the proper maintenance of records and identify specific records that must be kept. Under §§ 1270.9(a) and 1270.11(a), FDA requires that records be kept documenting the viral testing results for each donor and the interpretation of those results. The documentation must include identification of the person doing the work, and dates of data entries, and must be adequately detailed to provide a complete history of the testing.

Under § 1270.9(b), tissue must be quarantined until the required records documenting appropriate results from the infectious disease testing and donor screening accompany the tissue. Medical history records must be available either in English as the original record or in a verified translation into English, accompanied by the original record. Records on the destruction or other disposition of tissue unsuitable for transplantation must be maintained.

Under § 1270.9(c), all required records must be available for inspection by authorized FDA employees at any establishment or from an individual that recovers, processes, stores, or distributes banked human tissue. Photocopies, microfiches, microfilm, and retrieval from other locations by electronic means are permissible.

Because a person may be infected with HIV or viral hepatitis for several years before it becomes manifest, FDA believes that records must be retained for a sufficient period of time to assure that the records may be traced in the event a recipient displays evidence of infection that may be attributable to human tissue transplantation. FDA is requiring under § 1270.9(e) that records be retained for 10 years.

G. Inspections

Establishments that recover, process, store, or distribute banked human tissue will be subject to FDA inspection under § 1270.13. An establishment subject to inspection will be required to permit the FDA investigators conducting the inspection access to all facilities, equipment, processes, products, and records, as necessary to assure compliance with this interim rule. The FDA investigator will also be authorized to question any personnel involved in the performance of regulated activities. In most cases, FDA intends that routine inspections will not be announced by prior notice. At the beginning of the inspection, the FDA investigator will

provide to the most responsible person present at the establishment an FDA "Notice of Inspection." During the inspection the FDA investigator may copy records of the establishment as deemed necessary by the investigator, such as to document potential violations of the regulations. FDA recognizes the extreme sensitivity of information that would identify a human tissue donor or recipient. FDA investigators will be instructed to delete or obscure any donor or recipient identifying information from copied records unless such information is necessary for carrying out the investigator's duties.

At the end of the inspection, if potential significant violations of the regulations are found, the FDA investigator will issue to the most responsible person at the establishment a list of "Inspectional Observations," which will describe the observations of the investigator that may represent violations of the regulations. After the report of the investigator is reviewed, FDA may issue additional correspondence to the establishment describing the violations to the regulations and requesting appropriate follow-up action.

During the effective period of the interim rule, the agency intends to inspect a regulated establishment, either foreign or domestic, only when deemed necessary to ensure that human tissue is not infected with HIV or hepatitis B or C virus. Frequency of inspection after an initial inspection will depend on the extent of the violations found and will be at the agency's discretion. A more extensive discussion of FDA's inspection program will be described in the notice of proposed rulemaking to be published in the near future.

H. Recall and Destruction of Human Tissue

Section 361 of the PHS Act authorizes the Secretary to provide for such inspection and destruction of articles found to be so infected or contaminated as to be sources of dangerous infection to human beings and "other measures, as in [her] judgment may be necessary." FDA expects that in the majority of cases an establishment responsible for the distribution of human tissue for transplantation will voluntarily take appropriate measures when human tissue is found unsafe for use or is of questionable safety, and it will be unnecessary for FDA to order destruction of the human tissue. The procedures for recall and destruction in § 1270.15 of the regulations will be used only when the agency deems it necessary to ensure the continued safety of human tissue.

During the period of interim regulations, FDA intends to invoke § 1270.15 when there is a significant question as to the source of the tissue, the adequacy of the testing of the tissue, or the adequacy of donor selection. Such may be the case when the source of the tissue cannot be traced or when FDA has reason to believe the tissue donor may not have been adequately screened or tested. If, for example, the tissue is of foreign origin and FDA is unable to ascertain how the tissue was recovered, processed, stored, or distributed, recall and destruction orders may be issued. In the near future, FDA intends to propose that all establishments, foreign and domestic, involved in the recovery, processing, storage, and distribution of tissue intended for transplantation be registered with FDA. Thus FDA would be better able to ascertain the adequacy of the recovery, processing, storage, and distribution of tissue.

Section 1270.15 provides procedures under which FDA may order the recall or destruction of human tissue that has been collected or distributed in violation of the regulations. Under § 1270.15(a), FDA may issue to the person responsible for the distribution of the human tissue a written order that the product be recalled or destroyed, as appropriate. The written order will identify as specifically as practicable the human tissues that are affected, the grounds for issuing the order, and provide that, unless alternative arrangements are made, the human tissue must be recalled and/or destroyed within 5 working days of receipt of the order.

A written order to retain the tissue will also be provided to all persons in possession of the tissue in question. Authorized FDA employees may also take possession of the tissue and ultimately destroy the tissue.

Arrangements may be made with the FDA official issuing the order to hold the destruction order in abeyance and negotiate alternative arrangements for appropriate disposition of the human tissue. If the retention order is issued on the basis that FDA is unable to ascertain the adequacy of the testing of the tissue, the issue may be resolved by the distributor or other responsible person providing FDA with documentation showing that the tissue has been appropriately tested. If the order is based on testing deficiencies that fail to ensure adequately the suitability of the donor, additional or repeat testing of the donor samples may be possible that will clarify the suitability of the human tissue for transplantation. In other cases the human tissue may not be appropriate for use in transplantation but may be used for research purposes. If suitable arrangements cannot be made and there continues to be disagreement regarding the order, FDA will reaffirm in writing the order that the human tissue be recalled or destroyed.

If no agreement is reached, the recipient of the order may request a hearing under 21 CFR part 16 within 5 working days of the receipt of such an order. Any recall of human tissue will be monitored by FDA and destruction of human tissue will be under the supervision of a designated FDA official.

VII. Issuance of an Interim Rule; Immediate Effective Date

Under the provisions of the Administrative Procedure Act at 5 U.S.C. 553(b)(B) and FDA's administrative practices and procedures regulations at 21 CFR 10.40(e)(1), the Commissioner of Food and Drugs finds that use of prior notice and comment procedures for promulgating this interim rule is contrary to the public interest. In addition, the Commissioner finds good cause under 5 U.S.C. 553(d)(3) and 21 CFR 10.40(c)(4)(ii) for making this rule effective immediately upon publication. The agency believes that the unnecessary risk of transmission of HIV infection and hepatitis infection from shipment and transplantation of tissues derived from inadequately tested or screened donors justifies immediate action to protect the public health.

Tissue procurement, processing, storage, and distribution entities that follow generally accepted industry practices currently engage in such testing and screening and related recordkeeping. The agency is aware of no adequate justification for failure to perform such basic procedures related to prevention of these serious and life-threatening diseases. In light of the significant public health risk presented by the absence of procedures to prevent transmission of these diseases, the Commissioner finds good cause to make these regulatory requirements final and effective immediately.

Although this agency is publishing this regulation as an interim rule without an opportunity for prior notice and comment on a proposed rule, FDA is providing for comment on this interim rule. As previously discussed, the agency intends to promulgate a regulation encompassing additional infectious disease controls in the near future. Interested persons will have an opportunity to comment on all related issues in the context of that rulemaking.

VIII. Environmental Impact

The agency has determined under § 25.24(a)(10) (21 CFR 25.24(a)(10)) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, no environmental impact statement is required.

IX. Economic and Information Collection Impacts

A. Paperwork Reduction Act of 1980

This interim rule contains information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The title, description, and respondents of the information collections are shown below with an estimate of the annual recordkeeping and periodic reporting burden.

Title: Human Tissue Intended for Transplantation: 21 CFR part 1270.

Description: FDA is promulgating interim regulations to prevent the transmission of HIV disease and hepatitis B and C through the use of human tissue for transplantation. The interim regulations will provide for the inspection by FDA of tissue bank establishments engaged in recovery, processing, storage or distribution of banked human tissue. These facilities will be required to meet standards intended to assure appropriate screening and testing of human tissue donors, and to ensure that records are kept that document that the appropriate testing has been followed.

Description of Respondents: Businesses or other for-profit; nonprofit institutions; small businesses or organizations.

Recordkeeping

21 CFR section	No. of recordkeepers	Annual hours per recordkeeper	Recordkeeping hours
1270.7(b)	400	10	4,000
1270.9(a) & .11(a)	200	2.083	416
1270.11(b)	400	.5	200
Total Recordkeeping Hours:			4,616

No burden is being calculated for § 1270.11(c). With the rare exceptions noted in the preamble, FDA believes that all respondents obtain medical history of donors; these regulations add no additional requirements. There are approximately 400 establishments/persons affected by these regulations. Of these, 250 should already meet the requirements of this interim rule; 150 may not have written SOP's as required under 1270.7(a). In addition, approximately 200, although they have testing records, may not have all required information recorded. FDA is specifically requesting comments on the recordkeeping burden estimate.

As required by section 3504(h) of the Paperwork Reduction Act of 1980, FDA has submitted a copy of this proposed rule to OMB for its review of these information collection requirements. Other organizations and individuals desiring to submit comments regarding this burden estimate or any aspects of these information collection requirements including suggestions for reducing the burden, should direct them to FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, OMB, rm. 3001, New Executive Office Bldg., 725 17th St. NW., Washington, DC 20503, Attn: Steve Semenuk.

B. Economic Impact

The agency has examined the economic impact of this interim rule and has determined that it does not require a regulatory flexibility analysis, as specified in the Regulatory Flexibility Act (Pub. L. 96–354). The only economic impact is related to the recordkeeping burdens described above. FDA believes that the costs of testing for infectious disease and the cost of screening donors has already been assumed by the tissue banking industry and this interim rule imposes no additional burdens. FDA believes there will be a one time burden of $48,000 for those tissue banks which prepare written procedures in accordance with the rules and an annual burden of $201,320 for preparing and keeping records which some regulated establishments may not currently consistently keep. FDA believes that the destruction of unsuitable tissue will be an infrequent occurrence and will be done only when necessary to prevent the transmission of communicable disease.

FDA certifies that the interim rule will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. Organizations and individuals desiring to submit comments regarding this economic burden estimate or any aspects of the economic effects of the interim rule, including suggestions for reducing the economic burden, should direct them to FDA's Dockets Management Branch (address above).

X. Request for Comments

Interested persons may, on or before March 14, 1994, submit to the Dockets Management Branch (address above) written comments regarding this interim rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 16

Administrative practices and procedures.

21 CFR 1270

Human tissue, Reporting and recordkeeping requirements.

Therefore, under the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR chapter I is amended as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

1. The authority citation for 21 CFR part 16 continues to read as follows:

Authority: Secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 21 U.S.C. 41–50, 141–149, 467f, 679, 821, 1034; secs. 2, 351, 361 of the Public Health Service Act (42 U.S.C. 201, 262, 264); secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 28 U.S.C. 2112.

2. Section 16.1 is amended in paragraph (b)(2) by numerically adding

the entry "§ 1270.15(e)" to read as follows:

§ 16.1 Scope.

* * * * *

(b) * * *

(2) * * *

§ 1270.15(e), relating to the recall and destruction of banked human tissue.

3. New part 1270 is added to read as follows:

PART 1270—HUMAN TISSUE INTENDED FOR TRANSPLANTATION

Sec.
1270.1 Scope.
1270.3 Definitions.
1270.5 Donor testing and screening.
1270.7 Written procedures.
1270.9 Records, general requirements.
1270.11 Specific records.
1270.13 Inspections.
1270.15 Recall and destruction of human tissue.

Authority: Secs. 215, 311, 361, 368 of the Public Health Service Act (42 U.S.C. 216, 243, 264, 271).

§ 1270.1 Scope.

(a) The regulations in this part apply to banked human tissue and to establishments or persons engaged in the recovery, processing, storage, or distribution of banked human tissue.

(b) Regulations in this chapter as they apply to drugs, biologics, devices or other FDA-regulated commodities do not apply to banked human tissue, except as specified in this part.

§ 1270.3 Definitions.

(a) *Act* for the purpose of this part means the Public Health Service Act, section 361 (42 U.S.C. 264).

(b) *Banked human tissue* means any tissue derived from a human body, which:

(1) Is intended for administration to another human for the diagnosis, cure, mitigation, treatment, or prevention of any condition or disease;

(2) Is recovered, processed, stored, or distributed by methods not intended to change tissue function or characteristics;

(3) Is not currently regulated as a human drug, biological product, or medical device;

(4) Excludes kidney, liver, heart, lung, pancreas, or any other vascularized human organ; and

(5) Excludes semen or other reproductive tissues, human milk, and bone marrow.

(c) *Vascularized* means containing the native vasculature which continues to carry blood after transplantation.

(d) *Donor* means a human being, living or dead, who is the source of tissue for transplantation.

(e) *Recovery* means the obtaining from a donor of tissue that is intended for use in human transplantation.

(f) *Processing* means any activity to prepare, preserve for storage, and/or remove from storage to assure the potency, quality and/or sterility of human tissue for transplantation.

(g) *Distribution* includes any transfer of human tissue from one establishment or individual to another establishment or individual (including importation), whether or not such transfer is entirely intrastate and whether or not possession of the tissue is taken.

(h) *Storage* means holding tissue in any facility other than the facility at which the tissue is to be implanted.

(i) *Quarantine* means the identification of banked human tissue as not suitable for transplantation or the holding of banked human tissue in an area clearly identified as being for quarantine.

§ 1270.5 Donor testing and screening.

(a) Donor blood specimens shall be tested for the following communicable disease serological markers by tests approved for such uses by the Food and Drug Administration:

(1) Human immunodeficiency virus-1 antibody (anti-HIV–1);

(2) Human immunodeficiency virus-2 antibody (anti-HIV–2);

(3) Hepatitis B surface antigen (HBsAg); and

(4) Hepatitis C virus antibody (anti-HCV).

(b) Such infectious disease testing shall be performed by a laboratory appropriately certified under the Clinical Laboratories Improvement Act of 1988 (CLIA).

(c) Banked human tissue shall be quarantined or accompanied by records indicating that the donor's blood has been tested and found negative in approved tests for anti-HIV–1, anti-HIV–2, HBsAg, and anti-HCV.

(d) Banked human tissue shall be quarantined from donors who, within 48 hours prior to taking the blood sample, have been transfused with four or more units of blood, blood components, colloids or crystalloids in adults, or any transfusions within 48 hours in children under 12 years of age, unless:

(1) A pretransfusion blood sample is available for infectious disease testing; or

(2) An adequate algorithm is used to ensure that there is not hemodilution sufficient to alter test results.

(e) Determination that a donor of banked human tissue intended for transplantation is suitable shall include ascertainment of the donor's identity and adequately completed and accurately recorded relevant medical history which assures freedom from risk factors for or clinical evidence of hepatitis B, hepatitis C, or HIV infection. For corneal retrieval which occurs under authorization of a specific State or territorial law the relevant medical history shall include all available medical, coroner, and autopsy records.

(f) Banked human tissue for transplantation shall be quarantined or accompanied by records of the donor's relevant medical history as defined in paragraph (e) of this section which assure freedom from risk factors for or clinical evidence of hepatitis B, hepatitis C, or HIV infection.

§ 1270.7 Written procedures.

(a) There shall be written procedures prepared and followed for all significant steps in the infectious disease testing process under § 1270.5 which shall conform to manufacturers' instructions for use contained in the package inserts for the required test kits. These procedures shall be readily available to the personnel in the area where the procedures are performed, unless impractical. Any deviation from the written procedures shall be recorded and justified.

(b) There shall be written procedures prepared and followed for all significant steps for determining the medical history of the donor as provided in § 1270.5. Such procedures shall be readily available to personnel who may perform the procedures. Any deviation from the written procedures shall be recorded and justified.

(c) In conformity with this section, any facility may use current standard written procedures such as those in a technical manual prepared by another organization, provided the procedures are consistent with and at least as stringent as the requirements of this part.

§ 1270.9 Records, general requirements.

(a) Records shall be maintained concurrently with the performance of each significant step required in this part in the performance of infectious disease screening and testing of donors of human tissue for transplantation. All records shall be accurate and indelible and legible. The records shall identify the person performing the work, the dates of the various entries, and shall be as detailed as necessary to provide a complete history of the work performed and to relate the records to the particular tissue involved.

(b) All banked human tissue shall be quarantined until:

(1) All infectious disease testing under § 1270.5 has been completed, reviewed by a responsible official, and found to be negative;

(2) Donor screening has been completed, reviewed by a responsible official, and determined to assure freedom from risk factors for or clinical evidence of hepatitis B, hepatitis C, or HIV infection; and

(3) Copies of the testing and screening records accompany the tissue.

(c) All records, or true copies of such records, required under this part shall be readily available for authorized inspection at any establishment or from any individual that recovers, processes, stores, or distributes banked human tissue. Records that can be immediately retrieved from another location by electronic means meet the requirements of this paragraph.

(d) Records required under this part may be retained electronically, or as original paper records, or as true copies such as photocopies, microfiche, or microfilm, in which case suitable reader and photocopying equipment shall be readily available.

(e) Records shall be retained for no less than 10 years.

§ 1270.11 Specific records.

Records shall be maintained which include:

(a) Results and interpretation of all required infectious disease tests and retests.

(b) The destruction or other disposition of unsuitable banked human tissue.

(c) Information on the identity and medical history of the donor, as required by § 1270.5(e) in English or, if in another language, accompanied by a verified translation.

§ 1270.13 Inspections.

(a) An establishment covered by regulations in this part shall permit authorized representatives of the Food and Drug Administration to make at any reasonable time such inspection of the establishment, its facilities, equipment, processes, products, and records as may be necessary in the judgment of such representatives to determine compliance with the provisions of this part. Inspections may be made with or without notice and will ordinarily be made during regular business hours.

(b) Frequency of inspection will be based upon the compliance history of the establishment and at the agency's discretion.

(c) The inspector shall call upon the acting head of the establishment and may question the personnel of the establishment as the inspector deems necessary.

(d) The inspector may review and copy any records required to be kept pursuant to part 1270.

(e) Ordinarily, records containing the name or other positive identification of donors or recipients of human tissue will not be copied unless the identification is suitably expurgated. However, such information may be copied if necessary, such as to document distribution of potentially infectious tissue.

§ 1270.15 Recall and destruction of banked human tissue.

(a) Upon a finding that banked human tissue may be in violation of the regulations in this part, an authorized Food and Drug Administration (FDA) representative may:

(1) Serve upon the person who distributed the tissue a written order that the tissue be recalled or destroyed, as appropriate, and upon persons in possession of the tissue that the tissue shall be retained until it is recalled by the distributor, destroyed, or disposed of as agreed by FDA, or the safety of the tissue is confirmed; and

(2) Take possession of and/or destroy the violative tissue.

(b) The written order will ordinarily provide that the human tissue be recalled or destroyed with 5 days from the date of receipt of the order and will recite with particularity the facts which justify the order.

(c) After receipt of an order under this part, the person in possession of the human tissue shall not distribute or dispose of the tissue in any manner except to recall and destroy it consistent with the provisions of the order, under the supervision of an authorized official of FDA.

(d) In lieu of paragraphs (b) and (c) of this section, other arrangements for assuring the proper disposition of the tissue may be agreed upon by the person receiving the written order and an authorized official of FDA. Such arrangements may include providing FDA with records or other written information that adequately assure that the tissue has been recovered, processed, stored, and distributed in conformance with this part.

(e) Within 5 days of receipt of a written order for recall or destruction of tissue (or within 5 days of the agency's possession of such tissue), the recipient of the written order or prior possessor of such tissue, may request a hearing on the matter in accordance with part 16 of this chapter.

Dated: December 8, 1993.

David A. Kessler,

Commissioner of Food and Drugs.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 93–30569 Filed 12–10–93; 1:39 pm]

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federal register

Tuesday
December 14, 1993

Part VI

The President

Proclamation 6636—Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Formulate, Implement, or Benefit From Policies That Are Impeding the Transition to Democracy in Nigeria

Federal Register
Vol. 58, No. 238
Tuesday, December 14, 1993

Presidential Documents

Title 3—

The President

Proclamation 6636 of December 10, 1993

Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Formulate, Implement, or Benefit From Policies That Are Impeding the Transition to Democracy in Nigeria

By the President of the United States of America

A Proclamation

In light of the political crisis in Nigeria, I have determined that it is in the interests of the United States to restrict the entrance into the United States as immigrants and nonimmigrants of certain Nigerian nationals who formulate, implement, or benefit from policies that impede Nigeria's transition to democracy, and the immediate families of such persons.

NOW, THEREFORE, I, WILLIAM J. CLINTON, by the power vested in me as President by the Constitution and the laws of the United States of America, including section 212(f) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code, hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of persons described in section 1 of this proclamation would, except as provided for in section 2 or 3 of this proclamation, be detrimental to the interests of the United States. I hereby proclaim that:

Section 1. The entry into the United States as immigrants and nonimmigrants of persons who formulate, implement, or benefit from policies that impede Nigeria's transition to democracy, and the immediate family members of such persons, is hereby suspended.

Sec. 2. Section 1 shall not apply with respect to any person otherwise covered by section 1 where entry of such persons would not be contrary to the interests of the United States.

Sec. 3. Persons covered by sections 1 and 2 shall be identified pursuant to procedures established by the Secretary of State, as authorized in section 5 below.

Sec. 4. Nothing in this proclamation shall be construed to derogate from United States Government obligations under applicable international agreements.

Sec. 5. The Secretary of State shall have responsibility to implement this proclamation pursuant to procedures the Secretary may establish.

Sec. 6. This proclamation is effective immediately and shall remain in effect until such time as the Secretary of State determines that it is no longer necessary and should be terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of December, 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

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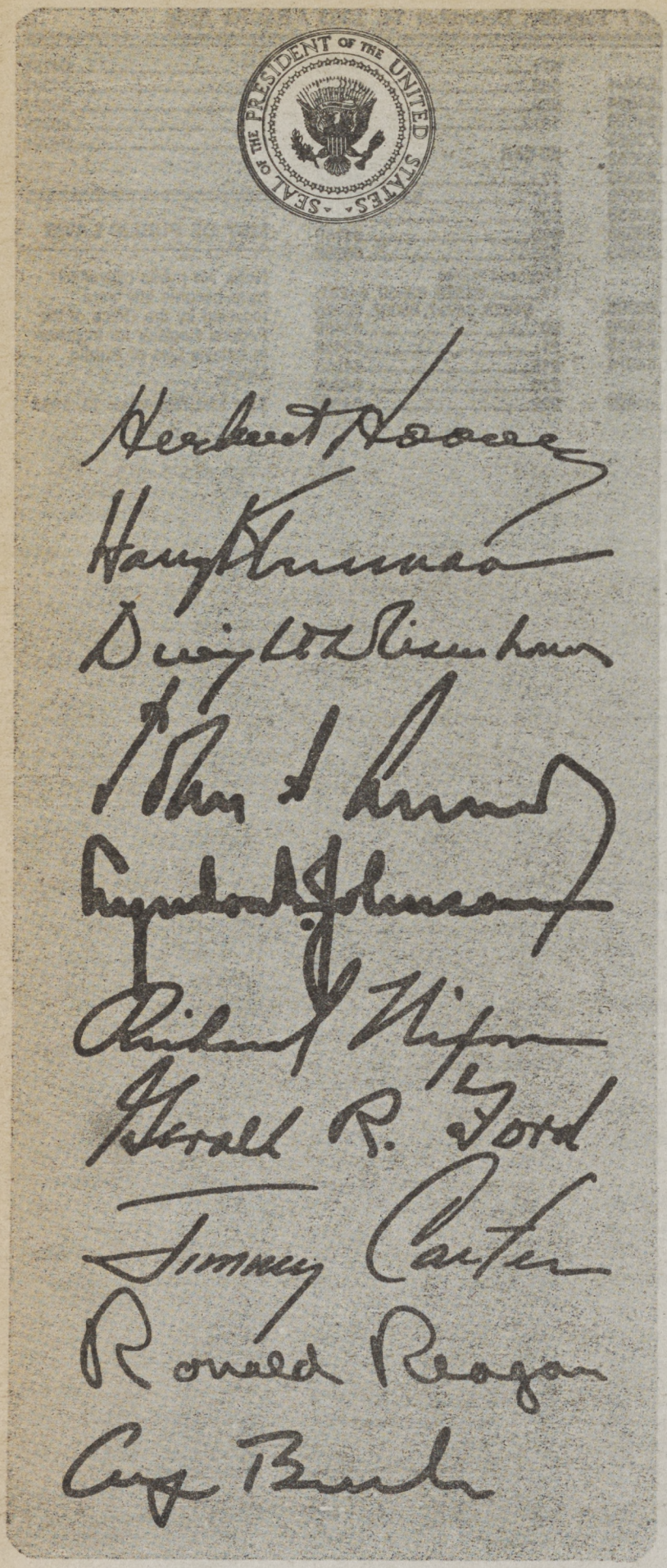

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